

SECURITY MEASURES POLICY
for
BENDERS LANDING PROPERTY OWNERS ASSOCIATION

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

I, J. Franklin - Thomas, Secretary of Benders Landing Property Owners Association (the "**Association**"), do hereby certify that in the open session of a properly noticed meeting of the Board of Directors (the "**Board**") of the Association, duly called and held on the 25 day of August, 2021, with at least a quorum of the Board members being present and remaining throughout, and being duly authorized to transact business, the following Security Measures Policy was duly approved by at least a majority vote of the members of the Board present at the meeting.

RECITALS

1. The property encumbered by this Security Measures Policy is that property restricted by (1) the Declaration of Covenants, Conditions and Restrictions for Benders Landing - Section 1 recorded in the Official Public Records of Montgomery County, Texas, under County Clerk's File No. 2001-024582; (2) the Declaration of Covenants, Conditions, and Restrictions for Benders Landing - Section 2 recorded in the Official Public Records of Montgomery County, Texas, under County Clerk's File No. 2002-029410; and (3) the Declaration of Covenants, Conditions, and Restrictions for Benders Landing - Section 3 recorded in the Official Public Records of Montgomery County, Texas, under County Clerk's File No. 2004-127533, as same has been or may be amended from time to time ("**Declaration**"), and any other property which has been or may be subsequently annexed thereto and made subject to the authority of the Association.

2. Article VIII, Section 8.10 of the Declaration grants the Board the power to adopt rules, regulations and/or guidelines regarding the installation of improvements on a Lot.

3. Texas Property Code Section 204.010(a)(6) provides that a property owners' association, acting through its Board may regulate "the use, maintenance, repair, replacement, modification and appearance of the subdivision."

4. The Board has determined that, in order to provide guidance regarding security measures authorized by Texas Property Code Section 202.023, it is appropriate for the Association to adopt a Security Measures Policy for the properties under the jurisdiction of the Association.

5. This Security Measures Policy replaces and supersedes any previously recorded or implemented policy that addresses the subjects contained herein, if any, adopted by the

Association.

6. Any reference made herein to approval by the Architectural Control Committee (the "ACC"), means prior written approval by the ACC.

7. All capitalized terms in this Policy shall have the same meanings as that ascribed to them in the Declaration.

SECURITY MEASURES POLICY

1. **ACC Application Required.** Before any security measure contemplated by Section 202.023(a) of the Texas Property Code ("Code") is constructed or otherwise erected on a Lot, an ACC application must be submitted to the Association and approved in writing in accordance with the Declaration. The following information must be included with the application:

- a. Type of security measure;
- b. Location of proposed security measure;
- c. General purpose of proposed security measure
- d. Current survey of the property; and
- e. Proposed construction plans and/or site plan.

2. **Type of Fencing.** The Code authorizes the Association to regulate the type of security measure fencing that an Owner may install on a Lot.

a. Security measure fencing generally

- (i) Security measure fencing cannot contain decorative elements and embellishments (whether part of the fence construction or are add-on decorative elements/embellishments). This prohibition includes, but is not limited to, prohibiting finials (of any shape or design), fleur de lis, points, spears (of any shape or design), and gate toppers of any type.
- (ii) Unless otherwise provided by the Association's dedicatory instruments, chain link, brick, concrete, barbed wire, vinyl, and stone security measure fencing is expressly prohibited and will not be approved by the ACC.
- (iii) No vines or vegetation shall be allowed to grow on security measure fencing.

b. Security measure fencing forward of the residential structure on a Lot as depicted on the applicable Lot survey:

- (i) Must be metal fencing (either steel, wrought iron, or aluminum) measuring no less than four feet (4') and no more than six feet (6') in

height. The ACC shall have the discretion to approve any other type of metal security measure fencing, however, the follow types of metal fencing are prohibited and will not be approved: (1) stamped metal fencing (including gates); (2) metal panel fencing; and (3) solid metal fencing. It is the intent of this Policy that all security measure fencing forward of the twenty foot (20') front building line on a Lot have the appearance of what is commonly called "wrought iron fencing";

- (ii) Must consist of straight horizontal rails and straight vertical pickets and/or posts;
 - (iii) Must be black or any color approved by the ACC (including gates);
 - (iv) Security measure fencing pickets shall be 3/4", 4" on center with 1-1/4" top and bottom rails. All framing must be on the inside (i.e., the residence side) of the security measure fencing;
 - (v) Any driveway or pedestrian gates on security measure fencing must be of the same material as the fencing and swing inward and related fence motors/equipment must be kept screened from view with evergreen shrubs or in such other manner approved in writing by the ACC;
 - (vi) When security measure fencing meets a wood fence, the security measure fencing may not be attached to the wood fence. The security measure fencing shall be terminated with a three-inch (3") metal post (either steel, wrought iron, or aluminum) adjacent to the wood post/wood fencing; and
 - (vii) Chain link, brick, concrete, barbed wire, vinyl, wood and stone security measure fencing is expressly prohibited and will not be approved by the ACC.
- c. Security measure fencing forward of the residential structure on Corner Lots, Detention Lakefront Lots, or Parkfront Lots as depicted on the applicable Lot survey:
- (i) Must be wrought iron fencing only, measuring no less than four feet (4') and no more than six feet (6') in height. No privacy fence or wall of any kind shall be erected or maintained on a Corner Lot, Detention Lakefront Lot, or Parkfront Lot. The ACC shall have the discretion to approve any other type of metal security measure fencing, however, the follow types of metal fencing are prohibited and will not be approved: (1) stamped metal fencing (including gates); (2) metal panel fencing; and (3) solid metal fencing. It is the intent of this Policy that all security measure fencing forward of the twenty foot (20') front

building line on a Lot have the appearance of what is commonly called "wrought iron fencing";

- (ii) Must consist of straight horizontal rails and straight vertical pickets and/or posts;
 - (iii) Must be black or any color approved by the ACC (including gates);
 - (iv) Security measure fencing pickets shall be 3/4", 4" on center with 1-1/4" top and bottom rails. All framing must be on the inside (i.e., the residence side) of the security measure fencing;
 - (v) Any driveway or pedestrian gates on security measure fencing must be of the same material as the fencing and swing inward and related fence motors/equipment must be kept screened from view with evergreen shrubs or in such other manner approved in writing by the ACC;
 - (vi) When security measure fencing meets a wood fence, the security measure fencing may not be attached to the wood fence. The security measure fencing shall be terminated with a three-inch (3") metal post (either steel, wrought iron, or aluminum) adjacent to the wood post/wood fencing; and
 - (vii) Chain link, brick, concrete, barbed wire, vinyl, wood and stone security measure fencing is expressly prohibited and will not be approved by the ACC.
- d. All security measure fencing must be installed per the manufacturer's specifications and all electric gates must be installed by a licensed electrician in accordance with all applicable codes and applicable governmental regulations.
- e. Placement of fencing and/or security measures of any type must comply with Texas, City of Conroe and/or Montgomery County Regulations and Ordinances, if any.
- f. The ACC shall have the discretion to determine any additional types of approvable or prohibited security measure fencing.
- g. If the proposed security measure fencing is located on one or more shared Lot lines with adjacent Lot(s) ("Affected Lots"), all Owners of record of the Affected Lots must sign the ACC application evidencing their consent to the security measure fencing before the requesting Owner ("Requesting Owner") submits the ACC application to the ACC. In the event that the Affected Lot Owner(s) refuse to sign the ACC application as required by this section, the Affected Lot Owner(s) and Requesting Owner hereby acknowledge and agree that the

Association shall have no obligation to participate in the resolution of any resulting dispute in accordance with this Policy.

3. **Burglar Bars and Security Screens.** All burglar bars, security screens, and front door entryway enclosure shall be black or any color approved by the ACC. Notwithstanding the foregoing, the ACC shall have the discretion to approve another color for burglar bars, security screens and front door entry enclosure if, in the sole and absolute discretion of the ACC (subject to an appeal to the Board of Directors in the event of an ACC denial), the proposed color of the burglar bars, security screens, and front door entryway enclosures complements the exterior color of the dwelling. All burglar bars and front door entry enclosures must be comprised of straight horizontal cross-rails and straight vertical pickets. Decorative elements and embellishments (whether part of the original construction of the burglar bar or security screen or are add-on decorative elements/embellishments) of any type are prohibited on burglar bars, security screens, and front door entryway enclosures. **Location.** A security measure may be installed only on an Owner's Lot, and may not be located on, nor encroach on, another Lot, street right-of-way, Association Common Area, or any other property owned or maintained by the Association. No fence shall be installed in any manner that would prevent someone from accessing property that they have a right to use/access.

4. **Disputes; Disclaimer; Indemnity.** Security measures, including but not limited to, security cameras and security lights shall not be permitted to be installed in a manner that the security measure is aimed/directed at an adjacent property which would result in an invasion of privacy, or cause a nuisance to a neighboring Owner or resident. In the event of a dispute between Owners or residents regarding security measure fencing, or a dispute between Owners or residents regarding the aim or direction of a security camera or security light, the Association shall have no obligation to participate in the resolution of the dispute. The dispute shall be resolved solely by and between the Owners or residents.

EACH OWNER AND OCCUPANT OF A LOT WITHIN THE PROPERTY ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, INCLUDING ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, EMPLOYEES AND THE ACC, ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY DWELLING AND/OR LOT THAT HAS A SECURITY MEASURE THAT HAS BEEN OR WILL BE INSTALLED PURSUANT TO THIS POLICY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO DWELLINGS AND IMPROVEMENTS AND TO THE CONTENTS OF DWELLINGS AND IMPROVEMENTS, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, INCLUDING ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, EMPLOYEES AND THE ACC, HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY SECURITY MEASURE THAT MAY BE APPROVED BY THE ACC PURSUANT TO THIS POLICY.

OWNERS OF LOTS WITHIN THE PROPERTY HEREBY AGREE TO INDEMNIFY, PROTECT, HOLD HARMLESS, AND DEFEND (ON DEMAND) THE ASSOCIATION, INCLUDING ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, EMPLOYEES AND

COMMITTEE MEMBERS COMPRISING THE ACC (COLLECTIVELY REFERRED TO AS THE "INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS (INCLUDING WITHOUT LIMITATION CLAIMS BROUGHT BY AN OWNER OR OCCUPANT) IF SUCH CLAIMS ARISE OUT OF OR RELATE TO A SECURITY MEASURE GOVERNED BY THIS POLICY. THIS COVENANT TO INDEMNIFY, HOLD HARMLESS, AND DEFEND INCLUDES (WITHOUT LIMITATION) CLAIMS CAUSED, OR ALLEGED TO BE CAUSED, IN WHOLE OR IN PART BY THE INDEMNIFIED PARTIES' OWN NEGLIGENCE, REGARDLESS OF WHETHER SUCH NEGLIGENCE IS THE SOLE, JOINT, COMPARATIVE OR CONTRIBUTORY CAUSE OF ANY CLAIM.

Any installation not in compliance with this Policy will be considered a violation of the dedicatory instruments governing the subdivision.

I hereby certify that I am the duly elected, qualified and acting Secretary of the Association and that the foregoing Security Measures Policy was approved by not less than a majority vote of the Board as set forth above and now appears in the books and records of the Association, to be effective upon recording in the Official Public Records of Montgomery County, Texas.

TO CERTIFY which witness my hand this the 28 day of August, 2021.

BENDERS LANDING PROPERTY OWNERS
ASSOCIATION

By: *S. Franklin Thomas*

Printed: S. Franklin Thomas

Its: Secretary

THE STATE OF TEXAS §
 §
COUNTY OF Montgomery §



BEFORE ME, the undersigned notary public, on this 28 day of August, 2021 personally appeared S. Franklin Thomas Secretary of Benders Landing Property Owners Association, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and in the capacity therein expressed.

Katharine A. Piper
Notary Public in and for the State of Texas