

# BYLAWS OF L.L.E. SECTION III OWNERS ASSOCIATION, INC.

## ARTICLE I - DEFINITIONS

1. Association. “Association” shall mean and refer to L.L.E. SECTION III OWNERS ASSOCIATION, INC., a non-profit corporation organized under the laws of Texas, its successors and assigns.
2. Board of Directors. “Board of Directors” shall refer to the board of directors elected by the members of the Association.
3. Common Facilities. “Common Facilities” shall mean the roads, street lights, parks, and entrance features of the Subdivision, and landscaped areas established by the Developer for use as Common Facilities. This shall include all common property and amenities that are managed by the Association.
4. County Clerk. “County Clerk” shall mean the County Clerk of Polk County, Texas.
5. Declarations and/or Restrictions. “Declarations” and/or “Restrictions” shall mean the declarations and restrictions filed of record with the County Clerk for the Subdivision.
6. Dedictory Instrument. “Dedictory Instrument” shall mean each instrument governing the establishment, maintenance, and operation of the L.L.E. SECTION III OWNERS ASSOCIATION, INC., and includes a declaration or similar instrument subjecting real property to restrictive covenants, certificate of formation, bylaws, or similar instruments governing the administration or operation of a property owners’ association, to properly adopted rules and regulations of the property owners' association, or to all lawful amendments to the covenants, bylaws, instruments, rules, or regulations, including but not limited to those identified above under “Declaration”. Dedictory Instrument further shall mean the Articles of Incorporation (now known as Certificate of Formation), Bylaws, and other rules, regulations, and resolutions filed of record with the County Clerk.
7. Directors. “Directors” shall mean and refer to any duly elected or appointed member of the Board of Directors.
8. Electronic ballot. “Electronic ballot” means a ballot: (a) given by: (1) e-mail; (2) facsimile; or (3) posting on an Internet website; (b) for which the identity of the property owner submitting the ballot can be confirmed; and (c) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner’s ballot. (Source: Section 209.00592 (d), Texas Property Code).
9. Lot. “Lot” shall mean any residential lot in the Subdivision, and identified in the documents filed of record, identified herein, and on record with the County Clerk.

10. Member. “Member” or “Members” shall mean and refer to all those Owners, all of whom are members of the Association as provided for in the Restrictions and/or in these Bylaws and who are mandatory members of the property owners’ association as described in the Texas Property Code, Section 209.003.
11. Owner. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
12. Tenant. “Tenant” shall mean a person(s) or family, other than the person(s) or family of the Owner, that is residing in a home or on a property that is owned by a member of the Association.
13. Plats. “Plats” shall mean the plat of the subdivision as recorded in the County Clerk’s office.
14. Subdivision. “Subdivision” shall mean the Lake Livingston Estates, Section III, Subdivision, Polk County, Texas, as shown on the respective Plats on file with the County Clerk’s office.
15. Record Date. “Record Date” shall mean the business date preceding the date that the notice of any annual, quarterly, or special meeting is mailed.
16. Maintenance Assessment. “Maintenance Assessment” shall mean the periodic charge collected by the Association, (also known as Maintenance Fee) for each Member and Lot in the Subdivision for the purpose of maintaining and improving the Subdivision.  
  
The Maintenance Assessment is a two part assessment, composed of a Base Maintenance Assessment and a Variable Lot Assessment, as provided by the Restrictions.
17. Maintenance Fund. “Maintenance Fund” shall mean the amounts collected from time to time by the Association, upon payment of Maintenance Assessment by the Owners.
18. Special Assessment. “Special Assessment” shall mean any fee and/or due, other than a Regular Maintenance Assessment, that each Member is required to pay to the Association, as established by the Members at an annual or special meeting of the members of the Association at which notice is given of the intent to establish a Special Assessment and which action of the Members authorizes the Association to charge for:
  - (a) Defraying, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, repair, or replacement of a capital improvement in the Common Facilities owned by the Association, including the necessary fixtures and personal property related to such Common Facilities, to the extent such expense is not sufficiently provided for with regular Maintenance Assessment funds;

- (b) Maintenance and improvement of Common Facilities owned by the Association; and/or
- (c) Such other purposes of the property owners' association as stated in the Association's Certificate of Formation or the dedicatory instrument for the Subdivision.

## **ARTICLE II - Name and Location**

1. Name. The Association's registered name is L.L.E. SECTION III OWNERS ASSOCIATION, INC, as filed with the Texas Secretary of State.

The "Doing Business As" name of the Association is Lake Livingston Estates #3 Property Owners' Association.

The Association is, and shall remain, a non-profit Association chartered under the laws of the State of Texas.

The Association rules and regulations are provided for and guided by the Texas Property Code and by the Texas Residential Property Owners Protection Act (chapter 209 of the Texas Property Code)..

2. Principal Office Location. The principal office of the Association shall be located at Post Office Box 704, Livingston, Texas 77351, but meetings of the members and officers may be held at such other places as may be designated by the Board of Directors of the Association.
3. Mailing Address. The mailing address of the Association is Post Office Box 704, Livingston, Texas 77351, or at such other address as the Board of Directors shall determine.

## **ARTICLE III – Membership**

1. Membership Qualification. Every person, family, or entity who is an Owner of one or more Lots shall be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of obligation shall not be a Member.
2. Membership Rights Dependent on being in Good Standing. Subject to Texas law, the rights of membership are subject to the payment of Maintenance Assessments and Special Assessments required by the Restrictions and/or as may be levied by the Association. The obligation of payments thereof is imposed against each Owner and

becomes a lien upon the property against which such assessments are made as provided in the Restrictions.

3. Suspension of Membership Rights. Subject to Texas law, the membership rights of any person whose interest in the Subdivision is subject to assessments under the Restrictions may be suspended by action of the Board of Directors during the period when the assessments remain unpaid; but, upon payment of such assessments, his/her rights and privileges shall be automatically restored.
4. Voting Rights of Members. Subject to the provisions of Section 209.0059, Texas Property Code, if the Maintenance Assessment payment of any member is not current by the Record Date, then that Member shall not be entitled to vote at that meeting of the members and shall be deemed to have his/her rights and privileges automatically suspended until such member has paid all assessments current.
5. Honorary Membership. Honorary members may be nominated and approved for membership by a majority vote of the members present at any regularly scheduled meeting of the Association. Those persons nominated and approved for Honorary membership shall have demonstrated over a sustained period of time, dedication to the purposes of the Association and must have provided major contributions to the Association's efforts. Honorary members shall not be entitled to vote or chair committees, but may serve as members of any standing or special committee.

No base assessment, which is a component of the Maintenance Assessment, shall be required of Honorary members.

#### **ARTICLE IV - Membership and Voting Rights**

1. One Class of Members. The Association shall have only one class of voting members.
2. Ballots.
  - (a) Any vote cast in an election or vote by a member of the property owners' association must be in writing and signed by the member.
  - (b) Electronic votes cast as provided by these Bylaws (required under Section 209.00593, Texas Property Code), constitute written and signed ballots.
  - (c) In an association-wide election, written and signed ballots are not required for uncontested races. (Source: Section 209.0058, Texas Property Code).
3. Number of Votes. Every property owner/member shall have the right to cast two (2) votes regardless of the number of lots owned. The owners may combine to cast the votes which the member is entitled to vote, not to exceed two votes per membership. Proxy votes may be cast pursuant to the provisions concerning same delineated in these Bylaws.

4. Eligibility to Vote. Subject to the provisions of Section 209.0059, Texas Property Code, to be entitled to vote, a member must be current in payment of all Maintenance Assessments and any Special Assessments due by the Record Date.
5. Record Date. For the purpose of determining members entitled to notice or to vote at any meeting of the members or any adjournment thereof, the Record Date shall be the business date preceding the date on which notice of the meeting is mailed. (Source: Article 1396-2.11A, Texas Non-Profit Corporations Act).
6. Voting in Person or by Proxy. Subject to the provisions of Section 209.00592, Texas Property Code, the voting rights of a member may be cast or given:
  - (a) in person or by proxy at a meeting of the property owners' association;
  - (b) by absentee ballot in accordance with these Bylaws;
  - (c) by electronic ballot in accordance with these Bylaws; or
  - (d) by any method of representative or delegated voting provided by a dedicatory instrument. (Source: Section 209.00592 (a), Texas Property Code).
7. Absentee or electronic ballot. An absentee or electronic ballot:
  - (a) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;
  - (b) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and
  - (c) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot. (Source: Section 209.00592 (b), Texas Property Code).
8. Solicitation for votes by absentee ballot. A solicitation for votes by absentee ballot must include:
  - (a) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
  - (b) instructions for delivery of the completed absentee ballot, including the delivery location; and
  - (c) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these

proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail.” (Source: Section 209.00592 (c), Texas Property Code).

9. Internet Website Posting. If an electronic ballot is posted on an official Internet website of the Association, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website. (Source: Section 209.00592 (e), Texas Property Code).
10. Proxies. If a member elects to vote by proxy, the proxy must be executed in writing by either the member or the member's attorney-in-fact, setting forth such member's designation of his or her attorney and proxy to act in his or her behalf at any meeting designated therein.
  - (a) Each such proxy shall be filed with the secretary on or before the day prior to the commencement of the meeting at which said proxy is to be used.
  - (b) Unless otherwise provided by the proxy, a proxy is revocable and expires 11 months after the date of its execution. A proxy may not be irrevocable for longer than 11 months. (Source: Article 1396-2.13, Texas Non-Profit Corporations Act).
11. Voting by Facsimile Transmission. If authorized by resolution of the Board of Directors for any specific matter that can be voted on, a member vote on any matter may be conducted by facsimile transmission.
12. Tabulation of and Access to Ballots.
  - (a) A person who is a candidate in a property owners' association election or who is otherwise the subject of an association vote, or a person related to that person within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, may not tabulate or otherwise be given access to the ballots cast in that election or vote except as provided by this section;
  - (b) A person other than a person described by Subsection (a) may tabulate votes in an Association election or vote but may not disclose to any other person how an individual voted.
  - (c) Notwithstanding any other provision of this chapter or any other law, a person other than a person who tabulates votes under Subsection (b), including a person described by Subsection (a), may be given access to the ballots cast in the election or vote only as part of a recount process authorized by law. (Source: Section 209.00594, Texas Property Code).

13. Notice of Election of Association Vote.

- (a) Not later than the 10<sup>th</sup> day or earlier than the 60<sup>th</sup> day before the date of an election or vote, a property owners' association shall give written notice of the election or vote to:
  - (1) each owner of property in the property owners' association, for purposes of an association-wide election or vote; or
  - (2) each owner of property in the property owners' association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the property owners' association with the authority to elect or appoint board members of the property owners' association. (Source: Section 209.0056, Texas Property Code).

14. Recount of Votes.

- (a) Any owner may, not later than the 15<sup>th</sup> day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:
  - (1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation to the property owners' association's mailing address as reflected on the latest management certificate filed under Section 209.004, Texas Property Code; or
  - (2) in person to the property owners' association's managing agent as reflected on the latest management certificate filed under Section 209.0041, Texas Property Code, or to the address to which absentee and proxy ballots are mailed.
- (b) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this Subsection. The association shall enter into a contract for the services of a person who:
  - (1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

- (2) is:
- (A) a current or former:
    - (I) county judge;
    - (II) county elections administrator;
    - (III) justice of the peace; or
    - (IV) county voter registrar; or
  
  - (B) a person agreed on by the association and the persons requesting the recount.
- (c) Any recount under this Bylaw must be performed on or before the 30<sup>th</sup> day after the date of receipt of a request and payment for a recount in accordance with this Bylaw. If the recount changes the results of the election, the property owners' association shall reimburse the requesting owner for the cost of the recount. The property owners' association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount. (Source: Section 209.0057, Texas Property Code)

#### **ARTICLE V - Property Rights and Rights of Enjoyment of Common Facilities**

1. Right to use Common Facilities. Each Member shall be entitled to the use and enjoyment of the Common Facilities, subject to the Restrictions and any rules and regulations governing the use of the Common Facilities.
  
2. Extension of Rights of Enjoyment. Any Member may extend his or her right of enjoyment of the Common Facilities to the members of his or her family who reside in the Subdivision and such guests as are allowed by the rules and regulations of the Association. The rights and privileges of such person are subject to suspension under Article III, ¶ 3 hereof, to the same extent as those of the Member.
  
3. Extension for Tenants of Record. Members who wish to extend Rights of Enjoyment of Common Facilities for tenants of their property must provide in writing the names of any such persons and the relationship of the Member to such persons.

#### **ARTICLE VI - Association Purposes and Powers**

1. Purpose of Association. In addition to the purposes and powers of the Association set forth in the Articles of Incorporation filed on June 6, 1977, the purposes for which the Association is organized are:



- (a) To be a property owners' association as defined by the Texas Property Code, and to discharge the duties and obligations of a property owners' association in interpreting and enforcing the Restrictions applicable to the Subdivision, according to the plats of said subdivision recorded in the Map Records of the County Clerk; and the entire income and principal of the endowment and assets of this Association shall be held and distributed solely for such purposes.
  - (b) To promote the safety, welfare and enjoyment of the residents of and owners of property within the Subdivision;
  - (c) To the extent authorized by the Restrictions, to compute, assess, collect and enforce the payment of all charges to which the property within the Subdivision is subjected or may be subjected hereby and/or by virtue of any reservations, restrictions and covenants applicable to the Subdivision on file in the Official Records of the County Clerk;
  - (d) To operate, maintain, supervise and protect all areas and facilities owned by or conveyed to the Association from time to time for the common use of its members, and to install or construct improvements upon such areas and facilities;
  - (e) To the extent authorized by the Restrictions, to approve or disapprove plans for any building, structure or improvement and for any structural alterations or additions, or other alterations or additions affecting exterior appearance, in or to any building, fence, structure or other improvement within the Subdivision.
  - (f) To exercise and perform any other rights, powers, duties and remedies granted to or imposed upon the Association by the Restrictions, by any easement granted to the Association, or by any other instrument granted to or for the benefit of the Association; and
  - (g) To do or cause to be done all things and acts permitted by the laws of the State of Texas incident to, necessary, or proper to carry out the purposes for which non-profit Associations may be formed and to have all the powers enumerated in the Texas Property Code for property owners' associations and in the Texas Business Organizations Code for non-profit corporations, including but not limited to for any lawful purpose or purposes not expressly prohibited under chapters 2 or 22 of the Texas Business Organizations Code, including any purpose described by section 2.002 of the Code.
2. Texas Tax Code Statement. Pursuant to Texas Tax Code Section 171.082, and in extension of and not limitation of the purposes set forth in the Certificate of Formation for the Corporation,
- (a) the Association is organized and operated primarily to obtain, manage, construct, and maintain the property in or of a residential condominium or residential real estate development; and

- (b) the owners of individual lots, residences, or residential units control at least 51 percent of the votes of the Association and that voting control, however acquired, is not held by:
  - 1. a single individual or family; or
  - 2. one or more developers, declarants, banks, investors, or other similar parties.
  
- 3. Limitations on Distributions and Activities. No part of the net earnings of the Association shall inure to the benefit of, or be distributable to, its members, Directors, Officers, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in the furtherance of the purposes set forth in Article Four hereof.
  

No substantial part of the activities of the Association shall be the carrying on of propaganda or otherwise attempting to influence Legislation, and the Association shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

  
- 4. Mortgage of Association Properties. The Association shall have power to mortgage its properties with the assent of two-thirds of the votes of the Members who are voting in person or by proxy at a meeting called for such purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

## **ARTICLE VII – Board**

- 1. Management of Association. The business and affairs of the Association shall be managed by its Board of Directors which may exercise all such powers of the Association and do all such lawful acts and things as are now by statute, the Articles of Incorporation, these Bylaws or the Restrictions directed or required to be exercised or done by the Members.
  
- 2. Powers of the Board of Directors. Notwithstanding anything to the contrary contained in any provision of these Bylaws, the Association shall act through its Board of Directors, which shall manage the affairs of the Association. By way of illustration, but not in limitation, the Board of Directors shall have the power to:
  - (a) Adopt and publish rules and regulations governing use of the Common Facilities and facilities and the personal conduct of the members and their guests thereon, and to establish penalties for infraction thereof;
  
  - (b) Suspend the voting rights and right to use of the Common Facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association, as hereinbefore stated. Such rights may

also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

- (c) Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws or the Articles of Incorporation, or the Restrictions;
- (d) Declare the office of a member of the Board of Directors to be vacant in the event each such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

3. Authorities and Limitations. The Board of Directors may meet to consider, deliberate, and make recommendations to the membership but may not, without approval of the membership, take actions on the following considerations:

- (a) Fines;
- (b) Damage Assessments;
- (c) Initiation of Foreclosure Actions;
- (d) Initiation of Enforcement Actions, excluding Temporary Restraining Orders or Violations involving a Threat to Health or Safety;
- (e) Increases in Assessments;
- (f) Levying of Special Assessments;
- (g) Appeals from a Denial of a Restrictions Review Approval or Disapproval;
- (h) Hiring of a Management Company to manage the affairs of the Organization, or
- (i) a suspension of a right of a particular owner before the owner has an opportunity to attend a Board of Directors meeting to present the owner's position, including any defense, on the issue. (Source: Section 209.0051, Texas Property Code).

4. Number of Directors. The number of Directors shall be five directors, and may be changed as allowed by amendment to these bylaws, but in no event shall ever reduce to less than three directors.

5. Terms of Directors. Directors shall be elected for terms of two years.

6. Election of Board Members. Any board member whose term has expired must be elected by owners who are members of the property owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member. (Source: Section 209.00593 (a), Texas Property Code).

7. Directors: Election Schedule and Length of Terms. The Director's election schedule and length of terms are as follows:

Place One: Two Year Term, effective starting on odd years  
Place Two: Two Year Term, effective starting on even years  
Place Three: Two Year Term, effective starting on odd years  
Place Four: Two Year Term, effective starting on even years  
Place Five: Two Year Term, effective starting on odd years

At the annual meeting of the members of the Association, which shall take place on even years, elections shall be held for two directors, Place Two and Place Four. The members shall elect these two directors, who shall serve for two years until their successors are elected at the annual meeting two years following.

At the annual meeting of the members of the Association, which shall take place on odd years, elections shall be held for three directors, Place One, Place Three, and Place Five. The members shall elect these three directors, who shall serve for two years until their successors are elected at the annual meeting two years following.

8. Nominating Committee: On or before November 1st of each voting year, the Board of Directors shall appoint a Nominating Committee of three (3) members of the Association, one of which can be a Director provided that such Director is not up for re-election. A person appointed to the committee cannot become a candidate for the Board of Directors.

Said Committee shall have the responsibility of soliciting at least one (1) and not more than three (3) persons to become candidates for each of the vacancies on the Board of Directors.

The Nominating Committee shall present the list of candidates to the Secretary on or before the third Saturday of January in each such year an election is to take place.

9. Call for Election. On or before the third Saturday of January of each year an election is to take place, the Secretary shall examine the list of candidates, certifying them as eligible to vote and to hold office, and shall issue the call for the election to be held on the third Saturday of April.

The Board shall have ballots prepared and mailed to each qualified voter, according to the then records of the Association, in which event said ballot will be so mailed no later than ten (10) days or earlier than thirty (30) days next preceding the election.

The Board shall prescribe and organize the mechanics of the actual balloting giving particular consideration to the qualifications and/or eligibility of those voting. None of the foregoing shall operate to deprive qualified voters to write in the candidate of their choice, subject to certification by the Secretary of such write-in candidate's eligibility and willingness to serve, or to vote by proxy.

10. The Ballot. When ballots are used, the ballot shall be printed, and shall clearly describe the office, position, or vacancies for which the candidates are running, and the names of the candidates to be voted upon.

No ballot will be considered which is not received at the post office box of the Association or the Association Secretary on or before the business day prior to any election to be held. Ballots received by said time, either by mail or in person, shall be counted, subject to voter and candidate eligibility; all other ballots shall be declared void.

Election to the Board of Directors shall be by written ballot; the ballots shall show the name of the member voting. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to cast under the provisions of these Bylaws. The person receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

11. Removal of Director.

- (a) Except as hereinafter provided in Section 4, any Director may be removed either for or without cause, at any special meeting of the Members of the Association by the affirmative vote of a majority in number of votes present in person or by proxy at such meeting and entitled to vote for the election of Directors, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting.
- (b) If the Board of Directors is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the Association, automatically considered removed from the board, and prohibited from future service on the board. (Source: Section 209.00591, Texas Property Code).

12. Vacancies on Board of Directors.

- (a) Any board member whose term has expired must be elected by owners who are members of the property owners' association.
- (b) A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability.
- (c) A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member. (Source: Section 209.0053, Texas Property Code).

- (d) If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification, or removal from office of any Directors or otherwise, a majority of the Directors then in office, though less than a quorum, may choose a successor or successors, or a successor or successors may be chosen at a special meeting called for that purpose, and each successor Director so chosen shall be elected for the unexpired term of his/her predecessor in office.
  - (e) Any Directorship to be filled by reason of -retirement, disqualification or removal shall be filled by election at an annual meeting of Members or at a special meeting called for that purpose.
  - (f) Any Directorship to be filled by reason of any increase in the number of Directors shall be filled by election at an annual meeting of Members or at a special meeting called for that purpose.
13. No Compensation for Directors.
- (a) The Directors shall serve without compensation.
  - (b) Upon resolution by the Board of Directors, any Director may be reimbursed for any out of pocket expenses approved by the Board of Directors; the Director to whom such reimbursement is to be made shall recuse himself or herself and abstain from any vote on such reimbursement of out of pocket expenses.

#### **ARTICLE VIII - Meetings of the Board of Directors**

1. Place of Meeting. The Directors of the Association shall hold their meetings, both regular and special, within the State of Texas in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.
2. Annual Meeting of Directors. The first meeting of each newly constituted Board of Directors shall be held without further notice immediately following the annual meeting of Members of the Association, and at the same place, unless by unanimous consent of the Directors then elected and serving such time or place shall be changed.
3. Quorum. At all meetings of the Board of Directors, the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Directors, when present at any meeting at which there is a quorum, shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, the Restrictions, Articles of Incorporation or Certificate of Formation, or these Bylaws.

If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

4. Manner of Acting. The act of a majority of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

5. Open Board Meetings.

(a) “Board Meeting” (1) means a deliberation between a quorum of the voting board of the Association, or between a quorum of the voting Board of Directors and another person, during which the Association’s business is considered and the Board of Directors takes formal action; and (2) does not include the gathering of a quorum of the Board of Directors at a social function unrelated to the business of the Association or attendance by a quorum of the Board of Directors at a regional, state, or national convention, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, ceremonial event, or press conference.

(b) Regular and special meetings of the Board of Directors must be open to owners, subject to the right of the Board of Directors to adjourn a Board of Directors meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the property owners’ association’s attorney, matters that are to remain confidential by request of the affected parties and agreement of the Board of Directors.

Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

(c) Except for a meeting held by electronic or telephonic means under Subsection (h), a Board of Directors meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

(d) The Board of Directors shall keep a record of each regular or special Board of Directors meeting in the form of written minutes of the meeting. The Board of Directors shall make meeting records, including approved minutes, available to a member for inspection and copying on the member’s written request to the property owners’ association’s managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the Board of Directors.



- (e) Members shall be given notice of the date, hour, place, and general subject of a regular or special Board of Directors meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:
- (1) mailed to each property owner not later than the 10<sup>th</sup> day or earlier than the 60<sup>th</sup> day before the date of the meeting; or
  - (2) provided at least 72 hours before the start of the meeting by:
    - (A) posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' association members:
      - (i) in a place located on the association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or
      - (ii) on any Internet website maintained by the association or other Internet media; and
    - (B) sending the notice by e-mail to each owner who has registered an email address with the association.
- (f) It is an owner's duty to keep an updated e-mail address registered with the property owners' association under Subsection (e) (2) (B).
- (g) If the Board of Directors recesses a regular or special Board of Directors meeting to continue the following regular business day, the Board of Directors is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section.
- If a regular or special Board of Directors meeting is continued to the following regular business day, and on that following day the Board of Directors continues the meeting to another day, the Board of Directors shall give notice of the continuation in at least one manner prescribed by Subsection (e) (2) (A) within two hours after adjourning the meeting being continued.
- (h) The Board of Directors may meet by any method of communication, including electronic and telephonic, without prior notice to owners under Subsection (e), if each director may hear and be heard by every other director, or the Board of Directors may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board of Directors action.

Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated



expenditures approved at the meeting, and documented in the minutes of the next regular or special Board of Directors meeting.

- (i) The Board of Directors may not, without the approval of the members, take certain actions, as described in Article VII, Section Three, Authorities and Limitations.

## **ARTICLE IX – Committees**

1. Appointment of Committees Consisting of Directors. The Board of Directors may, by resolution passed by a majority of the entire board, designate one or more committees, to consist of two or more of the Directors of the Association. Any such committee, to the extent provided in said resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the Association, except where action of the full Board of Directors is required by structure, the Restrictions or by the Articles of Incorporation.
2. Appointment of Committees Not Limited to Directors or Members. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the Association may be designed and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by like resolution of the Board of Directors. Membership on such committee, may, but need not be, limited to Directors or members of the Association.
3. Minutes of Committee Proceedings. When required by designation of the Board of Directors, all committees shall keep regular minutes of their proceedings and shall report the same to the Board of Directors. Committees shall report proceeding to the Board of Directors and to the members at annual or quarterly meetings.

## **ARTICLE X – Officers**

1. Election at Annual Meeting of Board. The Board of Directors at its first meeting after each annual meeting of Members shall elect a President, Vice President, 1<sup>st</sup> Vice President, Secretary, and Treasurer, all of whom shall be elected members of the Board. Association officers shall take office effective the 1<sup>st</sup> of May, following the elections.
2. Additional Officers and Agents. The Board of Directors may appoint such other officers and agents as it shall deem necessary, who shall be appointed for such terms and shall exercise powers and perform such duties as shall be determined from time to time by the Board of Directors.

3. Compensation of Officers and Agents. No officer of the Association shall receive compensation for any service he may render to the Association. However, any officer may be reimbursed for his or her actual expenses incurred in the performance of his or her duties as approved by the membership.
4. Term of Office. Each officer of the Association shall hold office until his successor has been elected at the next annual meeting of the Board after the election of Directors, for a minimum of two years or until death or until resignation or removal from office.
5. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from office at any time by the affirmative vote of a majority of the entire Board of Directors whenever in their judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.
6. Resignation. Any officer may resign at any time by giving notice in writing to the Board of Directors. Such resignation shall take effect on the date of receipt of such notice or any later date specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
7. Vacancies. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors for the unexpired portion of the term.
8. Duties of Officers. The duties of the officers are described herein.
  - (a) **President.** The President shall be the Chief Executive Officer of the Association, and shall in general, supervise and control all of the business and affairs of the Association.
    - (1) The President shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of the business and affairs of the Association, shall see that all orders and resolutions of the Board of Directors are carried into effect, and shall perform such other duties as the Board of Directors shall from time to time prescribe.
    - (2) Shall supervise the execution of the programs adopted by the Association.
    - (3) The President may sign with the Secretary, or any other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, checks drawn against the Association, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors, or by these Bylaws, or by statute to some other officer or agent of the Association.

- (4) Shall have the authority to expend reasonable and necessary expenses subject to review at the next regular meeting.
  - (5) Shall not contract for the Association except as provided by the Association.
  - (6) Shall vote only in the case of a tie vote and for the election of officers.
  - (7) Shall preside and chair the Restrictions Committee.
  - (8) The President may appoint a parliamentarian to advise him or her on procedure in conducting meetings. The parliamentarian will not rank as an officer of the Association.
  - (9) Shall appoint chairpersons of all standing and special committees.
  - (10) The President shall appoint the Chairperson of the following standing committees or functions upon assumption of office:
    - i. Nominating Committee
    - ii. Audit Committee
    - iii. Social Functions Committee
    - iv. Communications Director
- (b) **Vice President.** The Vice President shall have such powers and perform such duties as the Board of Directors may from time to time prescribe or as the President may from time to time delegate to this individual.
- (1) In the absence of the President or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all of the power of, and be subject to all the restrictions upon the President.
  - (2) Shall be a representative to other county organizations that are a part of our community in order to build and maintain relationships with said organizations.
  - (3) May be called upon to chair key sub-committees that are called by the Board of Directors or as the President may from time to time delegate.
- (c) **1st Vice President.** The 1<sup>st</sup> Vice President shall have such powers and perform such duties as the Board of Directors may from time to time prescribe or as the President may from time to time delegate. These responsibilities include:

- (1) Maintaining all records of the Association pertaining to homeowners' maintenance assessments. These records shall contain at a minimum the following:
    - a. Name, address, contact phone numbers, and e-mail addresses of property owners.
    - b. Lot and block number of all property owners.
    - c. Record of annual maintenance assessment payments.
    - d. Record of all liens or release of liens against property.
  - (2) Shall report the state of the Association owners and maintenance assessment records at each regular meeting. This report shall be in writing and shall consist of at least the following:
    - a. Changes of property ownership that are a matter of record.
    - b. Name and amount due on each owner delinquent on Maintenance Assessments or Special Assessments.
    - c. Name of property owner and date any lien was filed or released.
  - (3) Announce dates/provide advance notice of annual billings for maintenance assessments.
  - (4) Shall file all liens or release of liens in the name of the Association when so directed by the President.
  - (5) Shall provide each property owner annual billing and receipt for payments. Returned checks shall be considered receipt for payment.
  - (6) Shall deliver all fees collected to the Treasurer for deposit in the appropriate Association account.
- (d) **Secretary.** The Secretary shall attend all sessions of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for the purpose and shall perform like duties for any committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision they shall be.

These responsibilities include:

- (1) Shall keep a true and correct record of all the proceedings and minutes of the Association.
- (2) Shall record all decisions and votes and shall notify each elected director of his or her election upon final results of any elections.

- (3) Shall keep a true and correct copy of the governing documents (constitution and bylaws, deed restrictions, pavilion procedures, etc.) of the Association. These documents shall be provided to any member upon request.
  - (4) Shall receive and file all communications. Other officers are to provide the secretary with copies of all correspondence delivered and correspondence received.
  - (5) Shall prepare and mail, or cause to be mailed, ballots and voting instructions to each member entitled to vote.
  - (6) Shall perform such other duties as may be required and agreed by executive committee.
- (e) **Treasurer.** The Treasurer shall have the custody of the corporate funds and securities and shall keep full accounts of receipts and disbursements and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Association as may be ordered by the Board of Directors, taking proper vouchers for such disbursement, and shall render to the President and Directors, at the regular meetings of the Board of Directors, or whenever they may require it, an account of all financial transactions and of the financial condition of the Association, and shall perform such other duties as the Board of Directors may prescribe. These responsibilities include:
- (1) Shall properly and safely supervise the deposit of Association funds in a local bank, in the name of Lake Livingston Estates, Section III, Owners Association, Incorporated.
  - (2) Maintain two separate bank accounts; one account to contain deposits and disbursements of funds derived from member's Base Maintenance Assessments; one account to contain deposits and disbursements derived from Specific Lot Maintenance Assessments. Monies shall never be mixed within the two accounts. Savings accounts for each of the above accounts may be maintained; however there shall be no mixing of monies between the Base Maintenance Assessment and the Specific Lot Maintenance Assessment.
  - (3) Report, in writing, the condition of the Association finances at each regular meeting in order to account for all money, credits, and property of the Association.
  - (4) Insure that checks disbursing Association funds shall be signed by any two of the five officers.

- (5) At the end of term of office, shall render a formal statement of the account of this Association as of the date of expiration of term, and inscribe thereon, under oath before a Notary Public of Polk County, State of Texas, that the statement is a true and correct account of the financial condition so described of the Lake Livingston Estates, Section III, Owners Association, Incorporated.

## **ARTICLE XI - Standing and Special Committees**

The committees listed below operate under the guidance and jurisdiction of the Board of Directors of the Association.

### **1. Audit Committee.**

- (a) The books shall be audited annually by the Audit Committee at the end of each fiscal year.
- (b) A written report from the auditor must be presented to the Board of Directors.
- (c) Shall prepare Tax Statements for submission to Federal authorities each year and review with Treasurer prior to submission.
- (d) No Association officer shall serve on the Audit Committee.

### **2. Restrictions Review Committee.**

- (a) The Restrictions Review Committee shall consist of the President, Vice President, and 1<sup>st</sup> Vice President.
- (b) The Restrictions Review Committee shall review and approve all building plans, whether new or add-on, to assure compliance with the current deed restrictions, prior to the beginning of any construction.
- (c) A minimum of two Restrictions Review Committee members must approve of all plans.
- (d) The Restrictions Review Committee shall maintain the restrictions appeal process and forward to the Board of Directors for approval.

### **3. Membership Committee.**

- (a) The Membership Committee shall consist of the 1st Vice President and Treasurer.

- (b) This committee shall be responsible for maintaining an up-to-date Association Membership Directory of all members of the Association, to include first and last name of all members, address, phone numbers, e-mail addresses, and their subdivision block and lot numbers; to include billing and collection of annual assessments. Contact information should be shared with the communications director.
- (c) Develop, maintain, and provide new members information packet. This packet to include cover letter, bylaws, deed restrictions, sub-division plat, and list of frequently asked questions. The First Vice President shall be responsible for contacting all new property owners to gather contact information for the property owners' association. Information packets should be delivered to new property owners as soon as possible after property changes ownership.

4. **Nominating Committee.**

- (a) The Nominating committee shall consist of a minimum of three individuals who are members of the Association, who are not running for any office.
- (b) The Nominating Committee shall submit a written list of proposed nominees to the Secretary of the Board of Directors for approval by the January meeting of the election year.
- (c) Nominations may be accepted from the floor during the election process.
- (d) Nominees must be in good standing within the community, as determined by the Secretary and 1<sup>st</sup> Vice President.
- (e) Candidates for office shall be presented with copy of role description, as defined in the constitution and bylaws, and document in writing their understanding of the role they are agreeing to perform should they be elected. Such document, signed by the candidates must be presented to the Secretary before or at the election meeting.
- (f) An outgoing officer may be nominated to succeed himself or herself if willing to serve an additional term.

**ARTICLE XII - Meetings of the Members**

- 1. **Annual Meetings.** The annual meeting of the Members shall be held on the third Saturday of the month of April in each year commencing in 2012, at 10:00 o'clock A.M. If the day for the annual meeting of the Members shall fall upon a holiday, the meeting may be held at the same hour on the first Saturday following which is not a holiday, at the designation

of the Board of Directors. Failure to hold the annual meeting at the designated time shall not work a dissolution of the Association.

2. Quarterly Meetings. Quarterly meetings shall be held at 10:00 a.m. on the third Saturday in January, August, and October. In the event it becomes necessary to reschedule a regular meeting date for any reason, the Association president shall inform at least a majority of the Board of Directors, obtain their concurrence, and shall post the new meeting date sign at the usual posting place. If the new meeting date is far enough in the future, the new meeting date shall be included in the Association newsletter.
3. Absence of Presiding Officer. In the Absence of the President and the Vice President at regular meetings, the members present may elect a temporary chairman for that meeting. This meeting shall then become an informal information sharing meeting without voting rights.
4. Failure to Hold Annual Meeting. The following Bylaw is intended to comply with Section 209.014, Texas Property Code.
  - (a) In the event the Board of Directors does not call an annual meeting of the association members, an owner may demand that a meeting of the association members be called not later than the 30<sup>th</sup> day after the date of the owner's demand.
  - (b) The owner's demand must be made in writing and sent by certified mail, return receipt requested, to the Association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.
  - (c) If the board does not call a meeting of the members of the property owners' association on or before the 30<sup>th</sup> day after the date of a demand under Subsection (b), three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the subdivision is located.
  - (d) A notice filed by an election committee must contain:
    - (1) A statement that an election committee has been formed to call a meeting of owners who are members of the property owners' association for the sole purpose of electing board members;
    - (2) the name and residential address of each committee member; and
    - (3) the name of the subdivision over which the property owners' association has jurisdiction under a dedicatory instrument.
  - (e) Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments.
  - (f) The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.



- (g) Only one committee in a subdivision may operate under this section at one time. If more than one committee in a subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section.
  - (h) The election committee may call meetings of the owners who are members of the property owners' association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in the bylaws of the property owners' association apply to any meeting called by the election committee. (Source: Section 209.014, Texas Property Code).
5. Special Meetings. Special meetings of the Members for any purpose may be called at any time by the President, or by any two (2) or more Members of the Board of Directors, or upon written request of the Members who have a right to vote one-fourth (1/4th) of all of the votes of the entire membership.
- Special meetings of the members shall be called by the members of the Board of Directors for such purpose that requires the approval of the membership and are of such a nature that could not be delayed until the next regular meeting.
- Notification to the membership shall be made at least ten (10) days prior to any such called meeting.
6. Notice of Meetings. Written notice of any meetings shall be given to the Members by the Secretary or at the direction of the Secretary. Notice may be given to the Members either personally, electronically (e-mail), or by sending a copy of the notice through the mail, postage thereon fully prepaid to member's address appearing on the books of the Association. Notice of any meeting, regular or special, shall be provided not less than ten (10) nor more than sixty (60) days in advance of the meeting and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve any action governed by the Articles of Incorporation by the Restrictions, notice of such meeting shall be given or sent as therein provided.
7. Member Contact Information. Each member shall register his/her address with the secretary, and notices of meetings, regular or special, shall be mailed to him/her at such address. It is the responsibility of the Member to provide the Association with current mailing and email addresses, and the Association assumes no responsibility should any notices not be received by the Member provided that the Association forwards such notice to the address provided the Association by the Member.

8. Notice by email. Any Member may request that notice be transmitted electronically by providing the Association's Secretary a valid email address. Upon providing such email address the Association may transmit any and all notices to such member at such email address. Members are encouraged to provide an email address to help reduce the operational cost of postage and mail-out required by these Bylaws and Texas Law.
9. Waiver of Notice. Notice may be waived in writing signed by the person or persons entitled to such notice. Such waiver may be executed at any time before or after the holding of such meeting. Attendance at a meeting shall constitute a waiver of notice, except where the person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.
10. Place of Meetings. Meetings of members shall be held at the office of the Association, if one is established in the Subdivision, or at such other place, within the State of Texas in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county, as may be stated in the notice of the meeting or in a duly executed waiver of notice thereof.
11. Quorum. Fifteen (15) voting memberships in good standing, including the Board of Directors, present or by proxy, at any meeting shall constitute a quorum. No business of the Association, other than the setting of the next meeting date, may be concluded if a quorum is not present.
12. Action Required. At a meeting at which a quorum is present, the vote of the majority of the members in person or represented by proxy shall decide any question brought before the meeting, unless the question is one upon which the vote of a greater number is required by law, the Articles of Incorporation, or these Bylaws. Cumulative voting shall not be permitted.  
  
The members present or represented at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.
13. Rules of Order. Robert's Rules of Order shall be used as authority on procedure at Association meetings.

### **ARTICLE XIII - Notices**

1. Type of Notice. Whenever under the provisions of the statute, the Articles of Incorporation or Certificate of Formation, these Bylaws or the Restrictions, notice is required to be given to all Directors or Members and no provision is made as to how such notice shall be given, it shall not be construed to mean verbal notice, but any such notice may be given in writing, electronic message (i.e. e-mail), by mail, postage prepaid, addressed to such Directors or Members at such address as appears on the records of the

Association. Any notice required or permitted to be given by mail shall be deemed to be given at the time the same is deposited in the United States mail as aforesaid.

#### **ARTICLE XIV - Special Assessments**

1. Establishment of Special Assessment for Capital Projects. In addition to the Maintenance

Assessment set forth in the Restrictions, the members of the Association may adopt a Special Assessment for capital projects, in such amount as may be established by the Association at any annual, quarterly, or special called meeting of the Members of the Association at which a quorum is present by the affirmative vote of the majority of the votes present in person or by proxy at such meeting, provided that:

- (a) a minimum of two (2) meeting shall be held prior to such vote, at either regular or special called meetings, to review and discuss proposed assessments. Approval of assessment's language by majority of members present will lock in language that will be presented for vote at a future meeting, which shall be held at least 15 days but no more than 90 days subsequent,
- (b) notice of the intention to act upon such matter shall have been given in the notice calling such meeting.

Upon approval the Special Assessment shall:

- (a) become effective on the date of approval, with the proceeds from such Special Assessment being ear-marked for the specific purpose set forth in the notice of such election.
- (b) be secured by a lien against owner's properties, and failure to pay said Special Assessment shall constitute a foreclosure lien against said properties. This lien is in the form of an assessment to run with the ownership of said properties.
- (c) deemed delinquent if not paid within thirty (30) days of the date set forth in the notice as being the date the Special Assessment is due. Any member that fails to pay the special assessment within the 30 day grace period is subject to having a lien placed against said property. Any member may contact the board to work out a payment plan for the special assessment.

2. Purpose of Special Assessment. The Special Assessment shall be used for only the following purposes:

- (a) To defray, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, repair, or replacement of a capital improvement in the Common Facilities, including but not limited to the streets and roads in the Subdivision, owned by the Association, including the necessary fixtures and personal property related to such Common Facilities, to the

extent such expense is not sufficiently provided for with Regular Assessment funds;

- (b) For maintenance and improvement of Common Facilities owned by the Association; and/or
- (c) For such other purposes of the property owners' association as stated in the Association's Certificate of Formation or the dedicatory instrument for the Subdivision.

### **ARTICLE XV - Books and Records**

1. The Association adopts these Bylaws as a dedicatory document to comply with Section 209.005, Texas Property Code. In the event of a conflict between this Article XV and Section 209.005, Section 209.005 shall control.
2. The Association shall make the books and records of the Association, including financial records, open to and reasonably available for examination by an owner, or a person designated in writing, signed by the owner or the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the Association copies of information contained in the books and records, except as provided herein.
3. An attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section 209.008 (d) of the Texas Property Code, are not records of the Association and are not subject to inspection by the owner(s) or production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall 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. This Bylaw does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.
4. An owner or the owner's authorized representative described by Section 2 of this Bylaw must submit a written request for access or information under Section 2 by certified mail, with sufficient detail describing the property owners' 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. The request must contain an election either to inspect the books and records before obtaining copies or have the property owners' association forward copies of the requested books and records and:
  - (a) if an inspection is requested, the Association, on or before the 10<sup>th</sup> 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 except as otherwise provided by this section.

- (b) if copies of identified books and records are requested, the Association shall, to the extent those 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 10<sup>th</sup> business day after the date the Association receives the request, except as otherwise provided by this section.
5. If the Association is unable to produce the books or records requested under Article XV, Section 4 on or before the 10<sup>th</sup> business day after the date the Association receives the request, the Association will provide to the requestor written notice that:
- (a) informs the requestor that the Association is unable to produce the information on or before the 10<sup>th</sup> 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 15<sup>th</sup> business day after the date notice under this subsection is given.
6. If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the property owners' association to copy and forward to the requesting party.
7. The Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the Association.
8. The Board of Directors shall adopt a records production and copying policy that prescribes the costs the Association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under Texas Administrative Code (T.A.C.) Section 70.3. The policy required by this subsection shall be recorded as a dedicatory instrument in accordance with Section 202.006, Texas Property Code.
- (a) The Association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by the Association's Records Policy filed with the County Clerk.

- (b) An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this Bylaw.
  - (c) The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information.
  - (d) If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the owner on or before the 30<sup>th</sup> 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 30<sup>th</sup> 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 costs 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 30<sup>th</sup> business day after the date the invoice is sent to the owner.
9. A property owners' association must estimate costs under this section using amounts prescribed by the policy adopted under Section 8 of this Article XV.
10. Except as provided by this Article XV, and to the extent the information is provided in the meeting minutes, the Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due to the Association, an owner's contact information, other than the owner's address, or information related to an employee of the Association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.
11. The books and records described by Section 10 of this Article XV shall be released or made available for inspection if:
- (a) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or
  - (b) a court orders the release of the books and records or orders that the books and records be made available for inspection.
12. The Board of Directors shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:
- (a) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
  - (b) financial books and records shall be retained for seven years;

- (c) account records of current owners shall be retained for five years;
  - (d) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
  - (e) minutes of meetings of the owners and the board shall be retained for seven years; and
  - (f) tax returns and audit records shall be retained for seven years.
13. A member of the Association who is denied access to or copies of Association books or records to which the member is entitled under this Article XV of these Bylaws may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the Association is located requesting relief in accordance with Article XV of these Bylaws. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:
- (a) a judgment ordering the property owners' association to release or allow access to the books or records;
  - (b) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or
  - (c) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.
14. If the property owners' association prevails in an action under Section 13 of this Article XV of the Bylaws, the Association is entitled to a judgment for court costs and attorney's fees incurred by the Association in connection with the action.
15. On or before the 10<sup>th</sup> business day before the date a person brings an action against the Association under this section, the person must send written notice to the Association of the person's intent to bring the action. The notice must:
- (a) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the Association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and
  - (b) describe with sufficient detail the books and records being requested.
16. For the purposes of this Article XV of these Bylaws, "business day" means a day other than Saturday, Sunday, or a state or federal holiday. (Source: Section 209.005, Texas Property Code)



## ARTICLE XVI - Miscellaneous; Fiscal Matters

1. Charges. The Board of Directors shall compute, assess, collect and enforce the payment of all charges to which the Subdivision is subjected or may be subjected under or by virtue of the Restrictions and Bylaws.
2. Dividends. No dividends shall be paid and no part of the income of the Association shall be disbursed to its Members, Directors, or Officers. The Association may pay compensation in a reasonable amount to its Members or Officers for services rendered, but only as permitted by the applicable statutes.
3. Checks. All checks or demands for money and notes of the Association shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.
4. Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Directors.
5. Seal. The corporate seal, if any, shall be in such form as may be determined by the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.
6. Indemnification. Except as may otherwise be provided by Article 1396-2.22A, Texas Non-Profit Corporations Act, and/or Section 8.051, Texas Business Organizations Code, or as may be ordered by a court pursuant to Section 8.052, Texas Business Organizations Code, or by Article 1396-2.22A, Texas Non-Profit Corporations Act, the Association shall indemnify any Director, Officer, or employee of the Association, against expenses actually and necessarily incurred by said individual and any amount paid in satisfaction of judgments in connection with any action, suit or proceedings, whether civil or criminal in nature, in which he/she is made a party by reason of being or having been such a Director, Officer, or employee (whether or not a Director, Officer, or employee at the time such costs or expenses are incurred by or imposed upon him/her) except in relation to matters as to which he shall be judged in such action, suit, or proceedings to be liable for gross negligence or willful misconduct in the performance of duty.

The Association may also reimburse to any Director, Officer or employee the reasonable costs of settlement of any such action, suit or proceedings, if it shall be found by a majority of a committee of the Directors not involved in the matter in controversy, whether or not a quorum, that it was in the interest of the Association that such settlement be made and that such Director, Officer or employee was not guilty of gross negligence or willful misconduct.

Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, Officer, or employee may be entitled by law or under any Bylaw, agreement, vote of Members or otherwise. Nothing in this Section shall prevent permissive indemnification as authorized by Section 8.01 through 8.152, Texas



Business Organizations Code, or by Article 1396-2.22A, Texas Non-Profit Corporations Act.

7. Online Subdivision Information. The Association shall make dedicatory instruments relating to the Association or subdivision and filed with the County Clerk records available on a website if the Association has, or a management company on behalf of the Association maintains, a publicly accessible website. (Source: Section 207.006, Texas Property Code).
8. Texas Property Code Controls. To the extent that any of these Bylaws conflict with the provisions of the Texas Property Code and/or the Texas Non-Profit Corporations Act and/or the Texas Business Organizations Code, as may be amended from time to time by the Texas Legislature, the Texas Property Code and/or the Texas Non-Profit Corporations Act and/or the Texas Business Organizations Code shall control.

### **ARTICLES XVII - Amendment of Bylaws**

The power to alter, amend or repeal these Bylaws or to adopt new Bylaws shall be vested in the Members of the Association. Such alteration, amendment or repeal may be accomplished at any annual, quarterly, or special meeting of the Members of the Association at which a quorum is present by the affirmative vote of the majority of the votes present in person or by proxy at such meeting, provided that:

1. a minimum of two (2) meeting shall be held prior to such vote, at either regular or special called meetings, to review and discuss Bylaw changes. Approval of language by majority of members present will lock in language that will be presented for vote at a future meeting, which shall be held at least 15 days but no more than 90 days subsequent,
2. notice of the intention to act upon such matter shall have been given in the notice calling such meeting and,
3. such amendments are not in conflict with the terms and provisions of the Restrictions or the Certificate of Formation.

THESE BYLAWS have been voted on and adopted by the Members of the Association at a meeting of the Association held on \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary