

## **SUBDIVISION RESTRICTIONS**

### **HOLIDAY BEACH, MESQUITE TREE AND SHERWOOD DOWNS SECTIONS**

Holiday Beach Property Owners' Association, Inc, the owners of Holiday Beach, Mesquite Tree and Sherwood Downs Sections, as shown by the plats thereof duly recorded in the Plat Records of Aransas County, Texas, do hereby acknowledge, declare and adopt the following restrictions, which are hereby impressed on all of said property, and these restrictions and covenants shall run with the land.

1. Except on those lots designated as commercial lots on the aforesaid plat, no building shall be erected or maintained on any lot in said subdivision other than a private residence and a private garage for the sole use of the owner or occupant.

2. No old, used, existing building or structure of any kind and no part of an old, used, existing building, or structure shall be moved onto, placed on, or permitted to remain on any lot. All construction is to be of new material.

3. Each residence shall have a minimum floor area of 500 square feet for off-shore lots and 750 square feet for water-front lots, exclusive of porches, stoops, open or closed carports, patios or garages.

4. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to harmony of external design with existing structures and as to location with respect to topography and finish grade elevation.

4a. Completion Time. Any house, structure or improvement commenced on any lot in the subdivision, shall be completed within six (6) months after the plans for construction have been approved by the ACC or within such additional time as may be approved in writing by the ACC. No partially completed house, structure or improvement of any type shall be permitted to remain on said property beyond said period of time. Exterior will be dried in and painted. All construction material must be removed from any lot or lots within the allotted time otherwise an administrative fee of \$100.00 per day will apply.

4b. Plumbing and Sanitary Facilities. All structures shall have plumbing installations completed and approved by the Aransas Health Department prior to occupancy. Such plumbing shall comply with all laws, rules and regulations of governmental authorities having and asserting jurisdiction. No outside toilet shall be installed or maintained on any lot except temporarily for construction workers while house is under construction.

5. The Architectural Control Committee is composed of three (3) members appointed by the undersigned for the betterment and improvement of the subdivision.

6. No fence shall be permitted to extend nearer to the street than the minimum set back line hereinafter provided.

7. No residential structure shall be located nearer to the front lot line than 20 feet, or nearer to the side street line than 10 feet, or nearer to the side lot line or rear lot line than 6 feet. "Side lot line" as used in this paragraph, in respect to any two or more contiguous whole and/or fractional lots owned by (and/or under a contract to be conveyed by Holiday Beach Property Owners' Association, Inc to) the same person or persons, shall mean each and/or either of the two outermost side lot lines considering said contiguous whole and/or fractional lots as one lot, if the combined width of said contiguous whole and/or fractional lots is at least 50 feet at the widest portion thereof.

8. No farm animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot. A reasonable number of dogs, cats or other household pets may be kept where there is a permanent dwelling, provided that they are not kept, bred or maintained for any commercial purpose or in any offensive manner.

9. No outbuilding or basement erected on any lot shall at any time be used as a dwelling, temporarily or permanently, nor shall any house trailer or shack be placed on any lot, nor shall any residence of a temporary character be permitted.

10. Easements are reserved along and within 6 feet of the rear line, front line, and side lines of all lots in this subdivision for the construction and perpetual maintenance of conduits, poles, wires and fixtures, for electric lights, telephones, water mains, sanitary and storm sewers, road drains and other public and, quasi-public utilities and to trim any trees which at any time may interfere or threaten to interfere with the maintenance of such lines, with right of ingress to and egress from across said premises to employees of said utilities. Said easement to also extend along any owner's side and real property lines in case of fractional lots. "Side lines of all lots", as used in this paragraph, in respect to any two or more contiguous whole and/or fractional lots owned by (and/or under a contract to be conveyed by Holiday Beach Property Owners' Association, Inc to) the same person or persons, shall mean each and/or either of the two outermost side lot lines considering said contiguous whole and/or fractional lots as one lot, if the combined width of said contiguous whole and/or fractional lots is at least 50 feet at the widest portion thereof.

It is understood and agreed that it shall not be considered a violation of the provisions of the easement if wires or cables carried by such pole lines pass over some portion of said lots not within the 6 foot wide strip as long as such lines do not hinder the construction of buildings on any lots in this subdivision.

11. No outside toilet or privy shall be erected or maintained in the subdivision. All sanitary plumbing shall conform with the minimum requirements of the Health Department of Aransas County and the State of Texas.

12. An assessment of \$35.00 per lot per year shall run against each lot in said subdivision for the operation of the association, maintenance of facilities, buildings, and park areas designated on the plat of such subdivision or in the subdivision restrictions. Such assessment shall be and is hereby secured by a lien on each lot respectively and shall be payable to the Holiday Beach Property Owners' Association, Incorporated (HBPOA). The Annual Maintenance Assessment (AMA) will be due each year on a month to be determined by the equitable prorated method with the month currently being utilized for payment. A property owner having more than one lot with AMA due in different months may be combined by an

equitable prorated method and assessed together. Property Owners with less than one full platted lot shall be considered as one lot and will be billed according. Failure to pay the AMA on property in Holiday Beach shall become a debt to the owner(s) and maybe attached by lien if the AMA has not been paid within one year of the due date. Said assessment lien shall be junior and subordinate to any other lien which may be placed on any lot or any portion of any lot. Failure to pay the AMA shall result in the property owner being denied the use of Holiday Beach facilities. Expenses incurred in the filing/releasing of liens along with any other expense in collecting the AMA may be charged to the property owners. No interest charge shall be charged for non-payment of any assessment by the HBPOA. This AMA may not be raised for five years from the effective date of this increase.

13. If the owner of any lot in said subdivision, or any other person, shall violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

14. Invalidation of any one or more of these covenants and restrictions by judgment of any court shall in nowise affect any of the other covenants, restrictions and provisions herein contained, which shall remain in full force and effect.

15. The following properties are designated as common areas and are available for use by all property owners in good standing pursuant to policy and/or rules established by the Board of Directors. These properties are located in the Holiday Beach Subdivision and owned by the Holiday Beach Property Owners' Association Incorporated (HBPOA) are hereby designated parks for the purpose of maintenance and improvement. The following properties may not be sold, trade or altered without notification to all property owners and approval by a simple majority of property owners voting at a meeting, special meeting or a single issue ballot.

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| Tract 1  | Hillcrest Park, Lots 088-093 on Hillcrest Drive between West Shady Oak Lane and West Castle Oak Lane, Hillcrest Section                |
| Tract 2  | Swimming Pool and Park, Lots 400-401, 436-437 on St. Charles Loop West, between Charlotte Drive and Desoto Drive, St. Charles Section. |
| Tract 3  | Large Boat Ramp between Palmetto Point Road and Channelview Road, Palmetto Point Road, Palmetto Point Section                          |
| Tract 4  | Small Boat Ramp, between Kingfish Drive and Sailfish Drive, Palmetto Point Section   |
| Tract 5. | Newcomb Bend Park, on Newcomb Bend Loop between 67 and 68 Newcomb Bend Loop  |
| Tract 6  | Fishing Pier and Park, northwest corner at the intersection of Belaire Drive and Northview Drive, Belaire Section                      |

- Tract 7            1 Belaire and north half of 2 Belaire Drive located adjacent to the Fishing Pier and Park at the intersection of Northview Drive, Belaire Section (1 Belaire is designated on the Belaire Plat as a commercial lot.)
- Tract 8            Lee Miller Center, Lots 103-104 St, Charles Section which is the Location of the recreation center and the office of the HBPOA.

The preceding listed properties or lots are to be used for any purpose deemed appropriate by the HBPOA until such time as they are no longer owned by the HBPOA. At which time will revert to being residential lot for nothing other than a private residence and a private garage for the sole use of the owner or occupant.

16.            On October 24, 2008, the property owners of the Holiday Beach Subdivision of Aransas County, Texas approved by the procedure set forth in the Texas Property Code Chapter 211.001 through 211.005 as a means to change the Holiday Beach Subdivision Restrictions. This procedure was approved by the Holiday Beach Property Owners' Association (HBPOA) Board of Directors on November 3, 2008. This resolution and the procedure to alter, change, amend, or replace and/or any or all Holiday Beach Subdivision Restrictions. This resolution is filed at the Aransas County Clerks office under Document 302926 dated November 7, 2008.

17. All properties owned by HBPOA are available for use by a property owner. Owners' wishing to use the parking lots for over flow must get a permit at the office. All facilities are for **"Use at your own Risk"**, HBPOA is not responsible for any lost items or damage incurred while using such facilities.

**Original on file in Deed Records at County Clerk's Office, Aransas County Courthouse, Rockport, TX, as Document #46425, recorded May 1964 in Vol. X-4, Page 496, as corrected and amended by Document #48877, recorded March 16, 1965 in Vol. 108, Page 58.**