

**SENDERA ESTATES HOMEOWNERS ASSOCIATION
RECORDS PRODUCTION AND COPYING POLICY**

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF VICTORIA §

WHEREAS, SENDERA ESTATES HOMEOWNERS ASSOCIATION (hereinafter referred to as the “Association”) is charged with administering and enforcing those certain covenants, conditions and restrictions contained in the recorded Declarations for the various sections of the community (collectively referred to as the “Declarations”);

WHEREAS, Section 209.005(i) of the Texas Property Code requires property owners associations to adopt a records production and copying policy that, among other things, prescribes the costs the association will charge for the compilation, production, and reproduction of information requested by an owner.

WHEREAS, Section 202.006 requires property owners associations to record all dedicatory instruments, including its’ bylaws, rules, guidelines, and governing documents, in the real property records of each county in which the property is located; and

WHEREAS, the members of the Association desire to establish a Records Production and Copying Policy consistent with Section 209.005(i) and to provide clear and definitive guidance to owners.

NOW THEREFORE, BE IT RESOLVED THAT:

The following RECORDS PRODUCTION AND COPYING POLICY is hereby adopted:

**RECORDS PRODUCTION AND
COPYING POLICY**

Charges: Charges for examining and copying Association information are set out in Schedule 1.

Except for information deemed confidential by law or court order, the Association will make its books and records open to and reasonably available for examination by Association members/property owners, or a person designated in a writing signed by the owner as the owner’s agent, attorney, or certified public accountant, in accordance with the Texas Property Code Section 209.005. Owners are also entitled to obtain copies of information in the Association’s books and records upon payment of the Charges for the copies. To the extent the Charges in this Policy exceed the charges in Title 1 Texas Administrative Code Sec. 70.3, the amounts in said section shall govern.

Information not subject to inspection by owners includes, but is not limited to:

1. Any document that constitutes the work product of the Association's attorney or that is privileged as an attorney-client communication;
2. Files and records of the Association's attorney relating to the Association, excluding invoices requested by an owner under Texas Property Code §209.008(d);
3. Except to the extent the information is provided in the meeting minutes or as authorized by Tex. Prop. Code §209.005(l);
 - a. Information that identifies the dedicatory instrument violation history of an individual owner;
 - b. An owner's personal financial information, including records of payment or nonpayment of amounts due the Association,
 - c. An owner's contact information, other than the owner's address; and
 - d. Information related to an employee of the Association, including personnel files.

If a document in the Association attorney files and records relating to the Association would be responsive to a request by an owner to inspect or copy Association documents, the document will be produced by using the copy from the attorney's files and records if the Association has not maintained a separate copy of the document.

Procedures for Owners to Inspect Association Information and/or Obtain Copies

1. An owner or the owner's agent must submit a written request for access or information by certified mail, with sufficient detail describing the Association's books and records requested, to the mailing address of the Association or authorized representative as reflected on the most current management certificate filed with the county clerk of DeWitt County, Texas.
2. The request must include enough description and detail about the information requested to enable the Association to accurately identify and locate the information requested. Owners must cooperate with the Association's reasonable efforts to clarify the type or amount of information requested.
3. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and:
 - a. If an inspection is requested, the Association, on or before the 10th business day after the date the Association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the Association; or
 - b. If copies of identified books and records are in the possession, custody, or control of the Association, produce the requested books and records for the requesting party on or before the 10th business day after the date the Association receives the request.

4. If the Association is unable to produce the books or records requested that are in its possession or custody on or before the 10th business day after the date the association receives the request, the Association receives the request.
 - a. informs the owner that the Association is unable to produce the information on or before the 10th business day after the date the Association received the request; and
 - b. states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.
5. If an inspection is requested or required, the inspection will take place at a mutually agreeable time during normal business hours, and the owner will identify the books and records for the Association to copy and forward to the owner.
6. The Association may produce copies of the requested information in paper copy, electronic, or other format reasonably available to the Association.
7. Before starting work on an owner's request, the Association must provide the owner with a written, itemized statement of estimated Charges for examining and/or copying records related to the owner's request using amounts prescribed herein when the estimated Charges exceed \$40.00. Owners may modify the request in response to the itemized statement.
8. Within 10 business days of the date the Association sent the estimate of Charges, the owner must respond in writing to written estimate, or the request is considered automatically withdrawn. The response must state whether the owner (a) accepts the estimate per the request, (b) modifies the request, or (c) withdraws the request.
9. Owners are responsible for Charges related to the compilation, production, and reproduction of the requested information in the amounts stated herein. The Association may require advance payment of the estimated Charges of compilation, production, and reproduction of the requested information.
10. If the estimated Charges are lesser or greater than the actual Charges, the Association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the Association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated Charges exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

Sendera Estates Homeowners
Association

By: _____

Its: Secretary

THE STATE OF TEXAS §

COUNTY OF VICTORIA §

THIS INSTRUMENT was acknowledged before me on this the ____ day of _____, 2021 by _____, Secretary of Sendera Estates Homeowners Association, a Texas nonprofit corporation, on behalf of said corporation.

NOTARY PUBLIC, STATE OF TEXAS

Schedule 1
Charges for Examining and Copying Association Information
(from Title 1 Texas Administrative Code Sec. 70.3)

A. Labor charge for computer programming.

If a particular request requires the services of a computer programmer to execute an existing program or to create a new program so that requested information may be accessed and copied, the Association will charge \$28.50 an hour for the programmer's time spent on the request.

B. Labor charge for locating, compiling, manipulating data, and reproducing Association information.

1. The charge for labor costs incurred in processing an owner's request for Association information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.
2. A labor charge will not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:
 - a. Two or more separate buildings that are not physically connected with each other;
or
 - b. A remote storage facility.
3. A labor charge will not be billed for any time spent by an attorney, legal assistant, or any other person who reviews the requested information to determine whether the requested information is confidential or privileged under Texas law.
4. When confidential or privileged information is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure the confidential or privileged information in order to comply with the owner's request.

C. Overhead charge.

1. Whenever any labor charge is applicable to a request, the Association may include in the Charges direct and indirect costs, in addition of the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If the Association chooses to recover such costs, the overhead charge will be computed at 20% of the charge made to cover any labor costs associated with a particular request.

Example: if one hour of labor is used for a particular request, the formular would be as follows: Labor charge for locating, compiling, and reproducing, \$15.00 x .20 = \$3.00; or Programming labor charge, \$28.50 x

.20 = \$5.70. If a request requires one hour of labor charge for locating, compiling, and reproducing information (\$15.00 per hour); and one hour of programming labor charge (\$28.50 per hour), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

2. An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records.

D. Microfiche and microfilm charge.

If the Association already has the requested information on microfiche or microfilm, the charge for a copy must not exceed the cost of reproducing the information on microfiche or microfilm or \$.10 per page for standard size paper copies of the information on microfiche or microfilm, plus any applicable labor and overhead charge for more than 50 copies.

E. Remote document retrieval charge.

To the extent that the retrieval of documents stored off of the Association's property results in a charge to comply with a request, the Association will charge the actual cost of the retrieval.

F. Copy charges.

1. Standard paper copy.

The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side of a piece of paper on which information is recorded is counted as a single copy. A piece of paper that has information recorded on both sides is counted as two copies. Standard paper copy is a copy of Association information that is printed impression on one side of a piece of paper that measures up to 8 ½ by 14 inches.

2. Nonstandard copy.

This includes everything but a copy of a piece of paper measuring up to 8 ½ by 14 inches. Microfiche, microfilm, diskettes, magnetic tapes, CD-ROM are examples of nonstandard copies. The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:

- a. Diskette---\$1.00;
- b. Magnetic tape---actual cost;
- c. Data cartridge---actual cost;
- d. Tape cartridge---actual cost;
- e. Rewritable CD (CD-RW)---\$1.00;
- f. Non-rewritable CD (CD-R)---\$1.00;
- g. Digital video disc (DVD)---\$3.00;

- h. JAZ drive---actual cost;
- i. Other electronic media---actual cost;
- j. VHS video cassette---\$2.50;
- k. Audio cassette---\$1.00;
- l. Oversize paper copy (e.g.: larger than 8 ½ by 14 inches, greenbar, bluebar, not including maps and photographs using specialty paper)---\$.50;
- m. Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic)---actual cost.