

**FIRST AMENDMENT TO AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF SUNSET COVE SUBDIVISION
A SUBDIVISION IN GALVESTON COUNTY, TEXAS**

**THE STATE OF TEXAS §
 § **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF GALVESTON §**

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sunset Cove Subdivision is recorded under Galveston County Clerk's File No. GAC200603393, in the Official Public Records of Real Property in Galveston County (hereinafter referred to as the "Declaration");

WHEREAS, Article XXI, Section 21.1 of the Declaration provides, in pertinent part, as follows:

In addition to specific amendment rights granted elsewhere in this Declaration, to the fullest extent permitted by law, until the termination of the Class 'B' Control Period, Declarant may unilaterally amend this Declaration for any purpose

WHEREAS, as of the filing of this First Amendment, the Class "B" Control Period is still in effect; and

WHEREAS, it is the desire of the undersigned Declarant to amend the Declaration to allow swimming pools to be located on the side of homes where the owner has replatted two adjacent lots into one;

NOW THEREFORE, Exhibit "C" **Initial Use Restrictions, Section 2.2** is hereby **AMENDED** as follows:

2.2. Swimming Pools

All swimming pools are subject to review and approval by the Sunset Cove Galveston Homeowner's Association, Inc. and Sunbird Development, L.P. regarding the installation of pools. Any proposed construction of swimming pools and submission of plans for review must be accompanied by a liability release naming Sunbird Development, L.P., Nature's Concepts, Inc. and the Sunset Cove Galveston Homeowner's Association, Inc. as being held harmless.

Any damage to the filter cloth, located behind the bulkhead panel, or any damage to the steel tie-back rod and panel as a result of a swimming pool or other improvement, is the obligation of the property owner. Great care should be exercised in the selection of any contractor by the homeowner to ensure quality construction in any structure to be built in Sunset Cove, avoiding personal liability due to contractor negligence.

Any homeowner installing a swimming pool on their Lot must indemnify their adjacent neighbors, Nature's Concepts, Inc., Sunbird Development, L.P., and the Sunset Cove Galveston Homeowner's Association, Inc. from any and all damage that may be caused as a result of the pool installation, especially concerning bulkhead leakage or damage to the bulkhead infrastructure, water runoff or other such conditions that may arise from the installation of a swimming pool.

Single Lot Pools: No single lots shall locate swimming pools in the side yard. All lots are allowed to have swimming pools within the rear yard and within established setback lines, subject to the approvals required herein.

Adjacent Lot Pools: In cases where an owner has properly replatted two adjacent lots into one lot, swimming pools will be allowed on the adjacent vacant lot subject to the approvals required herein, the intent of which are for the pool to be attached to the adjoining residence visually, aesthetically and legally per the replatting requirements. In addition to the general approvals required herein for all swimming pools, pools on adjacent lots shall also adhere to the following specific requirements: (1) The two lots must be properly replatted as one lot and can never be sold separately unless a residence is to be built in front of the swimming pool so as to comply with this Declaration; (2) swimming pools on adjacent lots must be built within all existing side and rear setbacks; (3) the pool must be located at least thirty feet (30') from the front setback line; (4) adequate landscaping, as determined by the Sunset Cove ARB must be installed as visual screening for the pool; (5) pools must be fenced per existing City, County and/or state regulations, with approved fencing no less than four feet (4') in height which extends from the adjacent residence across side setback lines to attach the pool to the residence on adjacent lot; (6) the landscaping of the lot on which pool is located must contain at least five (5) palm trees and at least seven feet (7') of wooden bark; and (7) dense foliage must be planted to visually screen the pool from street view.

WHEREAS, it is the desire of the undersigned Declarant and the undersigned Board of Directors to amend the Declaration to increase square footage requirements within the subdivision and to set forth an approved Builder and Architect List for the Association;

NOW THEREFORE, Exhibit "H" **Architectural Controls, Section 4.03** is hereby AMENDED as follows:

4.03 Dwelling Size/Minimum Standards/Maximum Standards

Minimum and maximum square footages shall be defined as heated floor space that is air conditioned, livable space above ground level. Ground level and all other non-livable space is not to be considered part of the square footage requirement. In addition,

heated floor space does not include garages, carports, covered walks, or porches.

For any lot, the maximum building height, as measured from the minimum FEMA Floor Elevation Requirement is 45 feet. The maximum building square footage, for any lot, shall be controlled by the maximum building height and all yard (front, rear, side) setbacks. The minimum building square footage for new construction on a dry (i.e., not waterfront) lot will be 1850 square feet. The minimum building square footage for new construction on a waterfront lot will be 2300 square feet. The exception to the minimum building square footage is Lot 1, Block, K, Sunset Cove Realty, where no minimum requirement will be established.

NOW THEREFORE, Exhibit "H" **Architectural Controls, Section 12.0** is hereby AMENDED as follows:

12.0 Minimum Building Square Footage, Maximum Building Square Footage Maximum Building Height, Setback Requirements

For any lot, the maximum building height, as measured from the minimum FEMA Floor Elevation Requirement is 45 feet. The maximum building square footage, for any lot, shall be controlled by the maximum building height and all yard (front, rear, side) setbacks. The minimum building square footage for new construction on a dry (i.e., not waterfront) lot will be 1850 square feet. The minimum building square footage for new construction on a waterfront lot will be 2300 square feet. The exception to the minimum building square footage is Lot 1, Block, K, Sunset Cove Realty, where no minimum requirement will be established.

NOW THEREFORE, Exhibit "H" **Architectural Controls, Section 13.0** is hereby ADDED as follows:

13.0 Approved Builder and Architect List

For new construction and improvements, owners must only use builders and architects chosen from the current approved list of builders and architects, which is located on the Association's website at sunsetcovehoa.com.

Nothing herein is intended to alter, modify or amend the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sunset Cove Subdivision, except as specifically provided hereinabove.

IN WITNESS WHEREOF, we, the undersigned Declarant and Members of the Board of Directors of Sunset Cove Galveston Home Owners Association, Inc., have executed this Second Amended and Restated Declaration, effective as of the 24th day of November, 2014.

Sunbird Development, L.P., A Texas Limited Partnership and developer of Sunset Cove

By: Sunbird Development LP, a Texas Limited Partnership

By: [Signature]

Print Name: Ross Novelli, Jr.
As President of Nature's Concepts, Inc., the General Partner for Sunbird Development, L.P.

Sunset Cove Galveston Home Owners Association, Inc.

By: [Signature]

Print Name: Ross J. Novelli, Jr.
President, Board of Directors



By: [Signature]

Print Name: James L. Matthews
Vice-President, Board of Directors

By: [Signature]

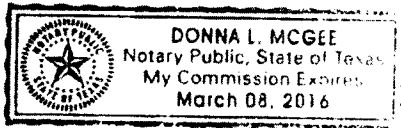
Print Name: Scott C. Sieffert
Secretary-Treasurer, Board of Directors

By: *Michael A. Reyna*
Print Name: Michael A. Reyna
Director at Large, Board of Directors

By: *Valerio J. Campione*
Print Name: Valerio J. Campione
Director at Large, Board of Directors

THE STATE OF TEXAS §
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COUNTY OF GALVESTON §

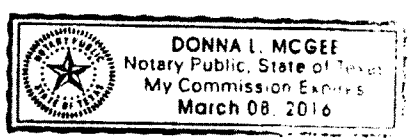
This instrument was acknowledged before me, on the 25th day of November, 2014, by Ross Novelli, Jr., President of Nature's Concepts, Inc., as General Partner for Sunbird Development, L.P, a Texas Limited Partnership and Declarant of Sunset Cove.



Donna L. McGee
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

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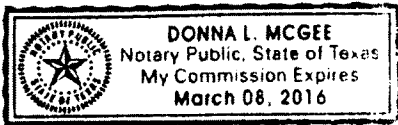
This instrument was acknowledged before me, on the 25th day of November, 2014, by Ross J. Novelli, Jr., President of the Board of Directors of Sunset Cove Galveston Home Owners Association, Inc., a Texas Non-Profit Corporation.



Donna L. McGee
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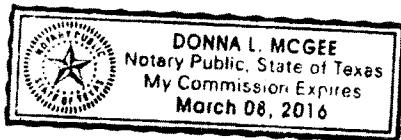
This instrument was acknowledged before me, on the 24th day of November, 2014, by James L. Matthews, Vice-President of the Board of Directors of Sunset Cove Galveston Home Owners Association, Inc., a Texas Non-Profit Corporation.



Donna L. McGee
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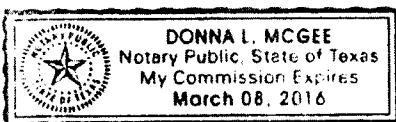
This instrument was acknowledged before me, on the 24th day of November, 2014, by Scott C. Sieffert, Secretary-Treasurer of the Board of Directors of Sunset Cove Galveston Home Owners Association, Inc., a Texas Non-Profit Corporation.



Donna L. McGee
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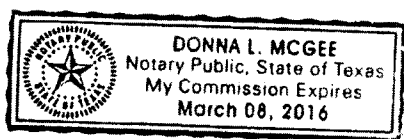
This instrument was acknowledged before me, on the 25th day of November, 2014, by Michael A. Reyna, Director at Large of the Board of Directors of Sunset Cove Galveston Home Owners Association, Inc., a Texas Non-Profit Corporation.



Donna L. McGee
NOTARY PUBLIC IN AND FOR
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This instrument was acknowledged before me, on the 24th day of November, 2014, by Valerio J. Campione, Director at Large of the Board of Directors of Sunset Cove Galveston Home Owners Association, Inc., a Texas Non-Profit Corporation.



Donna L. McGee
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

AFTER RECORDING RETURN TO:

**Daughtry & Jordan, P.C.
17044 El Camino Real
Houston, Texas 77058**

FILED AND RECORDEDInstrument Number: *2014068340*

Recording Fee: 50.00

Number Of Pages: 8

Filing and Recording Date: 12/02/2014 12:02PM

I hereby certify that this instrument was FILED on the date and time stamped hereon and RECORDED in the OFFICIAL PUBLIC RECORDS of Galveston County, Texas.



A handwritten signature in black ink that reads "Dwight D. Sullivan". The signature is written in a cursive style and is positioned above a horizontal line.

Dwight D. Sullivan, County Clerk
Galveston County, Texas

NOTICE: It is a crime to intentionally or knowingly file a fraudulent court record or instrument with the clerk.

DO NOT DESTROY - *Warning, this document is part of the Official Public Record.*