

**Bylaws of  
Midtown Reserve Homeowners Association, Inc.  
A Texas non-profit corporation**

- Name:** Midtown Reserve Homeowners Association, Inc. (the "**Association**"), established by the Certificate of Formation filed with the secretary of state of Texas on December 14, 2017 under file number 802883496.
- Principal Office:** 4121 SH 6 S., Ste. 200, College Station, Brazos County, Texas 77845.
- Declaration:** The First Amended and Restated Declaration of Covenants, Conditions and Restrictions of Midtown Reserve, recorded at \_\_\_\_\_ of the Official Records of Brazos County, Texas.
- Definitions:** Capitalized terms used but not defined herein have the meaning set forth in the Declaration.
- Voting Members:** Prior to the Transition Date as set forth in the Declaration, only the Declarant shall be a Voting Member. After the Transition Date, the Voting Members shall be all Members entitled to vote or their proxies; provided, that any Member currently delinquent in payment of any regular annual assessment or special assessment is not a Voting Member.

**A. Members**

1. *Membership.* Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Association has one class of voting Members.
2. *Place of Meeting.* Members meetings will be held at the Association's principal office or at another place designated in the notice of the meeting.
3. *Annual Meetings.* Regular annual Members meetings will be held yearly on the third Tuesday in January, unless the Board of Directors ("**Board**") gives notice of an alternate date pursuant Paragraph 5 herein.
4. *Special Meetings.* The president may call special meetings. The president must call a special meeting if directed by the Board or by a petition signed by 75% percent of the Members.
5. *Notice of Meetings.* Written notice stating the place, day, and hour of each Members meeting, other than a reconvened meeting, must be given to each Member not less than 10 nor more than 50 days before the meeting. The special Members meeting notices must also state the meeting's purpose, and no business may be conducted except as stated in the notice. Notice to a Member is deemed given when hand delivered or mailed. If mailed, notice is deemed given (whether actually received or not) when deposited with the United States Postal Service, postage prepaid. A meeting to consider an agenda item deemed by the Board to be an emergency can be called with 24 hours' notice via telephone, electronically or hand delivery.
6. *Waiver of Notice.* A Member may, in writing, waive notice of a meeting. Attendance at a meeting is a waiver of notice of the meeting, unless the Member objects to lack of notice when the meeting is called to order.
7. *Quorum.* Fifty percent (50%) of the Voting Members is a quorum. If a Members meeting cannot be held because a quorum is not present, a majority of the Voting Members who are present may adjourn the meeting. At the reconvened meeting, twenty-five percent (25%) percent of the Voting Members

is a quorum. If a quorum is not present, a majority of the Voting Members who are present may adjourn the meeting. Written notice of the place, date, and hour of each reconvened meeting must be given to each Member not less than 10 nor more than 30 days before the reconvened meeting. The reconvened meeting must be held within 50 days of the regularly scheduled annual meeting date.

8. *Majority Vote.* Votes representing more than fifty percent of the Voting Members present at a meeting at which a quorum is present are a majority vote.

9. *Proxies.* Voting Members may vote by written proxy.

10. *Conduct of Meetings.* The president will preside over Members meetings. The secretary will keep minutes of the meetings and will record in the minutes the votes of the members. The records of the Association shall be kept by the secretary.

11. *Action without Meeting.* Any action that may be taken at a Members meeting may be taken without a meeting by written consent setting forth the action taken signed by a sufficient number of Members as would be necessary to take that action at a meeting.

## **B. The Board**

1. *Governing Body; Composition.* The affairs of the Association are conducted by the Board. Each director has one vote. Each director must be a Member in good standing with the Association.

2. *Number of Directors.* The Board consists of not less than three nor more than five directors. Within those limits, the Members may change the number of directors. No decrease may shorten the term of a director.

3. *Term of Office.* Directors will have a term of two years. Directors may serve consecutive terms.

4. *Election.* At regular annual Members meetings, successors for each director whose term is expiring will be elected. Cumulative voting is prohibited. The candidate or candidates receiving the most votes will be elected. The directors elected by the Voting Members will hold office until their respective successors have been elected.

### *5. Removal of Directors and Vacancies*

a. *Removal by Members.* Any director may be removed, with or without cause, by a majority of the Voting Members. Any director whose removal is sought will be given notice of the proposed removal.

b. *Removal by Board.* Any director may be removed at a Board meeting if the director:

i. failed to attend four consecutive Board meetings;

ii. failed to attend fifty percent of Board meetings within one year;

iii. is delinquent in the payment of any Assessment for more than 90 days; or

iv. is the subject of an enforcement action by the Association for violation of the Governing Documents.

c. *Vacancies.* A director's position becomes vacant if the director dies, becomes incapacitated, resigns, or is no longer a Member.

- d. *Successors.* If a director is removed or a vacancy exists, a successor will be elected by the remaining directors for the remainder of the term.

6. *Compensation.* Directors will not receive compensation. A director may be reimbursed for expenses approved by the Board.

7. *Powers.* The Board has all powers necessary to administer the Association's affairs, including, without limitation, the right and authority to enter agreements to provide amenities and services to and for the Owners, such as basic fiber internet and basic fitness club access, with the expenses of such amenities and services to be passed along to the Owners and included as Assessments to be collected by the Association pursuant to the Declaration.

8. *Management.* The Board may employ a managing agent. Declarant, or an affiliate of Declarant, may serve as the managing agent.

9. *Accounts and Reports.* Accounting and controls must conform to good accounting practices. Accounts will not be commingled with accounts of other persons. The following financial reports will be prepared at least annually:

- a. An income statement reflecting all income and expense activity for the preceding period.
- b. A variance report reflecting the status of all accounts in an "actual" versus "approved" budget format.
- c. A statement of cash balance as of the last day of the preceding period.
- d. A delinquency report listing all Owners who are delinquent by more than 90 days in paying any Assessment and describing the status of any action to collect those delinquent Assessments.

10. *Borrowing.* The Board may borrow money to maintain, repair, or restore the Common Areas without the approval of the Members. If approved in advance by the Members in the same manner as approving a Special Assessment, the Board may borrow money for any other purpose.

11. *Rights of Association.* With respect to the Common Areas, and in accordance with the Declaration, the Association will have the right to contract with any person for the performance of various duties and functions. Such agreements require the approval of the Board.

12. *Enforcement Procedures*

- a. *Notice.* Before the Board may (1) suspend an Owner's right to use a Common Area, (2) file a suit against an Owner other than a suit to collect any Assessment, (3) foreclose the Association's lien, (4) charge an Owner for property damage, or (5) levy a fine for a violation of the Governing Documents, the Association or its agent must give written notice to the Owner by certified mail, return receipt requested. The notice must describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the Association from the Owner. The notice must also (1) inform the Owner that if the violation is curable and does not pose a threat to public health or safety, which means it could not materially affect the health or safety of an ordinary resident, the Owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; (2) indicate that the Owner may request a hearing in accordance with Texas Property Code section 209.007 on or before the thirtieth day after the date the notice was mailed to the Owner; (3)

state that the Owner may have special rights if the Owner is serving on active military duty, and (4) state the date by which the Owner must cure a curable violation that does not pose a threat to public health and safety.

- b. *Hearing.* If the Owner is entitled to an opportunity to cure the violation, the Owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the Board or before the Board if the Board does not appoint a committee. If a hearing is to be held before a committee, the notice must state that the Owner has the right to appeal the committee's decision to the Board by written notice to the Board.

The Association must hold a hearing under this section not later than the thirtieth day after the date the Board receives the Owner's request for a hearing and must notify the Owner of the date, time, and place of the hearing not later than the tenth day before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement will be granted for a period of not more than ten days. Additional postponements may be granted by agreement of the parties. The Owner or the Association may make an audio recording of the meeting.

The hearing will be held in executive session affording the alleged violator a reasonable opportunity to be heard. Before any sanction hereunder becomes effective, proof of proper notice will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered the notice. The notice requirement will be satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board may, but will not be obligated to, suspend any proposed sanction if the violation is cured within a 90-day period. Such suspension will not constitute a waiver of the right to sanction violations of the same or other provisions and rules by any person.

- c. *Appeal.* Following hearing before a committee, if any, the violator will have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the managing agent, if any, president, or secretary within 15 days after the hearing date.
- d. *Changes in Law.* The Board may change the enforcement procedures set out in this section to comply with changes in law.

### **C. Board Meetings**

1. *Meetings.* Except as permitted by law, all regular and special meetings of the Board must be open to the Owners. Except for a meeting held by electronic or telephonic means, a Board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county. A Board meeting may be held by electronic or telephonic means, provided all Owners and Board Members have access to the communication at the meeting as required by law.

2. *Notice.* Owners and Board Members must be given notice of the date, hour, place, and general subject of a regular or special Board meeting, including a general description of any matter to be brought up for deliberation in executive session. Notice must be given as required by law.

3. *Waiver of Notice.* The actions of the Board at any meeting are valid if (1) a quorum is present and (2) either proper notice of the meeting was given to each director or a written waiver of notice is given by any director who did not receive proper notice of the meeting. Proper notice of a meeting will

be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of proper notice.

4. *Quorum of Board.* At all meetings, a majority of the Board will constitute a quorum, and the votes of a majority of the directors present at a meeting at which a quorum is present constitutes the decision of the Board. If the Board cannot act because a quorum is not present, a majority of the directors who are present may adjourn the meeting to a date not less than 14 nor more than 30 days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business that may have been transacted at the meeting originally called may be transacted without further notice.

5. *Conduct of Meetings.* The president will preside at Board meetings. The secretary will keep minutes of the meetings and will record in a minute book the votes of the directors.

6. *Proxies.* Directors may vote by written proxy.

7. *Action without Meeting.* Any action that may be taken at a Board meeting may be taken without a meeting by written consent setting forth the action taken signed by a sufficient number of the Board as would be necessary to take that action at a meeting.

#### **D. Officers**

1. *Officers.* The officers of the Association are a president, vice president, secretary, and treasurer, to be elected from the Voting Members. Any two or more offices may be held by the same person, except the offices of president and secretary.

2. *Election, Term of Office, and Vacancies.* Officers will be elected annually by the Members. A vacancy in any office may be filled by the Board for the unexpired portion of the term.

3. *Removal.* The Board may remove any officer whenever, in the Board's judgment, the interests of the Association will be served thereby.

4. *Powers and Duties.* Officers have such powers and duties as are generally associated with their respective offices and as may be specifically conferred by the Board. The president is the chief executive officer of the Association. The treasurer has primary responsibility for the preparation of the budget and financial reports and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

5. *Resignation.* Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Resignation takes effect on the date of the receipt of the notice or at any later time specified in the notice.

#### **E. Committees**

The Board may establish committees by resolution and authorize the committees to perform the duties described in the resolution.

#### **F. Miscellaneous**

1. *Fiscal Year.* The Board may establish the Association's fiscal year by resolution. In the absence of a Board resolution determining otherwise, the Association's fiscal year is a calendar year.

2. *Rules for Meeting.* The Board may adopt rules for the conduct of meetings of Members, Board, and committees.

3. *Conflict.* The Declaration of Covenants, Conditions and Restrictions controls over these Bylaws.

4. *Inspection of Books and Records*

- a. *Inspection by Member.* After a written request to the Association, a Member may examine and copy, in person or by agent, any Association books and records relevant to that purpose. The Board may establish rules concerning the (1) written request; (2) hours, days of the week, and place; and (3) payment of costs related to a Member's inspection and copying of books and records.
- b. *Inspection by Director.* A director has the right, at any reasonable time, and at the Association's expense, to (1) examine and copy the Association's books and records at the Association's Principal Office and (2) inspect the Association's properties.

5. *Notices.* Any notice required or permitted by the Governing Documents must be in writing. Notices regarding enforcement actions must be given by certified mail, return receipt requested. All other notices may be given by regular mail. Notice is deemed delivered (whether actually received or not) when properly deposited with the United States Postal Service, addressed to (1) a Member at the Member's last known address according to the Association's records; and (2) the Association, the Board, or a managing agent at the Association's Principal Office or another address designated in a notice to the Members. Unless otherwise required by law or the Governing Documents, actual notice, however delivered, is sufficient.

6. *Amendment.* These Bylaws may be amended at any time by the vote of 75% percent of the Voting Members in the Association. This provision will not be construed as limiting the Board's power to amend the enforcement procedures to comply with changes in law.

7. *Common Areas.* No permanent change may be made in or to the Common Areas without prior written unanimous approval of the Voting Members.

8. *Bylaws.* These Bylaws replace and supersede any Bylaws which may have been previously adopted or established as a matter of practice.

Dated effective \_\_\_\_\_.

**Midtown Reserve Homeowners Association, Inc., a  
Texas nonprofit corporation**

By: \_\_\_\_\_  
James Murr, Director

By: \_\_\_\_\_  
Dorothy Layne Murr, Director

By: \_\_\_\_\_  
Brittany Gibson, Director