

**CUMBERLAND RIDGE HOMEOWNERS' ASSOCIATION, INC.  
POLICY REGARDING OPEN RECORDS**

1. **Purpose:** The purpose of this Policy is to adopt guidelines for the Association to make its books and records, including financial records, open to and reasonably available for examination by an owner or the owner's agent, attorney, or certified public accountant. This Policy does not govern the production of information in formal discovery during a pending court proceeding.
2. **Definitions:** As used in this Policy, the following definitions shall apply:
  - a. **Association** - CUMBERLAND RIDGE HOMEOWNERS' ASSOCIATION, INC., a Texas non-profit corporation.
  - b. **Association records** - All books and records (including electronic records) owned by the Association, except that the phrase shall not include any of the following:
    - i. Documents or electronic records owned by an individual Owner, Officer, or Director, such as personal notes.
    - ii. Any files and records in the possession of the Association's attorney, unless such records are required by law to be made available. The Association shall consult its Attorney if there is any question about whether a specific document must be produced.
  - c. **Exempt Records** - The following books and records of the Association are considered "Exempt Records" and may not be released under the procedures of this Policy:
    - i. Any books or records that identify an individual owner's history of violations of the Association's Dedicatory Instruments;
    - ii. An owner's personal financial information, including records of payment or nonpayment of amounts due the Association;
    - iii. An owner's contact information, other than the owner's address;
    - iv. Information related to an employee of the Association, including personnel files;
    - v. any document that constitutes the work product of the Association's attorney or that is privileged as an attorney-client communication;
    - vi. files and records of the Property Owners Association's attorney relating to the Property Owners Association, excluding invoices requested by an owner under Texas Property Code section 209.008(d); and
    - vii. Any other information that is considered confidential, privileged, private, nondisclosable, or exempt from disclosure under any other provision of

Texas law or federal law.

- d. Nonexempt Records Books and records are not considered Exempt Records if:
    - i. Information that would otherwise render a document exempt, but which is contained in the official Minutes of the Association's meetings;
    - ii. Information that would otherwise render a document exempt, but which is maintained in an aggregate or summary manner that would not identify an individual property owner;
    - iii. Information regarding a specific Owner who has provided his or her express written approval for release of the specific document or information, in a form acceptable to the Association; and
    - iv. Information which a court of proper jurisdiction has specifically ordered the Association to release or to make available for inspection.
  - e. Owner - An owner of real property in the Cumberland Ridge Subdivision in Smith County, Texas.
  - f. Owner's Representative - A person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant.
  - g. Requesting Party - The Owner or Owner's Representative who submits a request for inspection or copies under this Policy.
  - h. Business Day - A day other than Saturday, Sunday, or a state or federal holiday.
3. **Open Records:** The Association shall make its books and records, including financial records, open to and reasonably available for examination by an owner or an owner's representative, in accordance with this Policy.
4. **Request:** An owner or Owner's Representative who wishes to examine or obtain copies of the Association's books and records must submit a written request, by certified mail, with sufficient detail, describing the property owners' Association's books and records requested, to the mailing address of the Association or authorized representative as reflected on the most current management certificate. The request must contain an election either to inspect the books and records before obtaining copies, or to have the property owners' Association forward copies of the requested books and records to the Owner or Owner's Representative. Owners must cooperate with the Property Owners Association's reasonable efforts to clarify the type or amount of information requested.
5. **Inspection:** If the Written Request seeks an inspection of the books and records, the Association, on or before the 10th business day after the date the Association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the Association. The inspection shall take place at a time arranged by mutual agreement with the Requesting Party, during normal business hours. At the inspection, the Requesting Party shall identify any specific books and records for the

Association to copy and forward to the Requesting Party.

6. **Copies:** If the Written Request seeks copies of books and records, the Association shall, to the extent those books and records are in the possession, custody, or control of the Association, produce the requested books and records for the Requesting Party on or before the 10th business day after the date the Association receives the request, except as otherwise provided by this section. The Association may provide copies in hard copy, electronic format, or any other format reasonably available to the Association.
7. **Inability to Comply:** If the Association is unable to produce the books or records requested within ten business days of receiving the request, the Association must notify the Requesting Party in writing that the Association is unable to produce the information on or before the 10th business day after the date the Association received the request, and must state a specific method by which the information will be sent or made available for inspection to the Requesting Party within fifteen business days after sending the notice of inability to comply with the request.
8. **Charges:** The Association shall charge for all reasonable costs of materials, labor, and overhead incurred in the compilation, production, and reproduction of its books and records, except that the charges may not exceed the Maximum Charges set forth in this Policy.
  - a. **Advance Payment:** The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. The Association shall estimate the costs using the same amount specified for calculation of the actual costs as set forth below. The owner may modify his or her request after reviewing the estimate. If the Association requires advance payment of the estimated costs, the Association is not required to allow the inspection or produce the copies until payment is received.
  - b. **Additional Costs:** If the actual costs exceed the amount of the advance payment, the Association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. The Owner shall reimburse the Association for the additional costs, in the amount stated on the final invoice, within 30 days after the final invoice is sent to the Owner. If the Owner fails to reimburse the Association for the additional costs, then the Association may impose an additional assessment on the Owner for the additional costs.
  - c. **Refund:** If the amount of the advance payment exceeds the actual costs, the Association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered, and shall issue a refund to the Owner not later than the 30th business day after the date the final invoice is sent to the owner.
  - d. **Maximum Charges:** The Maximum Charges which the Association may charge are the same as the maximum permitted charges for responses to Public Information Requests, as set forth in Section 70.3 of the Texas Administrative Code (Title 1, Part 3, Chapter 70). The current maximum charges allowable under that section, as of the date this Policy is adopted, are shown on **Exhibit A**, which is attached hereto and incorporated herein by reference. The Maximum Charges shall change automatically whenever the State changes the rates set forth in Section 70.3. If the

Association's actual costs for materials, labor, and overhead incurred in the compilation, production, and reproduction of its books and records in response to a specific request exceed the Maximum Charges, then the Association shall charge the Maximum Charges instead for that request.

9. **Waiver or Reduction of Charges:** The Association may reduce the charges for a specific Request, or may waive such charges, in its sole discretion. Any reduction or waiver shall not operate as a general waiver of the Association's right to collect charges as set forth herein, and shall not obligate the Association to waive or reduce its charges for any other requests or any other Owners.
10. **Failure to Provide Information:** If the Association fails to provide an Owner with access to or copies of the Association's books or records as required by this Policy, the Owner may notify the Association in writing of his or her intent to take further action. If the Association receives such notification, then it shall provide the Owner with access to or copies of the Association's books or records as required by this Policy, on or before the ninth business day after the notification was sent.
11. **Implementation:** The Association's Secretary shall be primarily responsible for implementation of and compliance with this Policy.

#### CERTIFICATION

I hereby certify that the foregoing Policy was duly adopted by the Board of Directors of the CUMBERLAND RIDGE HOMEOWNERS' ASSOCIATION, INC. on OCT 29, 2012.



PETER MARINO, President

STATE OF TEXAS

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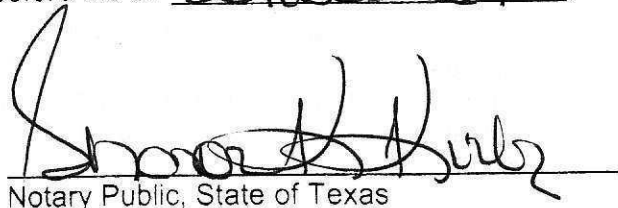
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COUNTY OF SMITH

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This instrument was acknowledged before me on OCTOBER 29, 2012

by PETER MARINO.



Sharon K. Kirby  
Notary Public, State of Texas

**EXHIBIT A - MAXIMUM CHARGES**  
(pursuant to Texas Administrative Code § 70.3)

<u>Item</u>	<u>Charge</u>
Electronic document transmitted by email	no charge
Electronic document downloaded to USB drive	actual cost of USB drive
Standard paper copy or scan (letter or legal size) (double sided is considered two pages)	\$0.10 per page
Oversize paper copy or scan (such as 11x17)	\$0.50 per page
Diskette or CD	\$1.00
DVD	\$3.00
Labor Charge (50 or fewer pages of information, available in the processor's office)	No charge
Time spent to review the requested information to determine if the information is an Exempt Record	No charge
Labor Charge (more than 50 pages of information, or information not available in the processor's office)	\$15.00/hour or actual costs, whichever is greater, 1/4 hour increments
Actual time to locate, compile, manipulate data, reproduce information, and (if necessary) redact confidential information	\$15.00/hour or actual costs, whichever is greater, 1/4 hour increments
Overhead Charge (50 or fewer pages of information)	No charge
Overhead Charge (more than 50 pages of information)	20% of Labor Charge
Remote Document Retrieval Charge (information stored with a commercial records storage company that charges a fee to deliver and return stored records, if the request otherwise qualifies for a labor charge)	Actual costs
Other Charges (actual postage and shipping charges necessary to transmit the reproduced information to the Requesting Party)	Actual costs
Miscellaneous supplies used to produce the requested information (for instance, boxes)	
Transaction fees charged by credit card company	Actual costs
Sales tax	none

Filed For Record in:  
Smith County, Texas  
On Oct 29, 2012  
at 11:09A  
Receipt #: 632325  
Recording: 32.00  
Doc/Num : 00049002  
Doc/Type: Recordings - Land  
Deputy - Debra Berry

I hereby certify that this instrument was filed and duly recorded in the Official Records of Smith County, Texas

Karen Phillips  
County Clerk