

EXHIBIT D

**BRYAN HEIGHTS
CONDOMINIUM ASSOCIATION, INC**

**RULES & REGULATIONS
AND DESIGN GUIDELINES**

EFFECTIVE

July 19, 2017

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

**RULES AND REGULATIONS OF THE
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC**

SECTION 1. AUTHORITY

1. Bryan Heights Condominium Association ("Association"), acting through its Board of Directors, has adopted the following Rules and Regulations ("Regulations") and Design Guidelines. These Regulations may be amended from time to time by Resolution of the Board of Directors without consent of joinder of the Members.
2. Wherever in these Regulations reference is made to "UNIT OWNERS" such term shall apply to the owner of any Unit, to his or her family, tenants whether or not in residence, servants, employees, agents, visitors and to any guests, invitees or licensees of such Unit Owner, his or her family or tenant of such Unit Owners. Wherever in these Regulations reference is made to the Association, such reference shall include the Association and the Managing Agent when the Managing Agent is acting on behalf of the Association.
3. The UNIT OWNERS listed in paragraph 2 above shall comply with all the Regulations hereinafter set forth governing the buildings, balconies, drives, recreational areas (if applicable), grounds, parking areas and any other appurtenances.
4. The Association reserves the right to alter, amend, modify, repeal or revoke these Regulations and any consent or approval given hereunder at any time by Resolution of the Association or amendment of the document.
5. Proposed amendments to Rules and Regulations shall be adopted by approval of a General Resolution which shall be read and acted upon in any regular or special meeting of the Board. To be adopted, a General Resolution shall have the majority approval of the Board.
6. General Resolutions adopted by the Board shall be retained for the record in the Book of Resolutions or in the records of the Association and shall be attached to the Minutes of the meeting at which they were adopted or approved.

SECTION 2. ASSOCIATION GENERAL

1. **Fees and Charges.** All charges and assessments imposed by the Association are due and payable on the first day of each month, unless otherwise specified. Payments are encouraged by Automatic Electronic Funds Transfer from bank accounts or can be sent by mail with check or money order made payable to Bryan Heights Condominiums at the address on the payment coupons provided. Cash shall not be accepted. Refer to the Collections Policy attached herein as **Exhibit Attachment B** for more information on the collection procedures which may apply regarding delinquencies. As required by Texas State Statute, an Alternative Payment Policy (Payment Plan Policy) has been adopted by the Board and is attached herein as **Exhibit Attachment A**.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

2. **Complaints.** Complaints regarding actions of other Unit Owners shall be made in writing to the Management or the Board of Directors. No Unit Owner shall direct, supervise or in any manner attempt to assert control over or request a favor of any employee of the Managing Agent or the Association. Complaints should be submitted under the contact us tab of the Association's website at www.essexhoa.com.
3. **Leasing.** Property Owners who lease their units are subject to the leasing terms as set forth in Article 3, Section 3.3(a) of the Covenants, Conditions, and Restrictions ("CCR's / Declaration") and as they may be amended from time to time.
4. **Fire Code.** All radio, television or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements or recommendations of the Board or any city, county, or state regulation. The Unit Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical equipment in such Unit which is the direct cause of any fire or other damage to the Owner's or surrounding Units. Fire alarms shall be kept operational in all units at all times.
5. **Littering.** Littering is a nuisance and unsightly. Unit Owners are requested to help keep Bryan Heights clean and attractive by using trash receptacles at all times. Any Unit Owner seen littering may be charged a fine of not less than \$50.00 per occurrence and is subject to the Notice and Fining Policy of the Association and as it may be amended from time to time and is incorporated herein. The Board, if deemed appropriate, may amend any policy herein included as part of this document or as an Exhibit Attachment. Each policy may be amended as a stand-alone document without the need to amend the entire Dedicatory Instrument.
6. **Action Request Form/Comment Report.** Requests and comments may be submitted on the Association's website or at www.essexhoa.com.s.

SECTION 3. RESTRICTIONS

1. **Residential Uses Only.** Except as otherwise provided no part of the Condominium shall be used for any purpose except housing and the common purposes described in Article 3, Section 3.1 of the Declaration, and any amendment thereof which may occur from time to time.
2. **Common Elements.** There shall be no obstruction of the Common Elements. Nothing shall be stored on the Common Elements or Limited Common Elements without the prior consent of the Architectural Control Committee ("ACC") except as may be provided herein or in the Declaration.
3. **Insurance Requirements.** Nothing shall be done or kept in any of the Common Elements or Limited Common Elements that will increase the rate of insurance for the building or contents thereof applicable for residential use without the prior written consent of the ACC. No Unit Owner shall permit anything to be done or kept in his or her Unit or on the Common Elements or Limited Common Elements that will result in the cancellation of insurance on the building or contents thereof or that would be in violation of any public law, ordinance or regulation. No gasoline or other explosive or flammable material may be kept in any Unit or storage area. No waste shall be deposited on the Common Elements. Unit Owners are subject to the terms and requirements for insurance as outlined in Article VII of the Declaration.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- 4. Garbage.** All garbage must be placed in either individual receptacles or in the case of commercial community bins, within the bins only. Any Unit Owner found discarding garbage or oversized items of any kind outside the individual garbage receptacle or community bins will be fined a minimum of \$100.00 per occurrence. Bulky items may be placed out for removal only on the day of a scheduled pickup. No garbage or trash shall be placed on the floor or elsewhere on any Common Element or Limited Common Element. No garbage cans, containers or bags of any kind shall be placed in public view with the exception of pickup days. If the Association is asked to retrieve and dispose of any garbage left out by a Unit Owner which was not placed in a proper container or does not adhere to the Rules and Regulations or the Declaration the Unit Owner will be billed back for the charges associated with the cleanup, said charges being added to the Unit Owner's account.

The Association will attempt to provide advance notice notwithstanding if the garbage or discarded items are emitting a foul smell or believe to contain dangerous or unsafe items of any kind, no such advance notice shall be given and the Association shall exercise steps to clean up the area utilizing "emergency self-help actions." Unit Owners are at all times subject to the Notice and Fining Policy of the Association and as it may be amended from time to time as well as the Declaration, all Rules and Regulations, and Resolutions.

- 5. Storage Areas.** All items must be placed inside the garage or unit. No storage of any item is allowed outside the garage or unit. It is absolutely prohibited to store gasoline, solvents, charcoal lighter or similar liquids anywhere within the buildings or grounds of the Bryan Heights Condominium community. Any items left on the Common Elements will be removed. Items will be held for a period of not more than five (5) business days at which time if not claimed the Association or its Managing Agent shall dispose of the items as they deem appropriate and shall have no further liability to the Owner for any cost, reimbursement, or replacement of such item. Removal or disposal costs may be billed back to the Unit Owners account in the Association's sole discretion, payment of which is due to the Association upon request which shall be issued by way of notice and/or statement of account.
- 6. Plumbing.** The toilets and other water and sewer apparatuses shall be used only for the purposes for which designed, and no lawn sweepings or trash of any kind, matches, rags, ashes or other improper articles shall be thrown therein. The cost of repairing any damage resulting from misuse of any such apparatus, if caused by a Unit Owner, shall be borne by such Unit Owner.
- 7. Cleanliness.** Each Unit Owner shall keep his Unit in a good state of preservation, repair and cleanliness at all times and shall not sweep or throw or permit to be swept or thrown there from, or from the doors, windows or balconies thereof, any dirt or other substances. This includes shaking rugs, dust cloths, mops, etc., over balcony railings.
- 8. Structural Integrity.** Nothing shall be done in any Unit or on the Common Elements which may impair the structural integrity of the building or which may structurally change the building nor shall anything be altered or constructed on or removed from the Common Elements or Limited Common Elements, except upon the prior written consent of the Architectural Review Board.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

9. Activities.

- a. No noxious or offensive activity shall be carried on in any Unit, Common Elements, or Limited Common Elements, nor shall anything be done therein that may be or become an annoyance or nuisance to the other occupants. No Unit Owner shall make or permit any disturbing noises in the building or in any other part of the condominium complex or do or permit anything to be done that will interfere with the rights, comforts or convenience of other occupants.
- b. Except for emergency repairs, no major noise-producing work, especially construction/repair work, shall be carried out inside any Unit before 8:00 a.m. or after 6:00 p.m. from Monday through Friday and before 10:00 a.m. and after 6:00 p.m. on Saturdays. No Sunday work shall be performed. Initial construction by Developer or Builders is excluded. Except during construction / repair work, all Unit occupants shall keep the volume of any sound producing devices in their Units sufficiently reduced at all times so as not to disturb other Unit occupants. Portable sound producing devices may be used only with earphones in any part of the condominium complex other than in individual units. The volume level of sound systems in motor vehicles shall not be audible to non-occupants while on the Bryan Heights premises.
- c. Smoking is prohibited:
 - 1) The Board may designate smoking and nonsmoking areas in Common Elements and Limited Common Elements which may be identified by signs posted. This does not prohibit smoking on balconies, terraces, or patios which are limited common elements that specifically serve an Owners Unit.
 - 2) Within 25 feet of every fire riser room or other electrical room or panel existing in or on any building.

10. Professional Uses.

- a. With the exceptions noted below, no industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploitation or otherwise, shall be conducted, maintained or permitted on any part of the Condominium without prior written consent of the Board of Directors and only in compliance with all applicable laws and regulations.
- b. However, prior written consent by the Board of Directors shall not be required for work at home by telecommuters, writers, editors, artists and others whose work-related communication with the outside is solely by mail, telephone, personal computer, or other electronic means.
- c. No unit shall be used or rented for transient hotel or motel purposes or in any event for bed and breakfast or day to day activities. All Unit Owners are subject to the leasing rules and regulations as outlined in Article III, Section 3.3(a) of the Declaration and as any such rules may be further adopted by Resolution of the Board or amended.
- d. The only advertising of any kind permitted at Bryan Heights shall be controlled by the Association.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- e. Advertising instructions for real estate and estate sale open houses must receive advance approval in writing by the Declarant or the Board of Directors.
- 11. Window Treatments.** Curtains, draperies or blinds may be installed on windows and balcony enclosures so long as they receive the prior written approval of the ACC. Certain guidelines with regard to style and color may apply. The Association may require uniformity in all windows which may be viewed from a street or another unit.
- a. **Decorations, Signs, and Items on Doors.** Most if not all the exterior of a unit, including doors, windows and masonry of a unit and balconies, patios, or terraces, may be considered Common Elements or Limited Common Elements and as such may be subject to certain rules and regulations as well as restrictions on use or modification.
- b. No Unit Owner shall cause or permit anything to be hung, displayed or exposed on the exterior of a Unit (except for door decorations per e. below and approved door signs per f. below), Common Elements or Limited Common Elements, appurtenant thereto, whether through or upon windows, doors or masonry of such unit without the express written consent of the ACC.
- c. Unit Owners may hang plants, lights, pictures and similar items on an enclosed balcony but not on patios, terraces and unenclosed balconies, without the express written consent of the ACC. What is appealing to some may not be appealing to others therefore; careful review and consideration will be made of each request on a case by case basis.
- d. No item shall extend beyond the vertical plane defined by the inner edge of the balcony rail or by the inner edge of the wall, fence or railing that define the outer edge of balcony, terrace or patio.
- e. **Door decorations are permitted so long as they meet certain criteria. When units are in close quarters allowing the display of certain religious or holiday items may be viewed by other Unit Owners or passersby the chances of someone being offended increase. This may lead to situations that have the potential to cause volatile or disturb the peaceful living environment of the Unit Owners and Residents therefore, the Declarant during the Declarant Control Period and thereafter, the Board of Directors shall have sole discretion as to whether or not any door or door frame decoration or display will be permitted. ALL DECORATIONS OR DISPLAYS REGARDLESS OF THE CONTENT MUST RECEIVE THE PRIOR WRITTEN PERMISSION OF THE ACC. ANY ITEMS THAT DOES NOT HAVE WRITTEN PERMISSION TO BE DISPLAYED MAY BE REMOVED BY THE ACC OR BOARD WITHOUT ANY LIABILITY TO THE ACC, BOARD, OR THE ASSOCIATION.**

Upon written permission, an owner may be able to display or affix on the entry to the owner's or resident's dwelling one religious item, the display of which is motivated by the owner's or resident's sincere religious belief. No such display may defame, criticize, ridicule, deride, mock, tease, or attempt to provoke another Unit Owner. Any such actions will result in immediate disciplinary actions by the ACC and the immediate removal of the item(s). Any future requests for display of such items will NOT be considered.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

(a) If displaying or affixing of a religious item on the entry to the owner's or resident's dwelling violates any of the following or above covenants, The Association may remove the item(s) displayed:

- (1) threatens the public health or safety;
- (2) violates a law;
- (3) contains language, graphics, or any display that is patently offensive to another Unit Owner or a passerby;
- (4) is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the owner's or resident's dwelling; or
- (5) individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 7 square inches

(b) No owner or resident is authorized to use a material or color for an entry door or door frame of the owner's or resident's dwelling or make an alteration to the entry door or door frame that is not authorized by the Association, the Declaration or otherwise expressly approved by the ACC.

f. **Door Signs.** Only door signs which may be required by a local, county, or state law or regulation are allowed such as but, not limited to, Medical, Legal, Security, and Safety notices. Required medical notices (such as oxygen in use or contagion), legal notices, security notices, and notices to the Fire Department about pets or individuals needing special assistance are permitted if attached in 4 x 6 inch or smaller magnetic sleeves or other attachments that are not permanent and do not mar the door finish. Use of all such signs must be submitted along with supporting documentation to the ACC. Unit Owner must seek prior written approval before affixing any such sign. Signs affixed by any security, law, fire enforcement individual, the ACC, Board, or the Association are excluded from this rule.

12. Clothes line, clothes rack or any other device shall not be used to hang any items on any balcony or window nor shall such devices be used anywhere on the Common Elements or Limited Common Elements. Balconies shall not be used for drying clothes or as storage areas. No balcony shall be enclosed or covered by a Unit Owner without the approval of the ACC. Floor mats, rugs, or other items shall not be placed outside the unit in the doorway without the express written consent of the ACC.

13. Unlawful Use. No Unit shall be used for any unlawful purpose and no Unit Owner shall do or permit any unlawful act in or upon his Unit.

14. Cooking on Balconies. The use of any type of cooking appliance on the balconies, including charcoal burners, electric/lava rock grills or gas grills of any kind is strictly prohibited. Some cooking appliances or devices may be allowed on rooftop patios or open patios where the local city and fire department regulations do not prohibit the use of such cooking appliances.

15. Landscaping. The planting of plants, flowers, trees, shrubbery and crops of any type is prohibited anywhere on the Common Elements or Limited Common Elements. The Association

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

shall provide the maintenance and upkeep of the front lawns / yards of each unit and no alterations of any kind without the prior written consent of the ACC are allowed. No fences may be erected around a unit, or any Common Elements or Limited Common Elements except by the Association. Fences shall be constructed ONLY at the discretion of the Declarant during the Declarant Control Period and thereafter, only with the prior written consent of the ACC.

16. Solicitation.

- a. Solicitors are not permitted in the buildings. If any Unit Owner is contacted by a solicitor on the Property, Management must be notified immediately. Door to door solicitation of any type is prohibited. Some holiday activities may be allowed such as but, not limited to, halloween candy and/or "Trick or Treat" solicitation. If an Activities Committee is established the Committee shall set the standards and rules for such activities and if no such Committee exists such activities shall be decided upon at the sole discretion of the Board of Directors.
- b. Placing items under doors or at doors is permitted for the following:
 - 1) Official documents from the Bryan Heights Condominium Association and its committees or Managing Agent;
 - 2) Delivery of newspapers requested/subscribed to by residents;
 - 3) Package delivery messages from United Parcel, Federal Express, etc.;
- c. Door to door distribution of privately prepared flyers is permitted only if the person or Unit Owner distributing the flyers has received prior written permission of the Board of Directors or the ACC.
- d. No door to door distribution or document delivery other than those allowed above is permitted. Except in cases where physical obstruction makes this impossible, documents distributed in accordance with the above rules must be pushed completely under apartment doors if possible or rolled up or placed in such a way they will not blow away or be visible to passersby.

17. Painting, Wallpapering, Decorating

- a. Painting, wallpapering, and decorating (which does not involve any structural change) within a Unit's boundaries as may be defined in the Declaration, do not require ACC approval. Such painting, wallpapering and decorating are not covered by the Association's insurance coverage and should therefore be insured by the Unit Owner. **Window Coverings may require the prior written approval of the ACC. Check with your Association's Managing Agent before purchasing window coverings and prior to installation.**
- b. Painting, wallpapering and decorating of the Common Elements or Limited Common Elements by a Unit Owner is not permitted, and any applications or other apparatuses of any kind must receive the prior written approval of the ACC. Violations of these rules will not be tolerated.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

18. Unit Entry Doors, Doorbells, Knockers, Handles, and Locks

- a. With the exception of locks, changes or additions to the Unit entry doors as originally installed are not permitted without the express written consent of the ACC.
- b. Occupants must apply to the ACC to add or change anything on a door that will change the look or physical workings of and to the door. Locks generally will be approved so long as they are in keeping with the scale of the door and match the color of the other hardware on the door.
- c. Repainting the interior Unit side of entry doors is permitted without ACC approval. Repainting of the exterior side of any door or window by owners or occupants is prohibited.

19. Terrace, Patio and Balcony Areas

- a. The following items and activities are prohibited on any patio, terrace or balcony areas without the express written consent of the ACC. Unit Owners must keep in mind that condominium living places you in close quarters with other Unit Owners and therefore may be offensive or considered a nuisance to your neighbors and nearby Unit Owners:

Bird Feeders or Statuaries;

Clothing for Airing or Drying;

Items or furnishings which may be pushed or blown off the balcony;

Tires;

Screens, Shutters, Enclosures or Shade Umbrellas;

Charcoal cookers, braziers, hibachis, or grills, or any gasoline or other flammable liquid or liquefied petroleum gas fired or electric stove or grill or similar device;

Major Appliances or other mechanical devices or equipment;

Painting of the terrace, patio, balcony, railing or any other part thereof;

Storage Containers;

Any items on top of the patio walls or railings.

- b. The following items may be placed on enclosed balcony areas if such enclosures exist without approval from the ACC:

- 1) Indoor/outdoor carpeting or floor covering of a non-permanent type, provided that nothing may extend beyond the edge of the balcony;
- 2) Floor planters or flower boxes not exceeding twenty-five pounds each and an aggregate of not more than one hundred pounds with a height not to exceed the balcony railing or brick patio wall. Planters not exceeding five pounds may be fastened to the walls provided that the top of the plant container does not extend above the railing. Pole planters are permitted provided that the pots are not more than thirty-six (36) inches from the interior balcony door.
- 3) Small appliances such as radios provided the noise levels are controlled to prevent disturbing the other residents.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- 4) United States flags may be displayed in accordance with US code but in no instance may extend beyond the edge of the balcony or terrace. Additional information (US CODE) outlining expected respect for the flag may be obtained from the Managing Agent.
 - 5) A reasonable number of fixtures and decorations may be fastened to the walls above the railing level only upon prior written consent of the ACC. Nothing may be attached to either the inside or the outside of the railing.
- c. The following items may be considered for placement on patio, terrace or balcony areas only upon prior written approval of the ACC:
- 1) Non-Permanent types of floor covering; provided that the plans for use of the floor covering is submitted and approved by the ACC prior to installation; however, if covering could result in damage or increased wear to balcony, approval will be denied;
 - 2) Hangers, fans or any other items installed in the slab above.
 - 3) Rotary fan installation requires advance approval by an application providing the following information:
 - a) name of unit owner;
 - b) Unit number;
 - c) type of fan;
 - d) approved by (underwriters laboratory, or other);
 - e) installation weight; and
 - f) proposed location.

20. Exterior Antennas. Exterior antennas are prohibited except for such as may be installed by or on behalf of the Association. **Satellite dishes are permitted only after receiving prior written permission of the ACC. Placement of satellite dishes may be limited or restricted.**

SECTION 4. PET RULES

1. RESTRICTIONS

- a. The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any unit or upon the Common Elements, except that the keeping of small, orderly domestic pets (e.g. dogs, cats) which do not to exceed two per unit without the approval of the Board of Directors, and caged birds, is permitted, so long as noise levels are kept at a minimum. Other rules and regulations may apply in the Declaration or Rules and Regulations of the Association. Strict compliance with these rules will be carried out by notice of violation and fines for non-compliance.
- b. Pets must be leashed and physically restrained at all times that they are outside of the unit.
- c. Keeping or maintaining of pets for commercial purposes or for breeding is prohibited.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- d. No pit bulls or other animals which are known to be aggressive shall be kept in any unit or upon the Common Elements of the Condominium or brought on to the property at any time. The immediate removal of any animal that attacks or attempts to attack another Unit Owner or resident of Bryan Heights will be required. Any refusal on the Owner's part to remove the animal upon written consent of the Board of Directors will be met with any and all applicable enforcement rights or provisions available including but, not limited to, notifying authorities and animal control. Fines not to exceed \$1,000.00 shall be levied against any Unit Owner who keeps an animal suspected or known to be dangerous or violent. A second fine of \$1,000.00 will be levied upon any Unit Owner or Resident who is requested to remove a dangerous or violent animal and fails or refuses to do so. Fines will be levied to the Unit Owner's account and shall be due and payable upon receipt of notice from the Association or its Managing Agent. Animals that attack or harm another Resident or Unit Owner will be reported to the local authorities and the immediate removal of the animal will be requested.
- e. All residents of the Condominium who keep dogs of any kind are required to provide for the Association a fully executed Certificate of Vaccination and Identification of Breed. Such Certificate of Vaccination and Identification of Breed, duly executed by a veterinarian, shall be used to determine whether a dog is or is not of a dangerous or violent breed. Unit Owners may submit a photo of the animal in lieu of certificate of identification of breed from the veterinarian.

2. REGISTRATION.

All pets shall be registered, licensed and inoculated as required by law. Pet Registration Forms may be available from the Managing Agent or on the Agent's website at www.essexhoa.com. All pets must be vaccinated against rabies by age four months and that all dogs four months or older must be licensed and that all dogs and cats wear a collar bearing the name, address, and contact information of the Unit Owner or Resident.

3. NUISANCE. A pet may be owned and maintained in a Unit so long as it is in compliance with the Rules and Regulations and is not a nuisance and does not unreasonably disturb other residents. Pet actions and/or conditions which may constitute a nuisance include, but are not limited, to the following:

- a. Abnormal or unreasonable crying, barking, scratching, making or causing other noises of sufficient volume to reasonably disturb other residents, unless temporarily provoked by external causes, such as activation of the fire alarm system, ambulance, or fire truck.
- b. Damaging, soiling, urinating or defecating upon the Common Elements (other than in pet exercise areas if such are made available) or otherwise being hygienically offensive.
- c. Molesting, attacking or interfering with the freedom of movement of persons on the Common Elements, or in any other manner, creating a dangerous situation.
- d. Attacking Residents, Unit Owners, or other pets.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

4. OWNER RESPONSIBILITY

- a. Pet owners assume full responsibility for any property damage, injury, or disturbance their pet may cause.
- b. Any resident who keeps or maintains any pet upon any portion of the property shall be deemed to have indemnified and agreed to hold the Association and each Unit Owner free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Condominium.
- c. Residents agree to comply with the Rules and Regulations and Declaration regarding animals causing unsanitary conditions. Any pet owner or pet custodian of any dog or cat shall be responsible for the removal of excreta deposited by such dog or cat anywhere on the grounds or in the facility.
- d. The above area restrictions shall not apply to Service Animals. These animals may accompany their owner to any areas of the Condominium where the animal's owner is permitted.

5. ENFORCEMENT

- a. Management has the primary responsibility for maintaining compliance of the pet rules above. Violations and violators should be reported in writing to the Agent's office by phone or on the website at www.essexhoa.com. When a complaint is filed, management will notify the pet owner of the complaint.

Action by the ACC or Managing Agent may include any of the enforcement measures authorized under the Declaration, Rules and Regulations, or the Declaration. Where a pet owner continues to violate the pet rules or is unable to prevent a pet from causing a nuisance or unreasonable disturbance or noise, the pet owner(s) may be directed to permanently remove the pet from the property upon five (5) days written notice from the Managing Agent. Due process procedures of the Association apply. Animals that are considered dangerous will be reported to the local authorities and the immediate removal of the animal requested.

SECTION 5. UNIT ACCESS

1. **GENERAL.** All personal property placed in any portion of the building or any place appurtenant thereto outside the Unit Owner's unit, shall be at the sole risk of the UNIT OWNER, and the Association shall in no event be liable for the loss, destruction, theft or damage of such property.

2. UNIT ACCESS

a. Keys and Key Control.

No Master Key. The Association does not hold or possess a master key system to be used for Units in the Condominium or for any cluster style mailboxes or mail kiosk.

- 1) **Emergency Access.** The Unit Owner shall provide access to their unit when requested or as necessitated by an emergency such as the fact or threat of fire, flood, or any other condition which may adversely affect the Common Elements

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

or other Units. In case of an emergency wherein property, life or limb is in jeopardy, emergency personnel may enter any Unit as required by the situation. The Association shall make a reasonable attempt to contact the Unit Owner prior to entering the Unit, consistent with the circumstances. For this reason Unit Owners shall be required to keep an up-to-date e-mail and telephone number on file with the Managing Agent at all times.

- 2) **Common Area Doors.** The Association reserves the right to change periodically locks to any Common Area doors should the same exist or be installed at any time in the future by the Association. The Association will issue or reissue keys therefore as may be needed.
- 3) **Unit Owner Liability.** In the event a Unit Owner fails to provide the Association with access as described above, and emergency access to the Unit as described above is necessary in the absence of the occupant, the Unit Owner shall bear all costs related to entry to the Unit and damage caused by the perceived emergency to that Unit, any other Unit or the Common Elements or Limited Common Elements and sustain whatever additional liabilities may be related to the occurrence.
- 4) **Preventive Maintenance.** Agents of the Association and any contractor or workman authorized by the Board of Directors may enter any room or Unit in the building at any reasonable hour of the day after reasonable notification of the Unit Owner for the purpose of exercising and discharging their respective powers and responsibilities. A schedule may be promulgated showing dates and contractor preventive maintenance to be performed will be announced when and if unit access is required.

SECTION 7. VEHICLES AND PARKING

1. GENERAL

- a. Pursuant to Declaration, Unit Owner may be subject to Parking Space Assessments or Special Assessments as described in Article VIII, Section 8.2(a), (b) of the Declaration. A Parking Agreement as described in Article I may be required especially for parking spaces that are part of the General Common Elements. Unit Owners should utilize their garages and driveways for parking at all times. Parking on the street, if allowed, should be for temporary purposes and shall not be for more than twelve hour periods at any time. If on street parking is prohibited by the City or local authorities, any violation of the rule will be reported to the local authorities. Unit Owners who lease their units may forfeit all outside Common Element parking privileges. This does not apply to owners of multiple units in which the owner resides in one of the owned units.
- b. All vehicles must have current license and safety stickers and be in operating condition. Absolutely NO work on vehicles of any kind may be done within the community except to change the occasional tire in the case of a flat tire or other minor repairs where the vehicle would otherwise be unable to move in order to transport vehicle to a shop for maintenance or repairs such as a broken windshield which needs to be replaced before vehicle can be driven. All permissible repairs must take place in the Unit Owners garage

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

or on their driveway only unless the vehicle was parked in a guest parking space or on the street when it became inoperable.

- c. All Unit Owners shall observe and abide by all parking and traffic regulations as may be posted in or around the Association or by municipal authorities as well as those contained in any Rules and Regulations of the Association. Vehicles parked in violation of any such regulations may be towed away at the Unit Owner's sole risk and expense.
- d. Unnecessary sounding of vehicle horns and playing at excessive volume of radios, tape players, or other sound producing devices is prohibited.
- e. Vehicle rules apply to all vehicles, whether those of the resident, resident's family members, invitees, or any guest. The owner and/or resident is responsible for violations by their contractors, family members, invitees, and guests. This includes any vehicle owned or used by residents' friends or family members and parked on the property for any length of time.

2. PARKING

- a. **Automobiles, Mopeds, and Motorcycles.** Unless otherwise authorized by the Association, the parking areas may not be used for any purpose other than parking automobiles, mopeds, or motorcycles. No buses, oversized trucks, semi-trucks, tow trucks, trailers, boats, recreational or commercial vehicles shall be parked in the parking areas or in driveways except as approved by Management. **Small commercial vehicles with advertisement that can be parked inside the garage will be allowed.**
- b. **Compact Car Spaces.** Some parking spaces may have been designed for smaller cars. Drivers of oversized vehicles should use discretion in choosing parking spaces for their vehicles and only park in designated areas. No vehicle may extend beyond the white lines defining the length and width of the parking space.
- c. **Avoid Obstructions.**
 - 1) No vehicle shall be parked in such a manner or in any area that causes it to obstruct the safe, free-flow of moving vehicular traffic or obstruct the movement of other vehicles into and out of marked parking spaces.
 - 2) No vehicle shall be parked so as to impede the movement of emergency vehicles on any roadway or to obstruct the entrance or exit, pedestrian or garage door of any unit.
 - 3) No vehicle shall be parked so as to impede access to any building or fire main water pipe system.
- d. **Restrictions.**
 - 1) No vehicle shall be parked in violation of any posted sign.
 - 2) No vehicle shall be parked on any grassy or landscaped area, or on any area designated for pedestrian use.
 - 3) Trailers, house trailers, campers, recreational vehicles or boats may not be parked or stored in any Limited Common Element or outside Common Element area, unless prior permission has been obtained from the Association Office. Permission to park vehicles of this type on the property, if given, shall be for a very limited time for the purpose of loading and unloading only and shall be handled on a case-by-case basis. No vehicles of this category shall be permitted on the property permanently.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- 4) No junk or derelict vehicle shall be parked anywhere within the community at any time. Any vehicle that cannot be operated in its existing condition due to malfunctioning or missing parts, damage or destruction, or that has a deteriorated body condition, shall be deemed to be junk or derelict, regardless of the display of valid state license/registration or inspection.
- 5) Any vehicle, the owner of which cannot be identified and/or located from Association Office records or official logs, shall be deemed an abandoned vehicle.
- 6) Vehicles that present a hazard or nuisance by operating noise or exhaust emission are prohibited.
- 7) Repairing and/or maintaining vehicles, including the painting thereof, is not permitted at any time the only exceptions being those found in 1(b) above. Fluid changes and other operations which might soil the driveway, streets, or any Limited Common Element or outside Common Element are not considered minor repairs and are prohibited. The intentional drainage of any motor vehicle fluid is prohibited.
- 8) Washing of vehicles by hose is not permitted in Limited Common Element or outside Common Element. This does not preclude cleaning of windows and vehicle lights.
- 9) Vehicles may not be parked on the property with "For Sale" signs displayed except in the private driveways of the Unit Owner.
- 10) No signs, initials, numbers, storage containers, or any other additions or alterations to either Limited Common Element or outside Common Element parking spaces may be painted, displayed, or erected without the prior written consent of the ACC. This restriction does not prohibit a uniform numbering or lettering system that may be applied to these parking spaces by the Association.
- 11) Limited Common Element parking may have specific and designated uses such as guest parking only. All Unit Owners and Residents shall abide by all parking rules of the Association. Failure to comply will result in a notice of non-compliance and may result in a fine against the owner or operator of the vehicle.
- 12) Handicapped Spaces. Any spaces designated as handicapped parking spaces are reserved for the use of vehicles displaying a current handicap sticker. Any Owner or Resident who violates this rule will be turned into local law enforcement and fined by the Association.

6. VEHICLE OPERATION

- a. Vehicles operated on the property of Bryan Heights shall be operated in a safe and prudent manner so as not to endanger the life, limb, or property of another person.
- b. Vehicle operators shall yield the right-of-way at all times to pedestrians and exercise extreme caution when driving in areas where there may be no designated walkways for pedestrians.
- c. All stop signs and traffic directional signs shall be obeyed by all vehicle operators.
- d. The screeching of tires and revving of vehicle engines is prohibited.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- e. All vehicles operated within the community shall be operated by a person holding a valid driver's license or permit.

7. ENFORCEMENT

- a. **Authority.** In accordance with the Association's Declaration, these Rules and Regulations and any amendment thereof the Board of Directors authorizes Management to enforce all provisions and restrictions of this Vehicle Policy, and promulgates the Enforcement Procedures herein to accomplish such enforcement in a manner that is consistent and equitable to all residents, guests, and visitors.
- b. **Indemnity.** If any vehicle owned or operated by a Unit Owner, any member of his or her family, or by such Unit Owner's tenants, guests, invitees or licensees shall be parked, operated or abandoned in such a manner as to violate the Condominium Declaration, Rules and Regulations or Resolutions of the Board of Directors, the Association shall be held harmless by such Unit Owner for any and all damages or losses that may ensue, and any and all rights in connection therewith that the owner or driver may have under the provisions of state or local laws and ordinances are hereby expressly waived. The Unit Owner, any member of his or her family, or Unit Owner's tenants, guests, invitees or licensees shall indemnify the Unit Owners Association against any liability which may be imposed on the Unit Owners as a result of such parking, operation or abandonment and any consequences thereof.

d. Enforcement Procedures

- 1) Management shall direct a compliance officer to issue a violation to any vehicle parked in violation of any Provision of the Condominium Declaration, Rules and Regulations or Resolutions. The notice shall contain (1) time and date of the violation, (2) nature of the violation and location, (3) descriptive vehicle data as to make, model, color, state license number and expiration, which may be fulfilled by using a photograph of the vehicle and / or license plate number.
- 2) The Association will track and monitor all parking violations. After the third violation involving the same vehicle, unit owner, or resident the Association may instruct the Managing Agent to send an official letter to the vehicle owner, addressing the violations documented, request immediate remedial action, and inform the vehicle owner that any further repeat violations will result in the next step of Enforcement Procedures described herein. In the case of repeat violations by Owners, tenants, guests, visitors or contractors, the Unit Owner will be sent a copy of the letter sent to the violator. The Covenants Committee will be provided a copy of this correspondence.
- 3) When notification has been made in accordance with paragraphs 1 and 2, and the violation has not been corrected within ten (10) days, and the vehicle owner has not contacted the Association Office to discuss the situation and establish terms and timeframe for resolution, the vehicle in violation may be removed from the property by a tow truck, at the expense and risk of the vehicle owner. If the vehicle is removed from the property, Management shall notify the vehicle owner as soon as possible thereafter. Notification will be by first-class mail. If the vehicle does not warrant removal but, continues to violate a rule or regulation the Managing Agent may be instructed to issue fines for non-compliance upon

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

the Unit Owner. Fines may be issued as a one-time fine or levied in increments notwithstanding, no fine for non-compliance of a vehicle rule shall be less than \$10.00 per day for every day the vehicle remains in non-compliance of the rules.

- 4) Paragraphs 1 through 3 are not applicable in the case of a vehicle, the owner of which cannot be identified and which is parked so as to:
- a) impede the movement of emergency vehicles on any roadway or to obstruct the entrance or exit of pedestrian or garage doors, mail kiosks, or of any building.
 - b) obstruct the free movement of another vehicle that is properly parked.
 - c) park without regard to posted handicapped parking signs or in any way to impede access to an area reserved for handicap parking.
 - d) when a vehicle is parked in an area designated to be clear to facilitate maintenance work in which notices were issued and signs were posted.
 - e) when a vehicle is parked on any grassy or landscaped area.

In such cases the vehicle so parked will be subject to immediate removal by towing at the expense and risk of the vehicle owner. Management will officially document this action. In the event the vehicle owner inquires about the status of the vehicle, he or she will be informed of the occasion for the vehicle's removal and be provided recovery information.

- 5) Prior to removal of a vehicle from the property by towing, in which the vehicle owner cannot be identified Management shall notify the local City or County Police Department of the situation and planned action. If the City or County Police Department retains the decision to delay removal from the property to permit a records check to be conducted to determine if the vehicle has been reported stolen or the vehicle owner is being sought the Association shall not remove the vehicle and shall suspend any further non-compliance actions until the authorities give the Association the clearance to move forward.

SECTION 8. ARCHITECTURAL DESIGN REVIEW GUIDELINE

1. GENERAL

- a. *No exterior alteration or addition may be made without prior application to and approval of the Board of Directors or ACC, as appropriate, except as noted in this Resolution or as may be outlined in Article V of the Declaration. The Architectural Reviewer shall function as the representative of the Association. The Architectural Reviewer shall exist and act for the purposes herein set forth as well as for all other purposes consistent with the creation and preservation of a first-class residential condominium development*
- b. Interior Unit changes which do not affect party walls or any major structural component of the unit may be done by Unit Owner without the need to obtain written permission of the ACC notwithstanding, no window coverings, blinds, or items which may be viewed from the outside of the unit may be changed or altered without the express written consent of the ACC.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- c. Certain changes and additions are prohibited. Absolutely NO changes or alterations to the exterior of a building are allowed by a Unit Owner. No building or other improvements, including, without limitation, any structure, paving, fencing, or improvements of any nature, shall be erected, placed, or altered on any portion of the unit until the Unit Owner has received a written approval. NO changes or alterations are allowed to landscaping.

a. Electrical Wiring.

- 1) If a change to the electrical wiring in a Unit does not affect another Unit or the Common Elements, ACC approval is not required; provided, however, that necessary permits have been obtained by applicant and further that a copy has been provided to the Managing Agent.
- 2) If any proposed change to the electrical wiring in a Unit would affect another Unit or the Common Elements, or increase the load on the electrical system of the building, the Unit Owner must seek and obtain prior approval of the ACC.
- 3) In addition to the information required on the application, the application shall contain the following:
 - a) A diagram of the existing wiring system;
 - b) A diagram of the proposed wiring system;
 - c) The existing electrical load of the Unit;
 - d) The electrical load under proposed system;
 - e) A statement as to whether other Unit(s) or Common Elements would be affected by the change and description of how other Unit(s) or Common Elements would be affected;
 - f) Identification of the licensed electrician who will perform the work;
 - g) A time schedule for beginning and completing the proposed change;
 - h) A copy of all applicable permits.
- 4) The Association shall have no responsibility for any damage to person(s) or property resulting from or related to any change in wiring from that originally installed, whether or not such change has the approval of the ACC, since the ACC cannot control quality of workmanship relative to the change, or errors or omissions of pertinent information on the application.

b. Plumbing

- 1) If a change to the plumbing system of a Unit does not affect another Unit or the Common Elements or increase the water consumption of that Unit, approval of the ACC is not required; provided, however, that necessary permits must be obtained by applicant with a copy provided to the Management.
- 2) If the proposed change to the plumbing system of a Unit would affect another Unit or the Common Elements, or increase the water consumption of the Unit, the Unit Owner must seek and obtain prior approval of the ACC.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- 3) In addition to the information required on the application, the application shall also contain the following:
 - a) A diagram of the existing plumbing system;
 - b) A diagram of the proposed plumbing system;
 - c) The water consumption under the existing system;
 - d) The water consumption under the proposed system;
 - e) A statement as to whether other Units or the Common Elements would be affected by the change and a description of how other Units would be affected;
 - f) Identification of the licensed plumber who will perform the work;
 - g) A time schedule for beginning and completing the proposed change;
 - h) A copy of all applicable permits.
- 4) The Association shall have no responsibility for any damage to person(s) or property resulting from or related to any change in plumbing from that originally installed, whether or not such change has the approval of the ACC, since the ACC cannot control quality of workmanship relative to the change, or errors or omission of pertinent information on the application.

2. REQUEST FOR REVIEW PROCEDURES

a. Requirements for All Applications for exterior modification of any kind

- 1) Each Unit Owner shall submit his proposal for any addition, alteration or improvement to his Unit or Lot in writing, using a Architectural Modification Request Form available online at www.essexhoa.com. This procedure is mandatory regardless of the proposed change. Failure to submit and obtain approval of any modification will result in a notice of non-compliance and carry fines which may be levied in lump sum or increments. The proposal shall contain a description of the project, including, as applicable, the height, width, length, size, shape, color, materials and location of the proposed improvement. Sketches of the proposed treatment and/or photographs of similar completed projects will aid in consideration. The proposal should include a letter describing the proposed addition or alterations.
- 2) Each alteration or addition must be specifically approved even though the intended alteration or improvement conforms to the condominium Declaration, Rules and Regulations or this Resolution, and even when a similar or substantially identical alteration or addition has previously been approved.
- 3) The applicant shall be informed in writing of the decision. Absolutely NO verbal approvals shall be given or shall be valid.
- 4) The reason(s) for approving or not approving the proposal shall be stated as part of the written decision.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- 5) The applicant is free to request reconsideration, if new or additional information which might clarify the request or demonstrate its acceptability can be provided.
 - 6) Copies of all Requests for Review will be filed according to Unit number or address along with the written decision, which shall state the basis for such decision, and a statement of action taken, if any.
 - 7) Since the Association cannot control work performed within a Unit, the Unit Owner is responsible for assuring that any changes or additions are made in conformance with the Condominium Declaration and this Resolution. Failure to comply subjects the Unit Owner to the remedies set forth in the Declaration, Rules and Regulations and the Resolutions.
 - 8) Approval of any project by the Association does not waive the necessity of obtaining the required governmental permits.
 - 9) Obtaining a governmental permit does not waive the need for Association approval.
 - 10) The Association shall not knowingly approve a project which is in violation of applicable building or zoning codes.
- b.** Upon determination by the Association that a project is in fact in violation of building or zoning codes, the approval previously granted by the Board of Directors or the ACC shall be void. The Committee shall thereupon deliver notice to the owner to cease all work on the project immediately. The owner shall promptly submit a new request to the ACC showing how the owner proposes to bring the project into compliance with the applicable building or zoning code. The ACC and/or the Board of Directors, as applicable, may approve the request, or the ACC and/or the board may disapprove the request. If the request is disapproved or the project cannot be brought into compliance with the applicable building or zoning code, the property shall be restored to its original condition within sixty (60) days from the date of notice sent by the Board or ACC. Such restoration shall be at the Unit Owners sole cost and responsibility.
- c. Additional Requirements for Major Modifications. For major structural changes, the following may also be required by the Committee:**
- 1) Where the change affects common utilities (including, without limitation, temporary interruption of utility service), applicants are required to coordinate arrangements with the Management Company prior to commencement of work. In any case, common utility service, if applicable, may not be interrupted except between the hours of 8:00 A.M. and 5:00 P.M. on weekdays. Service may not be interrupted on weekends or generally observed holidays.
 - 2) Applicants are responsible for removal of debris generated in the course of the change.
 - 3) No sawing, hammering or other noisy construction activities are permitted except between the hours of 8:00 A.M. to 6:00 P.M. on weekdays excluding holidays and 10:00 A.M. to 6:00 P.M. on weekends and holidays. This excludes builders or Developer during the construction period.
 - 4) The committee shall act on the submission and respond within thirty (30) days after written receipt of the completed applications.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

d. Denial of Request. Requests may be denied for any of the following reasons:

- 1) Incomplete or unclear application, in which case it will be returned to applicant with appropriate instructions for re-application;
- 2) Other Unit(s) or Common Elements would be adversely affected by the proposed change;
- 3) A determination that the change would significantly increase water consumption or adversely impact the common water drainage system.
- 4) A determination that the change would significantly increase Common Element electrical consumption or adversely affect the building circuits.
- 5) Other reasons stated and supported by the ACC or Board, as applicable. During the Declarant Control Period the Declarant has the sole discretion as to ACC approvals regardless of the improvement. The Declarant or his ACC representative may deny an application solely on aesthetic purposes or for any reason. No Unit Owner may attempt to veto, challenge, or revoke a decision of the Declarant during the Declarant Control Period.

e. Administrative Requirements

- 1) Applicant must inform the Managing Agent of the date on which construction starts.
- 2) If applicant desires to make changes during construction, a revised application must be submitted to the ACC which shall promptly act upon the revised application.
- 3) Applicant must provide the ACC with notice of completion.
- 4) Upon completion, the board or ACC may inspect the Unit and Common Elements and, if satisfied that construction is in compliance with approved plans, will issue a Certificate of Compliance if requested.

- f. Completion of Structure.** Construction in accordance with an approved plan or specification must be commenced within six (6) months after such approval, and completed within six (6) months after date of commencement unless otherwise authorized by the ACC. If not commenced and completed as provided herein, then the approval will require an extension be made. Construction must be completed as approved; any deviation will be considered a violation. Fines for non-compliance with all ACC Rules and Regulations shall be levied; the minimum such fine being \$1,000 and the maximum fine depending upon the violation being \$5,000.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

4. PROCEDURES FOR MONITORING ARCHITECTURAL COMPLIANCE.

The ACC shall periodically survey the property for compliance with design standards. Inspections shall take place bi-monthly unless the ACC or the Board of Directors believes it in the best interest of the Association to increase the number of inspections.

SECTION 9. DUE PROCESS PROCEDURES

- 1. Violation Notice (Warning):** Homeowners will be notified when a violation occurs. A minimum of one (1) notice of not less than ten (10) days each will be required except in the case of emergencies where it can reasonably be assumed that the safety, health, welfare and protection of the Owner, a neighbor or neighborhood, or the community in part or as a whole is at risk or recurring violations within a six (6) month period. Violations which present hazards for residents, are damaging property, creating an ongoing nuisance or can be considered an emergency requiring immediate correction shall be subject to self-help actions by the Association as described in the Declaration should Owner fail to cure the violation. Self Help actions considered an emergency requiring immediate attention will be addressed within seventy-two (72) hours or less by the Association. A notice in the case of an emergency may be delivered by hand, electronic mail, or U.S. mail. Any costs for initiating Self Help to cure a violation including the costs of postage and handling shall be assessed to the Owner's account. *****The Association may, but is not obligated, to provide more than one initial notice of violation. Should additional violation notices be sent, each notice shall allow a period of not more than ten (10) days in which to correct the violation. *****
- 2. Notice of Assessment of Fine (Hearing Notice):** If after the initial notice (or subsequent notices if given) the violation continues, the Owner will be notified that a fine will be levied against his/her account. ***This notice shall be mailed certified and regular U.S. mail*** and shall include the amount of the fine to be levied and shall contain verbiage pursuant to Chapter 209.006 and 209.007 of the Texas Property Code as amended from time to time regarding an Owner's right to request a hearing before a committee (or the Board in the absence of a committee).

Notice must describe the violation or property damage that is the basis for the fine for such violation, and state any amount due the Association from the Owner and Owner shall be given a reasonable time to cure the violation. Owner shall have thirty (30) days to request a hearing in writing from the date of notice. The Association or its Managing Agent shall set the hearing within thirty (30) days of receipt of the written request and the Owner shall be notified in writing of the hearing date, time and place not less than ten (10) days prior to the hearing date.

The Board or Owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. If the Hearing is to be held before a Committee appointed by the Board, the Owner shall have the right to appeal to the Board of Directors should the Owner

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

disagree with the Committee's decision. Notice of an Appeal Hearing before the Board of Directors must be submitted by the Owner in writing. An Owner is liable to the Association for certain charges, including reimbursement of attorney's fees incurred by the Association.

3. **"Damage Assessment"**: Violations that result in property damage or cause the Association to incur cleanup costs will result in a "Special Individual Assessment" on the Unit Owner's account. Non-payment of this type of assessment may result in additional fees, and collection actions as allowed by law. Any attorney fees or other costs incurred by the Association will be assessed to the Owner's account. Notices for Special Individual Assessment shall follow the same protocol for Fine Warning Notices sent in Section 2 above.
4. **Suit and Board Discretion**: Failure to comply with the Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation. The Board or ACC may use its sole discretion in determining whether to pursue a violation of the Documents, provided the Board or ACC does not act in an arbitrary or capricious manner.

FINE SCHEDULE

The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. At the Board's sole discretion, a fine may be levied against a renter or lessee other than the Owner however, should the renter or lessee fail to pay the fine within the time allotted, the Unit Owner shall be responsible for the fine which shall be added to the Owner's account.

Each fine notice shall contain the minimum verbiage as required by the Texas State Property Code or the Declaration and Bylaws and must advise the Owner of his/her right to request a hearing pursuant to Section 209.006 and 209.007 of the Texas Property Code. Additionally, notices prior to levying a fine shall notify Owners serving in active military of their rights under Chapter 209 of the Texas Property Code wherein active military personnel may have special rights of relief related to enforcement actions under federal law, including Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the Owner is serving on active military duty. Fine Notices shall be mailed certified and regular U.S. mail.

The table below is intended to establish a base fining structure. The Board shall have the right to instruct or adopt a different fining structure so long as the fines imposed do not exceed the maximum fine limit of \$1,000 per violation occurrence for any fine not subject to a different fining structure as may be outlined in the Declaration, this Resolution or Rules and Regulations of the Association. Fines for some violations such as those involving pets, vehicles, and architectural changes / improvements may have a different fine structure. Fines may be assessed based on the severity of a violation or for continual or recurring violations within a six month period. Fines may be levied in lump sum or

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

increments at the sole discretion of the Board of Directors. Each day the violation continues to exist shall constitute a separate violation.

An Owner who continually violates the Association's Declaration, Rules and Regulations or Bylaws, or who damages Association property may be assessed greater fines which may include a one-time fine up to the maximum fine amount at the sole discretion of the Board or ACC so long as the fine amounts levied are commensurate to the violation or the history of recurring violations recorded against an Owner.

1st Fine: First fine for a violation not cured by the Owner after the initial fine warning notice has been given shall not be less than \$50.00, then;

2nd Fine: After a minimum of five (5) business days, the Board or its Managing Agent shall inspect the Owner's property for compliance. If the violation remains, a letter shall be sent to the violating Owner advising that a second fine in the amount of \$100.00 shall be assessed to the Owner's account, then;

3rd Fine: After a minimum of five (5) additional business days, the Board or its Managing Agent shall inspect the Owner's property for compliance. If the violation remains, a letter shall be sent to the violating Owner advising that a third fine in the amount of \$150.00 shall be assessed to the Owner's account.

4th & After: If compliance is not met after the end of a minimum of five (5) business days from the date the third fine letter is sent, the Owner will receive one (1) final notice advising that fines shall escalate at the rate of \$25.00 every week for each week the violation remains until the maximum fine amount of \$1,000 is reached at which time the violation process shall start over and shall be treated as a recurring violation subject to additional fines as outlined in this section so long as the violation remains. Each day the violation continues to exist shall constitute a separate violation.

4. The maximum fine amount is based on a per violation occurrence and can be assessed each time a violation occurs whether or not it is the same or similar kind or whether it is a recurring violation.

f. Notice of Hearing. If Owner submits a written request for a hearing, all fines shall be suspended until after the hearing. If the Association has a Managing Agent, notice shall be served through the Managing Agent who shall set the hearing date and time and place and shall notify the Owner via U.S. mail. The Board shall appoint a Hearing Committee who shall oversee the first hearing and who shall render a decision based upon the facts and/or testimonies provided. The Hearing Committee shall render their findings and subsequent results from the hearing in writing no more than ten (10) days from the date of the hearing and the Managing Agent shall notify the Owner via U.S. mail of the decision.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

The Association or its Managing Agent shall wait five (5) business days prior to proceeding and complying with any instructions and/or findings in an effort to give the Unit Owner the opportunity to submit an appeal to the Board of Directors. If the Hearing Committee rules in favor of the Association, after the five day waiting period, all fines or other violation actions suspended pending the hearing outcome may resume unless the Hearing Committee instructs otherwise.

If the Hearing Committee rules in favor of the Owner, all violation actions shall cease and no further fines shall be assessed. The Hearing Committee must note in their findings whether any fine(s) previously assessed to the Owner's account will be waived. If the hearing is held by a committee appointed by the Board, the Owner shall have the right to appeal the decision of the committee to the Board of Directors and the decision of the Board of Directors shall be final. If the hearing is held by the Board of Directors in the absence of a committee, the decision of the Board of Directors is final.

Attend a hearing before the Committee as hereinafter provided;

- 1) Owner should show up prepared to present their case before the Hearing Committee. Owners who are late to the Hearing and have not made provision for arriving late forfeit their right to a Hearing and must request a new date for Hearing be set. Owner's may bring one witness who must wait outside the area where the Hearing is being held until called in for testimony by the Hearing Committee or Board ;
- 2) No unruly behavior, profanity, violent, or abusive behavior will be tolerated. Any such action will result in the Hearing being called off and the Owner will be requested to leave. If an Owner or witness threatens physical harm to a Member of a Hearing Committee or Board the Hearing shall be automatically cancelled and shall not be rescheduled. The Owner forfeits any and all remedies or entitlement to another Hearing.

Any objections to the form or substance of the complaint shall be considered by the Committee and a written notice shall be provided to the Unit Owner within ten (10) days of the Hearing date. Should the Hearing Committee need more time to deliberate the facts the Unit Owner will be notified in writing (electronic communication acceptable) that more time by the Hearing Committee is needed. The notice shall state the number of additional days required and provide the Unit Owner with the new date by which the Unit Owner can expect a written notice of the Hearing Committee's decision.

g. Cease and Desist Request. If the Committee, after receipt and investigation of the Complaint, makes a finding of fact in writing that the public interest of the Condominium or the health, safety and/or welfare of its UNIT OWNER will be irrevocably harmed by delay, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the Committee shall give notice of the proposal to issue a temporary cease and desist order to the person. The temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

If the Committee determines, subsequent to the notice and hearing, that a person has violated any provision of the Condominium Act, the Condominium Declaration, Rules and Regulation or any Resolutions, it may issue an order requiring that person to cease and desist from such unlawful violation.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

- h. Amended or Supplemental Complaints.** At any time prior to the hearing date, the Committee may file or permit the filing of an amended or supplemental complaint. All parties shall be notified thereof in the manner provided herein. If the amended supplemental complaint presents new charges, the Committee shall afford the respondent a reasonable opportunity to prepare proper defense thereto.
- i. Discovery.** Upon written request to the other party, made at least five (5) days prior to the hearing, either party is entitled to: (1) obtain the names and addresses of witnesses to the extent known to the other party; and (2) inspect and make a copy of any statements, writings and investigative reports relevant to the subject matter of the hearing. Nothing in this Section, however, shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential.
- j. Statements.** Sworn statements may be introduced into evidence by a party if a copy of the statement is mailed or delivered to the opposing party at least five (5) days prior to the introduction of the statement. A sworn statement wherein the signature of the attestee is notarized, if introduced as evidence, shall be given the same effect as if the author had testified. If an opportunity to cross-examine the statement's author is requested the attestee must appear in person or otherwise the statement shall be null and void and may not be used as evidence at any Hearing.
- k. Constraints on the Committee.** It shall be incumbent upon each member of the Committee to make a determination as to whether that member is able to function in a disinterested and objective manner in consideration of the base before it. Any member incapable of objective consideration of the case shall disclose the same to the Committee and the Board and shall not participate in the proceedings. Any member of the Committee has the right to challenge any other member he believes is unable to function in a disinterested and objective manner.

In the event of such a challenge or issue as outlined in k. above, the Board shall meet to determine the sufficiency of the challenge. If the Board finds the removal of a Hearing Committee Member is warranted a Board Member shall serve in the Committee Member's place. If the Hearing Committee is the Board the Board shall appoint another Member of the Association to serve on the Hearing panel for that Hearing procedure only. All decisions of the Board in this regard shall be final.

l. Hearing.

- 1) Each party shall have the right to do the following, but may waive any or all of these rights:
 - a) make an opening statement;
 - b) introduce evidence, testimony and witnesses;
 - c) cross-examine opposing witnesses;
 - d) rebut evidence and testimony;
 - e) make a closing statement.

- 4) All witnesses may be cross-examined by the Hearing Committee regardless of whether they testify in their own behalf.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

5) Whenever the Committee has commenced to hear the matter and a member of the Committee withdraws prior to a final determination, the remaining members shall continue to hear the case and the Committee Chairperson shall name a replacement for the withdrawing member. Oral evidence shall be taken only on oath or affirmation administered by the hearing officer.

m. Decision. To be effective a decision of the Committee shall be a majority vote. The decision shall normally be issued within ten (10) days of the conclusion of the hearing. The decision shall be in writing. Copies of the decision shall be distributed to the Unit Owner.

n. Suspension of Privileges. Disciplinary action imposed by the committee may include suspending or conditioning the Unit Owner's right to use the Common Elements or General Common Elements, or recreational facilities if any should exist. Such suspension shall be for a period of not more than ninety (90) days. Other disciplinary actions may include fines which may be imposed for so long as the violation continues.

2. APPEALS

a. Rights of Owners. Final decisions of the Hearing Committee may be appealed by any Unit Owner provided that an Appeal Petition is filed with the Board within twenty (20) days following the decision of the Hearing Committee. An Appeal filed more than twenty (20) days after the decision of the Hearing Committee shall stand in its entirety.

The Board will hear the appeal within thirty (30) days of the request. In the event that the Board elects to hear the appeal, a hearing de novo (anew) shall be scheduled by the Board and notice thereof given to the Unit Owner. The Board will review all previous statements and writings and may require all witnesses to attend for testimony.

b. Notice of Hearing. In the event that the Board elects to conduct a new hearing, notice of hearing shall be given as provided in writing not less than ten (10) days prior to the hearing date.

c. Hearing Procedures. All of the rights and procedures set forth in above shall apply to appeal hearings conducted by the Board with the substitution of the words "Board" wherever the words "Committee" appears.

d. Decision. If the Board conducts a hearing as a result of the Appeal Petition, the decision of the Board shall be by a majority vote. Such decision shall be issued within ten (10) days of the conclusion of the hearing and shall be in writing. **Decisions of the Board are final.**

e. Further Action. An Owner must exhaust all available remedies of the Association prescribed by this resolution before resorting to a court of law for relief with respect to an alleged violation of any type. The foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board.

**DEDICATORY INSTRUMENT OF
BRYAN HEIGHTS CONDOMINIUM ASSOCIATION, INC.**

3. RESIDENT

- a. If the person charged with a violation of the Condominium Act, Condominium Declaration, Rules and Regulations or Resolutions of the Board is a resident, the owner of the unit in which the resident resides shall be considered a respondent and as a party to the action shall receive certified copies of the following:
- 1) Notice that the Association suspended the right of the resident to use an Association facility to include any limited or general common element.
 - 2) Any correspondence sent to resident by the Association shall be sent to the Unit Owner.
 - 3) The Unit Owner must make the request for hearing on behalf of the tenant.
 - 4) Any written response by the Committee or Board or, if a preliminary investigation by the Committee or Board indicates further action is necessary, all correspondence shall be sent to the tenant and the Unit Owner. Any request for action including but, not limited to, cease and desist, shall be complied with and it shall be the Unit Owner's responsibility to ensure his tenant's compliance. Any failure on the part of the tenant or Unit Owner to comply shall be considered a breach of the lease and/or restrictions and/or rules and regulations regarding the leasing of a unit within Bryan Heights Condominium Association.

4. CONSTRUCTION

- a. This resolution is intended to assure that due process is provided to Owners in proceedings before the Committee and the Board to enforce the Condominium Declaration, Rules and Regulations and Resolutions and to serve as a guideline for such proceedings.
- b. The Committee or the Board, as appropriate, may determine the specific manner in which the provisions of this resolution are to be implemented, provided that due process is protected.
- c. **Any inadvertent omission or failure to conduct proceedings in exact conformity with this resolution shall not invalidate the results of such proceedings, as long as a prudent and reasonable attempt has been made to assure due process according to the general steps set forth in this resolution**
- d. "Due process," as used in this resolution, refers to the following basic rights:
- 1) The charges shall be provided to the Owner and also to the Resident, if applicable.
 - 2) A hearing, if requested, shall be held at which witnesses may appear and be cross-examined and at which evidence may be introduced.
 - 3) An opportunity to appeal shall be available.
 - 4) Basic principles of fairness shall be applied.