



*Dana DeBeauvoir*

Dana DeBeauvoir, County Clerk  
Travis County, Texas

Jun 12, 2020 04:45 PM Fee: \$42.00

**2020097624**

\*Electronically Recorded\*

STATE OF TEXAS  
COUNTY OF TRAVIS

**AMENDMENT OF RULES AND REGULATIONS  
OF  
THE BARTON CREEK ABC WEST COMMUNITY, INC.**  
(Regarding Leasing)

**Document reference.** Reference is hereby made to that certain Development Area Declaration for Barton Creek ABC West Phase I filed of record in Vol 13281 Page 35 of the Official Public Records of Travis County Texas, and to the Development Area Declaration for Barton Creek North AKA Barton Creek ABC West Phase II filed of record in Document no. 2004070709 of the Official Public Records of Travis County, Texas. These documents together, along with all subsequent amendments, are referred to as the **"Declaration"**.  
(Note: The original Phase II HOA was merged into The Barton Creek ABC West Community, Inc. association ("Association"), which now is the homeowner's association for all property subject to the Declaration.)

WHEREAS the Declaration provides that owners of lots subject to the Declaration are automatically made members of the Association;

WHEREAS the Association, acting through its board of directors (the **"Board"**), is authorized to adopt and amend rules and regulations governing the property subject to the Declaration and the operations of the Association pursuant to the Declaration and bylaws of the Association;

WHEREAS the Board has voted to adopt additional rules regarding leasing;

THEREFORE the Leasing Rules attached as Exhibit "A" have been, and by these presents are, ADOPTED and APPROVED.

Subject solely to the amendments contained in Exhibit "A", the rules remain in full force and effect.

**THE BARTON CREEK ABC WEST COMMUNITY, INC.**

Acting by and through its Board of Directors

Signature:

*Marnie E. Cervenka*

Printed Name:

MARNIE E. CERVENKA

Title:

President

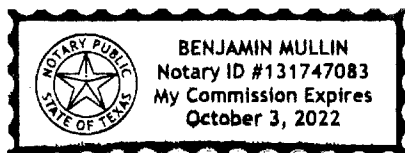
Exhibit "A": Leasing Rules

Acknowledgement

STATE OF TEXAS §

COUNTY OF Travis §

This instrument was executed before me on the 29<sup>th</sup> day of April, 2020, by Marnie E. Cervenka in the capacity stated above.



Benjamin Mullin  
Notary Public, State of Texas

**IMPORTANT NOTE TO OWNERS AND TENANTS:**

**The purpose of these leasing rules is to help ensure the right to peaceable enjoyment of the community by all residents; tenants, owners, or other occupants. It is important that all owners who desire to lease their property read and follow these rules to avoid inadvertent violation.**

**The rules follow. Among the more important provisions are:**

- \*All leases must be in writing (see also Declaration Section 2.01)**
- \*Tenants must comply with all governing documents of the HOA**
- \*Owners are responsible for any violations by tenants, occupants, or their guests**
- \*The minimum lease term is 6 months (see also Declaration Section 2.01)**
- \* No Unit Owner may advertise the lease of any Unit for a term of less than the minimum lease term.**
- \* Fines may assess for any violations**

## EXHIBIT "A"

LEASING

1. Definition of Leasing. A Lot is deemed "leased," and its occupants deemed "tenants," for purposes of this Section and other leasing-related provisions in the governing documents, except when: (i) the Lot is occupied by the Unit owner, (ii) the Lot is occupied by a person immediately related to the owner by blood, marriage or adoption<sup>1</sup>, (iii) the Lot is vacant, or (iv) title to the Lot is held by a corporation, trust, partnership, or other legal entity, with the primary purpose of providing occupancy to the current occupant. This definition applies irrespective of whether there is a written agreement between the Lot owner and the occupant(s) or whether any financial consideration has been provided for the right of occupancy.
  
2. General Lease Conditions. The leasing of Lots is subject to the following general conditions:
  - (1) No Lot may be rented for transient or hotel purposes or for an **initial lease term of less six months**;
  - (2) no Lot may be subdivided for rent purposes, and not less than an entire home may be leased;
  - (3) all leases must be in writing and must be made subject to the governing documents;
  - (4) an owner is responsible for providing his tenants with copies of the governing documents and notifying them of changes thereto; owners are responsible for all governing documents violations by their tenants, occupants, or their guests;
  - (5) each tenant is subject to and must comply with all provisions of the governing documents, federal and State laws, and local ordinances; and
  - (6) **No Unit Owner may advertise the lease of any Unit for a term of less than the minimum lease term.** All advertisements for the lease of a Unit must clearly state that the minimum lease term required by this rule (or any longer term the Owner wishes to apply). **Daily or weekly rates (or any rate less than monthly) may not be advertised.** Fines will automatically be assessed for any violation of this rule, regardless of whether the advertised Unit is actually leased for a period of less than the minimum lease term.

If a tenant fails to fulfill the minimum lease term (moves out early prior to six months having elapsed since lease initiation), the property may not be re-occupied by the owner or another tenant without prior approval of the board and unless any replacement lease is in compliance with this rule. This is to prevent a situation for example where a home is leased "for six months" but in reality is leased for the weekend, or a week, and the tenant "leaves early" and the owner moves back in.
  
3. Violations. Any violation of this rule will automatically result in a fine levy of the greater of (i) \$2,500 per day of violation, or (ii) the advertised daily rental rate (prorated as appropriate) plus \$100, per day of violation.

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<sup>1</sup> A situation where an owner lives with an unrelated individual for purpose of companionship, regardless of whether the companion contributes to living expenses, will not be considered a lease under these rules.

Niemann & Heyer, L.L.P.  
Attorneys At Law  
Westgate Building, Suite 313  
1122 Colorado Street  
Austin, Texas 78701

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**THE BARTON CREEK ABC WEST COMMUNITY, INC.  
SECRETARY'S CERTIFICATE**

STATE OF TEXAS                   §  
  §  
COUNTY OF TRAVIS           §

The undersigned hereby certifies that she is the duly elected, qualified and acting Secretary of The Barton Creek ABC West Community, Inc., a Texas non-profit corporation ("Association") and that:

*gpg*

Attached hereto are true and correct copies of the following Association documents which have been duly approved by the Board of Directors:

1. Records Retention Policy
2. Records Production Policy
3. Alternate Payment Schedule and Payment Plan Policy

IN WITNESS WHEREOF, the undersigned has executed this certificate on the 14 day of December, 2011.

By: *Mark Davis*  
MARK DAVIS, Secretary  
Board of Directors

STATE OF TEXAS                   §  
  §  
COUNTY OF TRAVIS           §

This instrument was acknowledged before me on the 14 day of December, 2011, by MARK DAVIS, Secretary of the Board of Directors of The Barton Creek ABC West Community, Inc. on behalf of said non-profit corporation.

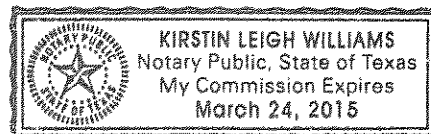
*K. Williams*  
Notary Public, State of Texas

[SEAL]

My Commission Expires: 3/24/15

**AFTER RECORDING RETURN TO:**

Bill Flickinger  
Willatt & Flickinger  
2001 North Lamar  
Austin, Texas 78705



# THE BARTON CREEK ABC WEST COMMUNITY, INC.

## Records Retention Schedule Adopted to be effective January 1, 2012

The Board of Directors of The Barton Creek ABC West Community, Inc. adopts the following document retention policy in compliance with Section 209.005(m), Texas Property Code:

### **Governing Documents**

Declarations with amendments, Articles of Incorporation, Bylaws, Guidelines, Rules, Restrictions, Policies, Procedures, and all amendments variances, easements, licenses, plats.....perm

Homeowner, Board and Committee Meeting Minutes, Resolutions, Unanimous Actions.....CY+7

### **Financial Records**

Audits and supporting documents.....CY+7  
Financial Statements and supporting documents.....CY+7  
Tax returns and supporting documents.....CY+7  
Owner Account Information.....CY+5

### **Terminated/Inactive Contracts**

Management Contracts.....CY+4  
Maintenance Contracts.....CY+4  
Settlement Agreements.....Perm  
Other contracts, agreements, warranties, etc.....CY+4

**Insurance Policies.....CY+7**

### **Correspondence/General Files**

Disputes.....perm  
Other.....CY+2

### **Architectural Control Committee**

Site plans, elevations, pools, landscape plans, variances, additions, issues needing correction, resale certificates.....Perm  
Other construction plans.....CY+5  
Correspondence.....CY+5

Other.....CY+5

**Litigation Files**

Active.....perm

Closed.....perm or as advised by counsel



# THE BARTON CREEK ABC WEST COMMUNITY, INC.

## RECORDS PRODUCTION POLICY

*ADOPTED to be effective January 1, 2012*

The following Records Production Policy has been approved by the Board of Directors:

**I. Copies of Association records will be available to all Owners upon proper request and at their own expense. A proper request:**

- a. is sent certified mail to the Association's address as reflected in its most recent management certificate;
- b. is from an Owner, or the Owner's agent, attorney or certified public accountant; and
- c. contains sufficient detail to identify the records being requested.

**II. Owners may request to inspect the books and records or may request copies of specific records.**

- a. If the Owner makes a request to inspect the books and records, then the Association will respond within **10 business days** of the request, providing the dates and times the records will be made available and the location of the records. The Association and the Owner shall arrange for a mutually agreeable time to conduct the inspection. The Association shall provide the Owner with copies of specific documents upon the Owner paying the Association the cost thereof.
- b. If an Owner makes a request for copies of specific records, and the Association can provide the records easily or with no cost, then the Association will provide the records to the Owner within 10 business days of the Owner's request.
- c. If the Owner makes a request for copies of specific records, the Association shall send a response letter advising on the date that the records will be made available (**within 15 business days**) and the cost the Owner must pay before the records will be provided. Upon paying the cost to provide the records, the Association shall provide the records to the Owner.

**III. The Association hereby adopts the following schedule of costs:**

<u>COPIES</u>	10 cents per page, for a regular 8.5" x 11" page 50 cents per page, for pages 11" x 17" or greater Actual cost, for specialty paper (color, photograph, map, etc.) \$1.00 for each CD or audio cassette \$3.00 for each DVD
<u>LABOR</u>	\$15.00 per hour for actual time to locate, compile and reproduce the records (can only charge if request is greater than 50 pages in length)
<u>OVERHEAD</u>	20% of the total labor charge (can only charge if request is greater than 50 pages in length)

MATERIALS Actual costs of labels, boxes, folders, and other supplies used in producing the records, along with postage for mailing the records

- IV. The Association hereby adopts the following form of response to Owners who request to inspect the Association's Books and Records:

**THE BARTON CREEK ABC WEST COMMUNITY, INC.**  
**RESPONSE TO REQUEST TO INSPECT ASSOCIATION RECORDS**

\_\_\_\_\_ (date)

Dear Homeowner:

On \_\_\_\_\_, the Association received your request to inspect the books and records of the Association. The books and records of the Association are available for you to inspect on regular business days, between the hours of 9 a.m. and 5 p.m., at the office of \_\_\_\_\_, located at \_\_\_\_\_, Austin, Texas \_\_\_\_\_.

Please contact the Association's manager at \_\_\_\_\_ (phone number) to arrange for a mutually agreeable time for you to come and inspect the books and records. Please be advised that if you desire copies of specific records during or after the inspection, you must first pay the associated costs before the copies will be provided to you. A schedule of costs is included with this response.

Very truly yours,

The Barton Creek ABC West Community, Inc.

- V. The Association hereby adopts the following form of response to Owners who request copies of specific records:

**THE BARTON CREEK ABC WEST COMMUNITY, INC.**  
**RESPONSE TO REQUEST FOR ASSOCIATION RECORDS**

\_\_\_\_\_ (date)

Dear Homeowner:

On \_\_\_\_\_, the Association received your request for copies of specific Association records. We are unable to provide you with the requested records within 10 business days of your request. However, the requested records will be available to you no later than 15 business days after the date of this response.

In order to obtain the records, you must first pay the Association the cost of providing the records to you. The estimated cost to obtain the records you requested is \$ \_\_\_\_\_. Upon receiving payment, the Association will mail the requested documents to you. You may also make payment and pick up the documents in person at the office of \_\_\_\_\_, located at \_\_\_\_\_, \_\_\_\_\_, Texas \_\_\_\_\_.

Very truly yours,

The Barton Creek ABC West Community, Inc.

- VI. If the estimated cost provided to the Owner is more or less than the actual cost of producing the documents, the Association shall, within 30 days after providing the records, submit to the Owner either an invoice for additional amounts owed or a refund of the overages paid by the Owner.
- VII. Unless authorized in writing or by court order, the Association will not provide copies of any records that contain the personal information of an Owner, including restriction violations, delinquent assessments, financial information and contact information (other than an Owner's address); additionally, no privileged attorney-client communications or attorney work product documents will be provided; and no employee information (including personnel file) will be released.
- VIII. With regards to the inspection of ballots, only persons who tabulate ballots under 209.00594, Texas Property Code, may be given access to the ballots cast in an election or vote.

**THE BARTON CREEK ABC WEST COMMUNITY, INC.**  
**ALTERNATE PAYMENT SCHEDULE AND PAYMENT PLAN POLICY**

The Board of Directors of The Barton Creek ABC West Community, Inc. hereby adopts this Alternate Payment Schedule and Payment Plan Policy ("Policy") to comply with Section 209.0062, Texas Property Code, and directs the Property Manager to implement the following:

1. Members are entitled to pay their delinquent assessments according to the terms of this approved Policy, as long as a Member has not failed to honor the terms of a previous payment plan during the past two (2) years;
2. The Association cannot charge late fees during the course of a payment plan, but can charge interest at the rate it is entitled to under its Governing Documents and can charge reasonable costs of administering the payment plan (the "Administrative Costs"). The Administrative Costs for the payment plan described in paragraph 3 shall not exceed \$20. The Board may adjust the actual Administrative Costs from time to time;
3. Upon request and prepayment of the Administrative Costs, all Members are automatically approved for a payment plan of three (3) months which shall include all amounts owed by the Member, shall include all amounts that will come due during the term of the payment plan, shall account for the prepaid costs of the administration of the payment plan, and each payment shall be equal. Administrative Costs shall be nonrefundable even if the Member pays in full prior to the scheduled dates for payment in the payment plan. The deadline for requesting the payment plan, for all past due accounts not already referred to the Association's attorney, shall be 30 days after the date of the final collection letter from the Property Manager. For all past due accounts currently with the Association's attorney, such deadline shall be 30 days after the date of notice of availability of the payment plan;
4. If a Member defaults on any payment plan, the payment plan is automatically terminated, and the Association is not obligated to make another payment plan with the owner for the next two (2) years;
5. All payments received pursuant to the approved payment plan shall be applied in the order required by Section 209.0063, Texas Property Code. The Association is not required to provide notice of any default under the terms of a payment plan. If a Member defaults in payment of the approved plan, they will be subject to further collection efforts, including possible referral to the Association's attorney; and
6. To the extent this Policy conflicts with any other policy or procedure of the Association, this Policy shall prevail.

ADOPTED to be effective January 1, 2012.

FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS



*Dana DeBeauvoir*

Dana DeBeauvoir, County Clerk  
Travis County, Texas

Sep 19, 2019 02:56 PM Fee: \$34.00

**2019145286**

\*Electronically Recorded\*

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electronic file stamp.

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## THE BARTON CREEK ABC WEST COMMUNITY, INC.

SECRETARY'S CERTIFICATE

STATE OF TEXAS                   §  
   §  
 COUNTY OF TRAVIS           §

The undersigned hereby certifies that he/she is the duly elected, qualified and acting Secretary of The Barton Creek ABC West Community, Inc., a Texas non-profit corporation ("Association") and that:

Attached hereto is a true and correct copy of the Collection Directive for Wimberly Lane, duly approved by the Board of Directors of the Association.

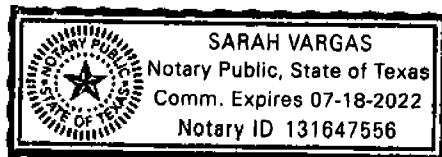
IN WITNESS WHEREOF, the undersigned has executed this certificate on the 9 day of September, 2019.

By: *Ana M. Jordan*  
 Printed Name: ANA M. JORDAN  
 Secretary, Board of Directors

STATE OF TEXAS                   §  
   §  
 COUNTY OF TRAVIS           §

This instrument was acknowledged before me on the 9 day of September, 2019, by *Ana M. Jordan*, Secretary of the Board of Directors of The Barton Creek ABC West Community, Inc., on behalf of said non-profit corporation.

[SEAL]



*Sarah Vargas*  
 Notary Public, State of Texas

My Commission Expires: 7/18/2022

## AFTER RECORDING RETURN TO:

Bill Flickinger  
 Willatt & Flickinger, PLLC  
 12912 Hill Country Blvd., Ste. F-232  
 Austin, Texas 78738

## COLLECTION DIRECTIVE

ASSOCIATION: **WIMBERLY LANE**

COLLECTION PROCESS	ACTION	LATE FEE	LATE INTEREST	LATE DATE	NOTES
Friendly Reminder	Mailed after late date with late fee/interest added	\$25/Month		<b>30<sup>TH</sup></b> of each Month	Send until paid in full or trigger is reached
CMA Demand	Trigger: 10 months 35 Day Demand	\$25/Month		<b>30<sup>TH</sup></b> of each Month	Certified & Regular Mail  Legal Action Pending

ASSOCIATION ATTORNEY:  
**Willatt & Flickinger**

PAYMENT PLAN:  
**\$20 HOA Admin Fee**

OTHER:  
**\$25 NSF**

Marnie E. Cervenka  
Board Signature

MARNIE E. Cervenka  
Printed Name

May 23, 2019  
Date  
President  
Board Position

SECRETARY'S CERTIFICATE

STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF TRAVIS §

The undersigned hereby certifies that he is the duly elected, qualified and acting Secretary of The Barton Creek ABC West Community, Inc., a Texas non-profit corporation (the "Corporation"), and that

- (1) Attached hereto as Exhibit "A" and made a part hereof is a true and correct copy of the Bylaws of the Corporation

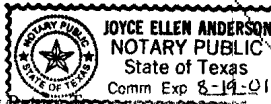
IN WITNESS WHEREOF, the undersigned has executed this certificate on the 16<sup>th</sup> day of December, 1999

John Baker  
John Baker, Secretary

STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on December 16, 1999, by John Baker, Secretary of The Barton Creek ABC West Community, Inc., on behalf of said corporation



Joyce Ellen Anderson  
Notary Public Signature

Upon Recording Return To

Robert D. Burton  
Armbrust Brown & Davis, L L P  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701