

The Wilderness Property Owners Association, Inc.
RECORDS PRODUCTION AND COPYING POLICY

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

WHEREAS, The Wilderness Property Owners Association, Inc. (the “Association”) is charged with administering and enforcing those certain covenants, conditions and restrictions contained in the Association’s Restated and Amended Declaration of Covenants, Conditions and Restrictions of The Wilderness recorded in Volume 01360, Page 00793, *et seq.*, of the Real Property Records of Freestone County, Texas (the “Declaration”); and

WHEREAS, chapter 209 of the Texas Property Code was amended effective January 1, 2012, to amend Section 209.005 (“Section 209.005”) thereto regarding owner access to Association documents and records (“Records”); and

WHEREAS, the Board of Directors of the Association (“Board”) desires to establish a policy for records production consistent with Section 209.005 and to provide clear and definitive guidance to property owners.

NOW, THEREFORE, the Board has duly adopted the following *Records Production and Copying Policy* (“this Policy”):

1. Association Records shall be reasonably available to every owner. An owner may also provide access to Records to any other person (such as an attorney, CPA or agent) they designate in writing as their proxy for this purpose. To ensure a written proxy is actually from the owner, the owner must include a copy of his/her photo ID or have the proxy notarized.
2. An owner, or their proxy as described in section 1, must submit a written request for access to or copies of Records. The letter must:
 - a. be sent by certified mail to the Association’s address as reflected in its most recent Management Certificate filed in the County public records; and
 - b. contain sufficient detail to identify the specific Records being requested; and
 - c. indicate whether the owner or proxy would like to inspect the Records before possibly obtaining copies or if the specified Records should be forwarded. If to be forwarded, the letter must indicate the format, delivery method and address:
 - (1) format: electronic files, compact disk or paper copies
 - (2) delivery method: email, certified mail or pick-up
3. Within ten (10) business days of receipt of the request specified in section 2 above, the Association shall provide:
 - a. the requested Records, if copies were requested and any required advance payment has been made; or

- b. if inspection only was requested, a written notice that the Records are available and offer dates and times when the Records may be inspected by the owner or their proxy during normal business hours at the office of the Association; or
 - c. if copies were requested, a written notice that the requested Records are available for delivery once a payment of the cost to produce the records is made and estimating or stating the cost thereof; or
 - d. if copies were requested, a written notice that a request for delivery does not contain sufficient information to specify the Records desired, the format, the delivery method and the delivery address; or
 - e. if copies were requested, a written notice that the requested Records cannot be produced within ten (10) business days but will be available within fifteen (15) additional business days from the date of such written notice to the owner and payment of the cost to produce the records is made and stating the cost thereof.
4. Subject to the last sentence of this Section 4, the following Association Records are not available for inspection by owners or their proxies:
- a. the financial records associated with an individual owner; and
 - b. deed restriction violation details for an individual owner; and
 - c. personal information, including contact information other than an address for an individual owner; and
 - d. attorney files and records in the possession of the attorney except as otherwise provided in Section 209.005; and
 - e. attorney-client privileged information in the possession of the Association.

The information described in a, b and c above will be released if the Association receives express written approval from the owner whose records are the subject of the request for inspection or pursuant to a court order.

5. Association Records may be maintained in paper format or in an electronic format. If a request is made to inspect Records and certain Records are maintained in electronic format, the owner or their proxy will be given access to equipment to view the electronic records. The Association shall not be required to transfer such electronic records to paper format unless the owner or their proxy agrees to pay the cost of producing such copies.
6. If an owner or their proxy inspecting Records requests copies of certain Records during the inspection, Association shall provide them promptly, if possible, but no later than ten (10) business days after the inspection and a request therefor complying with this Policy or payment of costs, whichever is later.
7. The owner is responsible for all costs associated with a request under this Policy, including but not limited to copies, postage, supplies, labor, overhead and third party fees (such as archive document retrieval fees from off-site storage locations) as listed below and in advance, either pursuant to notice of actual costs or, if required prior to copying, an estimate thereof provided by the Association, and in the case of an estimate, any deficiency or surplus with respect to the difference between the estimate and the actual costs shall be paid by the appropriate party to the other not later than the 30th business day after the final notice is sent to the owner:

- a. black and white 8½"x11" single sided copies ... \$0.10 each
- b. black and white 8½"x11" double sided copies ... \$0.20 each
- c. color 8½"x11" single sided copies ... \$0.50 each
- d. color 8½"x11" double sided copies ... \$1.00 each
- e. PDF images of documents ... \$0.10 per page
- f. compact disk ... \$1.00 each
- g. labor and overhead ... \$18.00 per hour
- h. mailing supplies ... \$1.00 per mailing
- i. postage ... at cost
- j. other supplies ... at cost
- k. third party fees ... at cost

Notwithstanding anything in this Section 7 in conflict or to the contrary (i) any costs not specified above shall be equal to and charged as described in I TAC § 70.3 (Cost of Copies of Public Information), and (ii) no charges shall exceed the amounts specified for such items in 1 TAC § 70.3.

8. Any costs associated with a Records delivery request must be paid by the owner or their proxy in advance of delivery. An owner who makes a request for Records and subsequently declines to accept delivery will be liable for payment of all costs under this Policy and such amounts shall be treated in same manner as an assessment under the Declarations.
9. On a case-by-case basis, in the absolute discretion of the Association, and with concurrence of the owner, the Association may agree to invoice the cost of the Records request to the owner's account. Owner agrees to pay the total amount invoiced within thirty (30) days after the date a statement is mailed to the Owner. Any unpaid balance will be treated in the same manner as an assessment under the Declarations and accrue interest as an assessment as allowed under the Declarations.
10. On a case-by-case basis where an owner request for Records is deemed to be minimal, the Association or its managing agent reserves the right to waive notice under section 2 and/or fees under section 4, but any such waiver of fees must be in writing.

This Policy is effective upon recordation in the Public Records of Freestone County, and supersedes any policy regarding records production which may have previously been in effect. Except as affected by Section 209.005 and/or by this Policy, all other provisions contained in the Declaration or any other dedicatory instruments of the Association shall remain in full force and effect.

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Approved and adopted by the Board on this _____ day of _____ 2011.

THE WILDERNESS PROPERTY OWNERS
ASSOCIATION, INC., a Texas nonprofit corporation

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me, the undersigned authority, on this day personally appeared _____, the _____ of The Wilderness Property Owners Association, Inc., a Texas nonprofit corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he/she had executed the same as the act of said corporation for the purpose and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of Texas

[Notarial Seal]

Printed Name

My commission expires: _____

NOTE: Document was approved and adopted by the Board on 12/2/2011