

10/21/16

**SEVENTH AMENDMENT TO THE BYLAWS OF THE  
NBRC PROPERTY OWNERS ASSOCIATION**

**STATE OF TEXAS** §

§ **KNOW ALL MEN BY THESE PRESENTS:**

**COUNTY OF COMAL** §

WHEREAS, NBRC Property Owners Association (hereinafter called the "Association") is a residential association of property owners located in Comal County, Texas; and,

WHEREAS, the Association is a Texas non-profit corporation incorporated pursuant to Articles of Incorporation (hereinafter called the "Articles") filed with the Texas Secretary of State on or about April 12, 1999; and,

WHEREAS, the management of the Association is vested in the Board of Directors (hereinafter called the "Board of Directors"), pursuant to the Articles; and,

WHEREAS, the Association's Bylaws were adopted by the Board of Directors for the Association on or about April 13, 1999; and,

WHEREAS, the Board has determined that it is in the best interests of the Association and the Members of the Association to amend the Bylaws for the convenience of the Association; and,

WHEREAS, PURSUANT TO Article XIV of the said Bylaws, the said Board of Directors is empowered to amend such Bylaws and has previously done so:

NOW, THEREFORE, the Board hereby officially amends the bylaws as follows:

1. The Second Amendment to Bylaws for NBRC Property Owners Association dated 27 January 2009 and filed as #200906007947 on 03/06/2009 in the Public Records of Comal County is hereby removed and deleted.
2. The second, Second Amendment to Bylaws for NBRC Property Owners Association dated 28 February 2012 filed as #2012206010316 on 03/26/2012 in the Public Records of Comal County is hereby removed and deleted.
3. The Third Amendment to Bylaws for NBRC Property Owners Association dated 22 April 2013 filed as #201306018916 on 05/06/2013 in the Public Records of Comal County is hereby removed and deleted.



4. The Fourth Amendment to Bylaws of NBRC Property Owners Association dated 2 August 2013 filed as #201306034690 on 08/14/2013 in the Public Records of Comal County is hereby removed and deleted.

5. The Fifth Amendment to Bylaws of NBRC Property Owners Association dated 20 November 2013 filed as #201306048039 on 11/20/2013 in the Public Records of Comal County is hereby removed and deleted.

6. The Sixth Amendment to Bylaws of NBRC Property Owners Association dated 29 July 2014 filed as #201406025900 on 7/29/2014 in the Public Records of Comal County is hereby removed and deleted.

7. Article 3:4 of the Bylaws is hereby amended to read as follows:

**Quorum.** The presence at the meeting, in person or by proxy, of Members entitled to cast fifteen percent (15%) of the votes of the membership shall constitute a quorum for authorization of any action, except as may otherwise be provided in the Declarations, the Articles of Incorporation, or these Bylaws. If a quorum is not present at any meeting, the Members entitled to vote there at shall have power to adjourn the meeting from time to time, with notice as in the case of all meetings, until a quorum is present.

8. Article 4:1 of the Bylaws is hereby amended to read as follows:

**Voting Member:** Any Member shall be allowed to vote at any and/or all meetings, however, no lot shall have more than one vote regardless of the number of voting Members owning such lot. Combined lots shall nevertheless be considered as separate lots for voting purposes.

9. Article 4:2 of the Bylaws is hereby removed and deleted.

10. Article V, Section 5:1 of the Bylaws is amended to read as follows:

**5:1 Number.** A Board of five (5) Directors, who shall be Members of the Association, shall manage the affairs of the Association.

11. Paragraph 5.3 of the Bylaws is hereby replaced in its entirety with the following paragraph:

**5:3 Removal.** Any member of the Board of Directors may be removed from office, with or without cause, by a majority vote of Members of the Association comprising a quorum in an annual or special membership meeting. In the event of death, resignation, or removal, the Board of Directors shall provide written notice of such vacancy to the membership of the NBRCPOA by mail or by email and/or the website for a period of at least 30 days, to include at least one (1) BOD Meeting, prior to any

action to fill the vacancy. The written notice shall call for recommendations with supporting comments from the NBRCPOA membership to be submitted in writing to the BOD, read at the BOD Meeting for any/all in attendance to hear, and attached to the final approved minutes for that meeting. The vacancy then may be filled by appointment of the Board of Directors. Prior to the appointment nominees for the Board of Directors (BOD) nominees must sign a Dispute Resolution Protocol agreement. The person appointed to such a vacancy shall complete the unexpired term of his/her predecessor.

- 12. Paragraph 6:2** of the Bylaws is amended to comply with Texas Property Code §209.0058 and is hereby replaced in its entirety with the following paragraph.

**6:2 Elections.** Voting in the election to the Board of Directors shall be by written and signed ballot. At such elections, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provision of the Declarations. Persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

- 13. Article 9.6 of the Bylaws is hereby amended to read as follows:**

**9:6 Vacancies.** When a vacancy in any elected position Board of Directors (BOD) or the Architectural Control Committee (ACC) of the Association occurs, the Board of Directors shall provide written notice of such vacancy to the membership of the NBRC POA by mail, or by email and/or the website for a period of at least 30 days, to include at least one (1) BOD Meeting, prior to any action to fill the vacancy. The written notice shall call for recommendations with supporting comments from the NBRCPOA Membership to be submitted in writing to the BOD, read at the BOD meeting for any/all in attendance to hear, and attached to the final approved minutes for that meeting. The vacancy then may be filled by appointment of the Board of Directors. Before being appointed, all nominees for the Board of Directors (BOD) or the Architectural Control Committee (ACC), must sign a Dispute Resolution Protocol agreement. The person appointed to such a vacancy shall complete the unexpired term of his/her predecessor.

- 14. Article IX, Section 9:8 of the Bylaws is amended by the addition of new section**

**9:8:5 Delegations of duties.** The Board of Directors is the only body to delegate authority to a committee, or to a company or contractor for performance of any work for the POA, including the Association Manager.

(a) All Contracts/Contractors:

- 1) Will include the legal names and addresses of both parties,
- 2) Will include the date of the contract,

- 3) Will include the statement of work to be performed and the consideration in total for fully described products and services to be rendered,
- 4) Shall not include cost-plus provisions,
- 5) Will fully disclose all relationships, blood and ownership, between contractors and vendors and other legal or informal affiliations, and any Association elected officer,
- 6) Will be for one (1) year or less, with no automatic roll over, renewals or in perpetuity clauses,
- 7) Will include a 30 day, with notice clause to end a contract, with or without cause and without penalty,
- 8) Will not provide for sub-contracting of service without notification and without written permission,
- 9) Will be specific to the scope of work and include a specific time line for completion of the tasks to be performed, monitoring of compliance with the time-line and specify penalties for non-completion within the time-line,
- 10) Will be specific as to the owner of the business,
- 11) Will be licensed and bonded according to state law,
- 12) Will have workers compensation for employees employed to work on NBRCPOA property with proof of insurance,
- 13) Will report to a specific oversight board member,
- 14) Will include in the body of the contract a specific reference to any and all attachments and if none are specified may not be added,
- 15) Will include signatures of legal representatives of all parties on all copies,
- 16) All requests for payment will include a true and accurate copy of all invoices for materials acquired for the project and labor-hours expended.
- 17) Before coming effective, all parties must sign all contracts or agreements.
- 18) Any portion of any contract found in violation of the above, these Bylaws, the DCCRs or with the law is severable and unenforceable.

**15. Section 14: of the Bylaws is amended by the addition of new section**

**AMENDMENTS.**

**14:2 Review & Comments.** Any changes or amendments to these Bylaws or any other Policies, Regulations, Resolutions, or Rules, created by the Board shall be accessible to the membership via the website, mailbox postings, burst email or mailed announcement for a period of at least 60 days prior to a BOD or membership special or annual meeting at which a vote is to be taken on the amendment. The posting shall call for reviews and comments from the NBRC POA membership to be communicated in writing to the BOD, read at a minimum of two (2) BOD meetings for any/all in attendance to hear, and attached to the final approved minutes for the meeting at which the changes or amendments were approved.

**14.3 Effective Date.** Amendments made under this Section shall become effective on the date filed in the Official Public Records of Comal County, Texas, or another date after the filing as specified in the Amendment.

**16. The Bylaws are amended by the addition of new section:**

**16. ARCHITECTURAL CONTROL COMMITTEE**

**16:1 Powers and Duties.** The powers and duties of the Architectural Control Committee (hereinafter the "ACC") shall be as primarily described in Article IV of the Declaration of Covenants, Conditions, and Restrictions for each unit of River Chase and in any other portions of the Declaration of Covenants, Conditions, and Restrictions.

**16.2 Nepotism.** Two members of the same family or extended family cannot serve at the same time on the Board of Directors of the NBRCPOA, as Treasurer, as elected or appointed members of the Architectural Control Committee "ACC," or members of the Neighborhood Board. This section applies to relationships within the third degree by consanguinity or within the second degree by affinity related family member as described and defined in the Texas Government Code, Title 5, Chapter 573.

**16:3 Term.** The three members of the ACC shall serve staggered three year terms. A voting member shall serve no more than two (2) consecutive terms. A vacancy in the ACC may be filled by appointment of the Board of Directors. Prior to the appointment, the appointee must sign a Dispute Resolution Protocol. The appointee to such vacancy shall serve for the unexpired term of the member replaced.

**16:4 Nominations.** Nominees for election to the ACC shall be provided by a nomination committee created by the Board of Directors and provide for nominations

from the floor. The nominating committee, at its discretion, shall make nominations for election to the ACC, but in no event shall it nominate less than the number of vacancies to be filled.

**16:5 Election.** The members of the ACC shall be elected by Board of Directors of the POA at the first regular meeting of the Board of Directors in the new year following the Annual Meeting with the new board members in place. Prior to the election, the nominee for the Architectural Control Committee (ACC) must sign a Dispute Resolution Protocol agreement. Election shall be by written ballot. At this time, Association will indemnify the new ACC member from liability except under limited circumstances involving acts in bad faith, fraud, theft, cohesion, or acts of moral turpitude defined as conduct that is contrary to justice, honesty, or morality.

**16:6 Removal.** Any member of the Architectural Control Committee may be removed from office with or without cause, by a majority vote of Members of the Association comprising a quorum in an annual or special membership meeting or by the Board of Directors.

**16:7 Vacancies.** When a vacancy in any elected position of the Architectural Control Committee (ACC) occurs, the Board of Directors shall provide written notice of such vacancy to the membership of the NBRC POA by mail, or by email and/or the website for a period of at least 30 days, to include at least one (1) BOD Meeting, prior to any action to fill the vacancy. The written notice shall call for recommendations with supporting comments from the NBRCPOA Membership to be submitted in writing to the BOD, read at the BOD Meeting for any/all in attendance to hear, and attached to the final approved Minutes for that meeting. The vacancy then may be filled by appointment of the Board of Directors. Prior to the appointment nominees to the Architectural Control Committee (ACC) all nominees must sign a Dispute Resolution Protocol agreement. The person appointed to such a vacancy shall complete the unexpired term of his/her predecessor.

**16:8 Present ACC appointed or elected without a sitting Board of Directors:** The Board of Directors agrees to elect the present ACC members \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ in place and maintain the sequence of service dates if they agree and sign the Dispute Resolution Protocol agreement as outlined in 17.2. At this time, Association will indemnify the ACC member from liability except under limited circumstances involving acts in bad faith, fraud, theft, cohesion, or acts of moral turpitude defined as conduct that is contrary to justice, honesty, or morality.

**16.9 ACC Appeal Committee.** The purpose of the **Neighborhood Board /ACC Appeals Committee** is to decide the validity of disputes and to resolve the disputes between a Member and the ACC or between the ACC and a Member. (Sections 17.3-17.5 outlines the functions and authority of the **Neighborhood Board /ACC Appeals Committee**.)

**16.10 Notification:** The Architectural Control Committee will ensure that all Members filing any application with the ACC are informed by the ACC within five (5) days, by written notice delivered by mail and email, of the Member's right to file a written request to the Appeals Committee for review of any ACC decision rendered in their behalf.

**17. NEPOTISM AND DISPUTE RESOLUTION PROTOCOL:**

**17.1 Nepotism.** Two members of the same family or extended family cannot serve at the same time on the Board of Directors of the NBRCPOA, as Treasurer, as elected or appointed members of the Architectural Control Committee "ACC," or members of the Neighborhood Board. This section applies to relationships within the third degree by consanguinity or within the second degree by affinity related family member as described and defined in the Texas Government Code, Title 5, Chapter 573.

**17.2 Dispute Resolution Protocol.** All Members of the Architectural Control Committee "ACC" or the Board of Directors must sign a Dispute Resolution Protocol agreement. The agreement is a pledge that in the event of dispute between the ACC and a Member all parties will enter in to Alternative Dispute Resolution "ADR" process and abide by the decision of the five (5) members Neighborhood Board /ACC Appeals Committee, or the Board of Directors. If there is a dispute between the ACC Appeals Committee and the ACC, the parties agree the BOD has the final decision. The Board may elect at any time to create the first Neighborhood Board /ACC Appeals Committee.

**17.3 Purpose.** The purpose the **Neighborhood Board /ACC Appeals Committee** is to decide the validity of disputes and to resolve the disputes between a Member and the ACC or between the ACC and a Member.

**17.4 Creation.** At its first regularly scheduled Board of Directors meeting, following the Annual Meeting each sitting Director of the Board shall appoint a member to an independent five (5) member committee referred to as the **Neighborhood Board /ACC Appeals Committee**. The Committee will serve for one (1) year. The Board of Directors may form the first Neighborhood Board /ACC Appeals Committee at any time.

**17.5 Duties.** The committee will have numerous duties:

**1) To enhance communication** between the POA membership and the Board of Directors and act as an advocate for the River Chase property owners. The Neighborhood Board's responsibilities will include:

(a) Review and confirm any violations identified by either the Management Company or POA members, discuss with the affected property owner for resolution, and recommend action, if any, to the Board for consideration.

(b) Review/create policies and procedures, such as the Fine Policy, Collection Policy, ADR process, as directed by the Board, and recommend action, if any, to the Board for consideration.

(c) Have access to any committee meeting to promote membership knowledge and commitment to the committee activities.

**2) Review appeals of ACC denials** of applications, resolve all disputes between a Member and the ACC, recommend action, if any, to the Board for consideration, and inform the Members they have a right to appeal and review the appeal process.

**3) Response.** In the event a Member is not able to reach agreement with the ACC, the Member may submit a written request stating the facts and reasoning for review of the dispute to the Appeals Committee. The Appeals Committee shall review all associated documents, including the Members written appeal, and, using sound judgment, common sense, and consideration of the community environment, within thirty (30) days shall render a decision or make a recommendation to the Board of Directors for final resolution. The ACC Appeals Committee shall immediately and simultaneously report its findings in writing to the ACC, the Board of Directors, and the Member in a timely manner within three (3) calendar days delivered by U.S. Mail and e-mail. If agreement between the ACC and Member is not reached after this appeals process, the Member may submit an appeal to the Board of Directors within ten (10) days who shall provide a final and binding decision on the matter within twenty (20) days.

**5) Mediation and Binding Arbitration:** If the ACC Appeals Committee and the Board of Directors fail to produce a settlement agreement with a property owner, or if either party refused the mediation process, the dispute will default to binding arbitration.

**6) ACC / Board of Directors Dispute:** If there is a dispute between the BOD and the ACC, the parties agree the BOD has the final decision.



ADOPTED at a regular meeting of the Board of Directors held on the 8<sup>th</sup> day of DECEMBER 2014.

Thus executed this 10<sup>th</sup> day of DECEMBER 2014

NBRC PROPERTY OWNERS ASSOCIATION

By Bill Wiehl  
Bill Wiehl, President of the Board of Directors

Attested:

By Lyle Vandagriff  
Lyle Vandagriff, Secretary

STATE OF TEXAS §

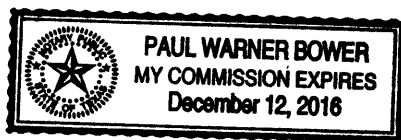
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COUNTY OF COMAL §

I hereby certify that the foregoing instrument was acknowledged before me, the undersigned Notary Bill Wiehl, President, NBRC Property Owners Association, on the date of execution set forth above. Given under my hand and seal of office this 10<sup>th</sup> day of December, 2014.

Paul Warner Bower

Notary Public, State of Texas



STATE OF TEXAS §

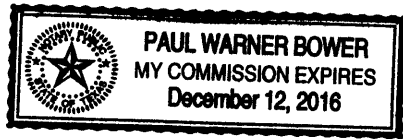
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COUNTY OF COMAL §

I hereby certify that the foregoing instrument was acknowledged before me, the undersigned Notary Lyle Vandagriff, Secretary, NBRC Property Owners Association, on the date of execution set forth above. Given under my hand and seal of office this 12<sup>th</sup> day of December, 2014.

Paul Warner Bower

Notary Public, State of Texas



## FILED AND RECORDED

Instrument Number: *201406043686*

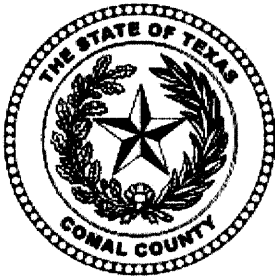
Recording Fee: 62.00

Number Of Pages: 11

Filing and Recording Date: 12/12/2014 2:59PM

Deputy: NANCY WILLIAMS

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Comal County, Texas.



*Joy Streater*  
\_\_\_\_\_  
Joy Streater, County Clerk  
Comal County, Texas

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