

**BYLAWS OF  
WEST HARBOUR MARINA  
PROPERTY OWNERS ASSOCIATION, INC.**

**Basic Information**

**Association:** West Harbour Marina Property Owners Association, Inc., established by the Certificate of Formation filed with the Secretary of State of Texas on November 5, 2019 under file number 803462856, a Texas nonprofit corporation.

**Principal Office:** 8301 N State Highway 6, Bryan, Texas 77807

**Mailing Address:** 8301 N State Highway 6, Bryan, Texas 77807

**Declaration:** The Declaration of Covenants, Conditions and Restrictions of West Harbour Marina Condominium, recorded in the Official Public Records of Travis County, Texas.

**Definitions:** Capitalized terms used but not defined in the Bylaws have the meaning set forth in the Declaration.

**Voting Members:** Members entitled to vote or their proxies. Any Member delinquent in payment of any Assessment is not a Voting Member.

**A. Members**

*A.1. Membership.* Every Owner is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of a Unit.

*A.2. Place of Meeting.* Members meetings will be held at the Association's principal office or at another place designated by the Board.

*A.3. Annual Meetings.* The first Members meeting will be held within three (3) months after the formation of the Association. Subsequent regular annual Members meetings will be held on a date selected by the Board of Directors during the first quarter of the year. If the Board of Directors fail to select a time and day, the annual Members' meeting must be held at 10:00 A.M. (local time at the place of the meeting) on the first Tuesday of February of each year,

unless that day is a legal holiday, in which case, the meeting must be held on the next succeeding business day.

*A.4. Special Meetings.* The President, two-thirds (2/3) of the Board, or Owners having at least 20 percent of the votes of the Association may call special meetings.

*A.5. Notice of Meetings.* Except as provided in paragraph F.6., 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 fourteen (14) nor more than thirty (30) 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, properly addressed, postage prepaid.

*A.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.

*A.7. Quorum.* A quorum is present throughout any meeting of the Association if persons entitled to cast at least twenty percent (20%) of the votes that may be cast for election of the Board are present in person or by proxy at the beginning of the meeting.

*A.8. Majority Vote.* Votes representing at least fifty-one percent (51%) of the votes at a meeting at which a quorum is present are a majority vote.

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

*A.10. Conduct of Meetings.* The president will preside over Members meetings. The secretary will keep minutes of the meetings and will record in a minutes book the votes of the Members.

## **B. Board**

*B.1. Governing Body; Composition.* The affairs of the Association are governed by the Board. Each director has one vote. The initial Board is composed of the directors appointed in the certificate of formation. Each director must be a Member or, in the case of an entity Member, a person designated in writing to the secretary.

*B.2. Number of Directors.* The Board consists of three (3) persons. Within those limits, the Board may change the number of directors. No decrease may shorten the term of a director.

*B.3. Term of Office.* The initial directors serve until the first annual meeting of Members.

The terms of directors will be staggered. At least one-third of the Board will be elected each year. The initial Board will determine the initial term, not to exceed three (3) years,

of each director. The initial terms shall be staggered (i.e. one of the initial directors will roll off on year one, the second on year two and the third on year three). At the expiration of the initial term of a director, each successor will have a term of three (3) years.

Directors may serve consecutive terms.

*B.4. Election.* Within 120 days after Declarant has conveyed 75 percent of the Units to Owners other than Declarant, the Members shall elect not less than two members of the Board members at a meeting held for such purpose. Not later than the 120th day after conveyance of 100 percent of the Units to Owners other than Declarant, the Voting Members will elect the directors of the Association and its officers as herein provided. At subsequent 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.

*B.5. Removal of Directors and Vacancies*

*B.5.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.5.b. Removal by Board.* Any director may be removed at a Board meeting if the director—

- i. failed to attend three (3) consecutive Board meetings;
- ii. failed to attend sixty (60) percent of Board meetings within one year;
- iii. is delinquent in the payment of any Assessment for more than sixty (60) days; or
- iv. is the subject of an enforcement action by the Association for violation of the Dedicatory Instruments.

*B.5.c. Removal by Declarant.* During the Declarant Control Period, Declarant may remove any director with or without cause. Any director whose removal is sought will be given notice of the proposed removal. Declarant may fill the vacancy caused by said removal.

*B.5.d. Vacancies.* A director's position becomes vacant if the director dies, becomes incapacitated, resigns, or is no longer a Member.

*B.5.e. 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.

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

*B.7. Powers.* The Board has all powers necessary to administer the Association's affairs.

*B.8. Management.* Anything contained in these Bylaws to the contrary notwithstanding, the Board of Directors shall have the power and authority to enter into a management agreement with a management company of its choice, at a rate of compensation based upon the policies and functions performed by said management company, and on such terms and conditions acceptable to the Board of Directors. The Board may delegate any of its powers, duties and functions to the managing agent named therein provided, however, that the terms of the management agreement shall be in compliance with the provisions of the Declaration. The members of the Board shall not be liable for any act of omission of the managing agent or any improper exercise of any duty, power or function delegated by the Board by written instrument executed by a majority of the Board of Directors.

*B.9. Accounts and Reports.* Accounting must conform to good accounting practices. The Association shall obtain an annual audit of its records in accordance with section 82.114(c) of the Act. 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 statement reflecting all cash receipts and disbursements for the preceding period.
- c. A variance report reflecting the status of all accounts in an "actual" versus "approved" budget format.
- d. A balance sheet as of the last day of the preceding period.
- e. A delinquency report listing all Owners who are delinquent by more than sixty (60) days in paying any Assessment and describing the status of any action to collect those delinquent Assessments.

*B.10. Borrowing.* The Board may borrow money to maintain, repair, or restore the Common Elements 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.

*B.11. Rights of Association.* With respect to any areas owned by the Association, 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.

*B.12. Rules.* Consistent with the rights granted in the Declaration, the Board of Directors shall have the right to establish, modify, and amend Rules of the Association.

## **C. Board Meetings**

*C.1. Regular Meetings.* Regular meetings of the Board will be held at such time and place as determined by the Board, but at least four (4) such meetings will be held during each fiscal year. Notice of the time and place of the meetings will be given to directors not less than fourteen (14) days and not more than thirty (30) days before the meetings.

*C.2. Special Meetings.* Special meetings will be held when called by written notice signed by the president or by any two (2) directors. The notice will specify the time and place of the meeting and the matters to be covered at the meeting.

*C.3. Waiver of Notice.* The actions of the Board at any meeting are valid if (a) a quorum is present and (b) 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.

*C.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 fourteen (14) days nor more than thirty (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.

*C.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.

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

*C.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**

*D.1. Officers.* The officers of the Association are a president, secretary, and treasurer, to be elected from the Members of the Board. The Board may appoint other officers having the authority and duties prescribed by the Board. Any two or more offices may be held by the same person, except the President shall only hold that office. The officers may also be

Directors, and the Directors may also be officers. The current officers of the Association are as follows: Mark Kristen, President and Treasurer; and Stephanie Nick, Secretary.

*D.2. Election, Term of Office, and Vacancies.* Officers will be elected annually by the Board at the first meeting of the Board following each annual meeting of the Voting Members. A vacancy in any office may be filled by the Board for the unexpired portion of the term. The terms of officers will be staggered. At least one-third of the officers will be elected each year. The initial Board will determine the initial term, not to exceed two (2) years, of each officer. At the expiration of the initial term of a director, each successor will have a term of two (2) years

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

*D.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.

*D.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**

*F.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.

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

*F.3. Conflict.* The Declaration controls over these Bylaws.

*F.4. Inspection of Books and Records*

*F.4.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 (i) written

request; (ii) hours, days of the week, and place; and (iii) payment of costs related to a Member's inspection and copying of books and records.

*F.4.b. Inspection by Director.* A director has the right, at any reasonable time and at the Association's expense, to examine and copy the Association's books and records at the Association's Principal Office and to inspect the Association's properties.

*F.5. Notices.* Any notice required or permitted by the Dedicatory Instruments 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 a Member at the Member's last known address according to the Association's records and 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 Dedicatory Instruments, actual notice, however delivered, is sufficient.

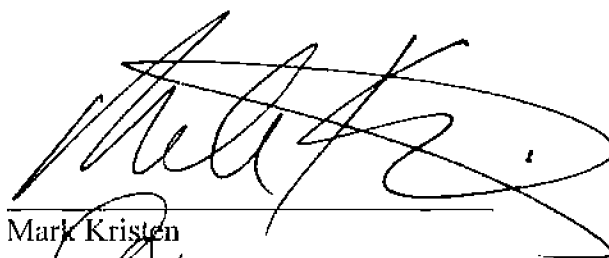
*F.6. Amendment.* These Bylaws may be amended only by the vote of sixty-seven percent (67%) of the Voting Members in the Association.

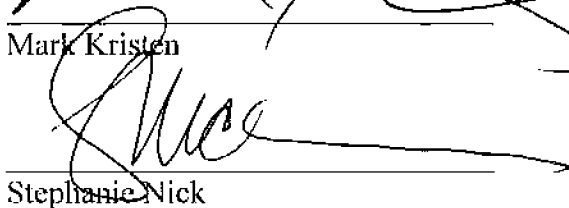
*F.7. Transaction with Members, Directors and Officers.* So long as terms and compensation for services are consistent with an arm's length transaction, the Association may enter into contracts or transact business with one or more of its Directors, officers, or members, or with any firm of which one or more of its Directors, officers or members are members, or with any corporation, association, company, organization or entity in which one or more of its Directors, officers or members are directors, officers, trustees, shareholders, beneficiaries or are otherwise interested, and, in the absence of fraud, such contract or transaction shall not be invalidated or otherwise affected by the fact that the votes of such Directors, officers or members having such adverse interest may have been necessary to obligate the Association upon such contract or transaction.

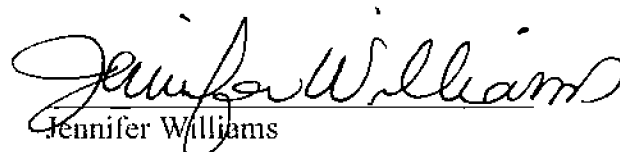
The officers who are authorized to prepare, execute, certify, and record amendments to the Declaration on behalf of the Association are as follows: President and Secretary.

SIGNED THIS 7<sup>th</sup> day of November, 2019.

DIRECTORS:

  
Mark Kristen

  
Stephanie Nick

  
Jennifer Williams