

Bylaws of Long Canyon Phase II & III Homeowners Association, Inc.
As Amended August 18, 2015

BYLAWS OF
LONG CANYON PHASE II & III HOMEOWNERS ASSOCIATION, INC.
AS LAST AMENDED AUGUST 18, 2015

Effective September 1, 2015

**BYLAWS OF LONG CANYON PHASE II & III HOMEOWNERS
ASSOCIATION, INC.**

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ASSOCIATION, INC.**

ARTICLE I

Name and Location

The name of the association is LONG CANYON PHASE II & III HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the “association.” The principal office of the association shall be located in Travis County, Texas.

Authorities

The association is governed by the applicable provisions of the Texas Property Code Chapter 209, known as the Texas Residential Property Owners Protection Act, and by that certain Declaration of Covenants, Conditions, and Restrictions (declaration) for the association, as defined below. The provisions of these bylaws are intended to be consistent in all material respects with the requirements of both the statutes and declaration; the declaration takes primacy if conflict between it and the bylaws arises, and the statutes take primacy if conflict between them and the bylaws arises. The above notwithstanding, a bylaw may not be amended to conflict with the declaration or applicable statute.

Article II

Definitions

Section 1. “Association” shall mean and refer to LONG CANYON PHASE II & III HOMEOWNERS ASSOCIATION, INC., and its successors and assigns.

Section 2. “Properties” shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additional properties as may hereafter be found and brought within the jurisdiction of the association.

Section 3. “Board of Directors” or “Board” shall mean that certain governing body of the association that is elected by the members or in the case of a vacancy by majority vote of the remaining board members, as provided herein, and that exercises the powers and duties provided in these bylaws and the declaration.

Section 4. “Common Area” shall mean all real property owned by the association for the common use and enjoyment of the members.

Section 5. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 6. "Back Yard" shall mean and refer to that portion of a lot that is farther away from the street on which the lot is located than the principal wall of the main building that is farthest from the street. If the lot is located at an intersection of two streets, the principal street is the street that the house faces, and any other street adjacent to the lot is a secondary street. If the house on a corner lot is situated on a diagonal with the streets, then both streets are considered secondary streets for purposes of this definition. For corner lots at the intersection of two streets, the Back Yard is additionally restricted as defined below:

- (a) If a fence is installed along a secondary street, the Back Yard is that portion of the lot farther away from the secondary street than the fence.
- (b) If no fence is present, the Back Yard is defined to be that portion of the lot farther away from the secondary street than the corner of the principal wall of the house that faces the secondary street and that is farthest from the secondary street.

Section 7. "Member" (also "Property-owning Member") shall mean and refer to those persons entitled to membership in the association as provided in the declaration, and includes the property owner of record, whether one or more persons or entities, of the fee simple title to any lot which is a part of the properties, including contract sellers, but excludes those having such interest merely as security for the performance of an obligation. Regardless of the number of individual owners and association members for a given lot, there is only one vote on association business for each lot owned.

Section 8. "Declaration" shall mean and refer to the restated Declaration of Covenants, Conditions and Restrictions applicable to the properties, recorded i) on May 12, 1981, in Volume 7116, Pages 285 through 307, and ii) on June 25, 1984, in Volume 8664, Pages 355 through 376, of the Deed Records of Travis County, Texas, the provisions of which are incorporated herein and expressly made a part hereof.

Section 9. "Conservation Easement" shall be the areas designated on the Plat, or subsequently added (by joint consent of the association and the owner of the underlying property that holds the easement), as conservation easement.

Section 10. "Hiking Trail" shall be that area in the conservation or other easement maintained as a hiking trail.

Section 11. "Conflict of Interest" shall mean a condition in which a member, including especially but not limited to a member of the Board of Directors or the Architectural Control Committee, would deliberate or otherwise take action on a matter in which the member or the member's family, as defined herein, would substantially benefit financially or otherwise from said action in a manner disproportionate to that of the general membership.

Section 12. "Family" shall mean a member's parent, grandparent, spouse/significant other, child, grandchild, or sibling.

Section 13. "Electronic Ballot" shall mean a ballot that is given by email, by facsimile, or by posting on an internet website, for which the identity of the member submitted the ballot can be confirmed and for which the member submitting the ballot is able to receive or retrieve a receipt of the electronic transmission and receipt of that ballot.

Section 14. "Front Yard" shall mean and refer to that portion of the lot that is closer to the primary street on which the lot is located than the principal wall of the main building that is closest to the street. If the lot is located at the intersection of two streets, the primary street is the street that the house faces, and any other street adjacent to the lot is a secondary street. If the house on a corner lot is situated on a diagonal with the streets, then both streets are considered primary streets for purposes of this definition.

ARTICLE III

Meeting of Members

Section 1. Annual Meeting. The first annual meeting of the members shall be held within one year from the date of incorporation of the association, and each subsequent regular annual meeting of the members shall be held on the same month of each year thereafter, at a day and hour selected by the board of directors. If the board of the association does not call an annual meeting of the association members, a member may demand that a meeting of the association members be called not later than the 30th day after the date of the member's demand, subject to the requirements and provisions of Texas Property Code, Section 209.014.

Section 2. Special Meeting. A special meeting of the members may be called at any time by the President or by the board of directors. A special meeting shall also be called upon written request of the members who are entitled to vote; such request must include the signatures of one-fourth (1/4) of the voting members.

Section 3. Notice of Meeting. All notices given or required to be given by the association to its members with respect to any meeting or for any other purpose shall be deemed to have been properly given, whether or not actually received, either when deposited in the United States mail, postage prepaid, and addressed to the member at his/her address as it appears on the books of the association, or when transmitted electronically to the e-mail address of record for the member that is on the books of the association. For an association-wide election or vote taken at a meeting of the members, written notice of each meeting of the members shall be given by mailing a copy of such notice at least fifteen (15) but no earlier than sixty (60) days before such meeting to each member entitled to vote thereat. For an association-wide election or vote not taken at a meeting, the association shall give notice of the election or vote to all property-owning members entitled to vote on any matter under consideration, and such notice shall be given not later than the twentieth (20th) day before the latest date on which a ballot may be submitted to be counted, Notices shall specify the place, day and hour of the meeting,

the actions subject to association vote, and in the case of a special meeting, the purpose of the meeting. Procedure for notice of special meetings shall be as set out above unless specified otherwise in these bylaws, the declaration, or the articles of incorporation of the association.

Section 4. Quorum. The presence at the meeting of sixty-six percent (66%) of all members entitled to cast votes, as evidenced by in-person voting at the meeting, by absentee ballots, by proxies entitled to cast votes on behalf of members entitled to vote, and, subject to the limitation in this section, by electronic ballots cast, shall in aggregate constitute a quorum for any action, except as otherwise provided by statute or in the articles of incorporation, the declaration, or these bylaws. An absentee or electronic ballot may be counted toward establishing a quorum only for items appearing on the ballot. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting to a new time-and-date and from time to time, for the same purpose(s) as posted without notice other than announcement at the meeting; as specified in the declaration, the required quorum at each such meeting shall be one-half of the required quorum at the immediately preceding meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Ballots. Except as provided in this section, any vote cast in an election or a vote by the members of the association must be in writing and signed by the member. Such voting is not considered to be "secret balloting", as used in Property Code Section 209.0058. Written ballots must be used and signed by the voting members or proxies if the vote is cast: (a) outside a physical meeting; (b) in an election to fill a position on the board; (c) on a proposed adoption or amendment of a dedicatory instrument; (d) on a proposed increase in the amount of a regular assessment or the proposed adoption of a special assessment; or (e) on the proposed removal of a board member. The association may use a ballot in votes for other purposes, and if it does the ballots must be signed by the voting members. The above notwithstanding, no signed or written ballot shall be required for uncontested director races or other uncontested association-wide voting. For purposes of this section, an electronic ballot as defined herein and that is properly solicited and received is considered a ballot that is in writing and signed by the member.

Section 6. Proxies, Absentee Voting, and Electronic Voting. At all meetings of members, each member may vote in person at the meeting, by absentee ballot, by proxy at the meeting, or, if enabled by the board for a given election, by electronic voting. All proxies and absentee ballots shall be in writing and filed with the Secretary no later than three days before the meeting in which the vote is taken. Every proxy and absentee ballot shall be revocable and shall automatically cease upon conveyance by the member of his/her lot. At the discretion of the board, voting at certain meetings of the association may also include, in addition to in-person, absentee, and proxy voting, voting made by electronic voting, provided it is announced and voting instructions and required forms are furnished to the members, both at least 15 days before the meeting in which the vote is to take place. A member who properly submits an absentee or electronic ballot and who then

attends the meeting in person for the purpose of voting supersedes and revokes the electronic or absentee ballot for purposes of the proposal or action being considered. An electronic or absentee ballot or directed proxy shall not be counted in the final vote of a proposed action if the language of the proposed action was amended by motion on the floor of the meeting to be different than the exact language on the absentee or electronic ballot or directed proxy, except that nominations from the floor in a board member election shall not be considered an amendment to the proposal for election purposes. A board's solicitation for votes by absentee ballot must comply with the specific requirements that are stipulated in Texas Property Code Section 209.00592. If an electronic ballot is posted on and to be submitted through an Internet website, a notice of the posting and instructions for obtaining access to the ballot and for submitting it shall be sent to each member. Only the person who tabulates votes shall be given access to the ballots cast in the election, except as ordered by a court of competent jurisdiction. A person who tabulates votes by any method in an association-wide election must meet the eligibility requirements of Property Code Section 209.00594 and may not disclose to any one person how an individual voted.

Section 7. Recount. Not later than the 15th day after the later of (a) the date of any meeting of property-owning members at which an election or association-wide vote was held or (b) the date of the announcement of the results of the election or vote, any member may require a recount of the votes, subject to the provisions and requirements of Section 209.0057 of the Texas Property Code. Only the person who performs the recount shall be given access to the ballots cast in the election, except as ordered by a court of competent jurisdiction. A person who performs a recount must meet the eligibility requirements of Property Code Section 209.00594 and may not disclose to any one person how an individual voted.

Section 8. Action Taken Without a Meeting. The members shall have the right to take any action in the absence of a meeting that they could take at a meeting if a consent in writing, setting forth the actions taken, shall be signed by three quarters (3/4) of all of the members entitled to vote with respect to the subject matter thereof. Any action so approved shall have the same force and effect as a quorum vote of the members and may be stated as such in any document.

ARTICLE IV

Board of Directors - Selection and Term of Office

Section 1. Number and Eligibility. The affairs of this association shall be managed by a board of either five (5) or seven (7) directors, who shall be members of the association. A board member who has been convicted of a felony or crime involving moral turpitude is immediately ineligible to serve on the board and prohibited from future service on the board. Members of the same family may not serve on the board at the same time.

Section 2. Term of Office. The directors shall each serve two (2) year alternating terms. After the first annual election, the five (5) member board shall draw lots to select three (3) members. These three (3) members shall serve a one (1) year term, the two (2) remaining members shall serve a two (2) year term. After the re-election of the three (3) members, all terms of office will be for two (2) years, alternately selecting three (3) members one year, and two (2) or four (4) members, depending on the size of the board, the next year. In any event, any board member whose term has expired must be elected by voting members of the association.

Section 3. Removal and Filling of Vacancies. Any director may be removed either for or without cause at any special meeting of members, at which a quorum is present, by the affirmative vote of a majority of the members then in attendance, if notice of the intention to act upon such a matter shall have been given in the notice calling such a meeting. Any vacancy occurring in the board of directors resulting from the death, resignation, retirement, disqualification or removal from office of any director or as the result of an increase in the number of directors may be filled at a special meeting of the board of directors called by a majority vote of the remaining members of the board for that purpose, or in a regular meeting of the board in which notice is provided of the board's intent to fill the vacancy. Any vacancy occurring on the board of directors shall be filled as soon as possible after such vacancy occurs. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 4. Compensation. No director shall receive compensation for any service he/she may render to the association. However, any director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties.

Section 5. Conflicts of Interest. Any board member(s) who may have a potential conflict of interest, as defined herein, in any decision made by the board shall inform the board that a potential conflict exists and recuse themselves from discussions and decisions on such matters.

ARTICLE V

Nomination and Election of Directors

Section 1. Nomination by Nominating Committee. Nomination for election to the board of directors shall be made by a nominating committee, notwithstanding and in addition to nominations made by other means, as described in Section 2 of this article. The nominating committee shall consist of a chair, who shall be a member of the board of directors, and one or more members of the association. The nominating committee shall be appointed by the board of directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the board of directors as it

shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. **Nomination by Other Means.** At least 45 days before each meeting in which one or more directors are to be elected, the association shall notify all members that eligible persons interested in running for a director position may have their names placed on the ballot. The notice must provide specific instructions as to how interested members should notify the association of their interest in running for the board, and specify the deadline by which such requests must be received by the association. The deadline for members to make such requests must be at least 14 days after the association provides the initial notice of the election and no later than 21 days before the meeting. The association shall include on all forms of ballots it creates for the election the names of the eligible candidates who made a timely and proper request for inclusion. Nominations may also be made from the floor at an annual meeting. Members may also name write-in candidates on their in-person or absentee ballot in lieu of voting for other listed candidates.

Section 3. **Election.** Election to the board of directors shall be by written ballot, signed by the voting member or designated proxy. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

Meetings of Directors

Section 1. **Regular Meetings.** Regular meetings of the board of directors shall be held either monthly or bi-monthly, at such place and hour as may be fixed from time to time by board action. A regular meeting of the board at a time and/or place other than the regular date and place is authorized if a quorum of the board approves such a change in a properly noticed, previous meeting of the board. Notice of such meetings, including the agenda setting forth possible actions of the board, shall be provided to all members of the association at least 72 hours before the meeting, by e-mail to all members with an e-mail address recorded in the books of the association and also by posting on the association website, if any.

Section 2. **Special Meetings.** Special meetings of the board of directors shall be held when called by the President of the association, or by any two directors, provided the customary and statutorily minimum notice is provided to all members.

Section 3. **Quorum and Manner of Acting.** At all meetings of the board of directors, the presence of a majority of the number of directors fixed by these bylaws shall be necessary and sufficient to constitute a quorum for the transaction of business except as otherwise provided by statute, by the declaration or articles of incorporation, or by these

bylaws. The act of a majority of the number of directors fixed by these bylaws shall be the act of the board of directors unless the act of a greater number is required by statute, by the declaration or articles of incorporation, or by these bylaws, in which case the act of such greater number shall be requisite to constitute the act of the Board. If a quorum shall not be present at any meeting of the directors, the directors present thereat may discuss agenda items but shall not take any action on those items.

Section 4. Forum for Meetings. Physical meetings of the board of directors, including both regular and special meetings, may be held at any suitable, properly noticed location but must be in Travis County, Texas, and must have a quorum of the board to be present and to approve any actions taken by the board. Meetings utilizing only telephonic or electronic communications may be called by the President or, in the President's absence, the Vice President and with the prior consent of a majority of the board. Telephonic or electronic communications may be used as long as: (a) each board member may hear and be heard by every other board member; and (b) except for any portion of the meeting conducted in executive session, all owners in attendance at the meeting are able to hear all board members, and owners are allowed to listen using any electronic or telephonic communications method used or expected to be used by a board member to participate. The notice of the meeting shall include clear instructions to the owners for accessing any remote communications method, if any, planned to be required of board members for accessing and participating in the meeting. Except as provided below in this section, a board may take action outside of a meeting, including voting by telephonic or electronic means, without prior notice to members if each board member is given a reasonable opportunity to express the board member's opinion to all other board members and to vote. Any action taken without notice to owners 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 meeting. The board must consider or vote on those specific types of actions enumerated in Texas Property Code Section 209.0051 only in open meetings for which prior notice was given to owners.

ARTICLE VII

Powers and Duties of the Board of Directors

Section 1. Powers. The board of directors shall have power to:

- (a) adopt, publish, and enforce rules, regulations, and deed restrictions governing the association, and to establish fines for the infraction of such rules, regulations, and deed restrictions;
- (b) suspend the voting rights and the right to use of the conservation easement, hiking trails and common area 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. 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 bylaws, the articles of incorporation, or the declaration;

(d) declare the office of a member of the board of directors to be vacant in the event such member shall be absent without good cause from three (3) consecutive regular meetings of the board of directors; and

(e) employ a manager, an independent contractor, or such employees as they deem necessary and to prescribe their duties.

Section 2. Duties. It shall be the duty of the board of directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs in a set of meeting minutes that is subsequently approved by the board and made available to the members, and to present a statement thereof to the members at the annual meeting of the members, or at any special meetings when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this association, and to see that their duties are properly performed;

(c) as more fully provided in the declaration, to:

(1) fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every member subject hereto at least thirty (30) days in advance of each regular assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the property-owning member personally obligated to pay the same, provided a good-faith effort has been made to collect the amounts due;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the board for the issuance of this certificate. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) manage the risks associated with conducting the official business of the association and executing the duties of the board of directors and its officers, including procurement and maintenance of adequate liability and hazard insurance on property owned by the association, and of directors and officers liability insurance for costs of defending the association's governing instruments and rules;
- (f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (g) cause the common areas and hiking trails to be maintained.

ARTICLE VIII

Officers and Their Duties

Section 1. Enumeration of Officers. The officers of this association shall be a President and Vice-president, who shall at all times be members of the board of directors, a Secretary, and a Treasurer and such other officers as the board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the board of directors following each annual meeting of the members.

Section 3. Term. The officers of this association shall be elected annually by the board and each shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The board may elect such other officers as the affairs of the association may require, each of whom shall hold office for such period, have such authority and perform such duties as the board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the board. Any officer may resign at any time by giving written notice to the board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he/she replaces.

Section 7. Multiple Offices. No person shall simultaneously hold more than one of the offices of the association except in the case of special offices created pursuant to Section

4 of this article and except that the same person may hold the offices of Secretary and Treasurer.

Section 8. Duties of the Officers.

President

(a) The President shall be the chief executive officer of the association; shall preside at all meetings of the board of directors and the membership; shall see that orders and resolutions of the board and the members are carried out; shall sign all leases, mortgages, deeds and other written instruments; and shall perform such other duties as required by these bylaws. In the absence of the treasurer, the president can sign checks and co-sign promissory notes.

Vice-President

(b) The Vice-president shall act in the place and stead of the president in the event of his/her absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the board.

Secretary

(c) The Secretary shall record and certify the votes and keep the minutes of all meetings and proceeding of the board and of the members; serve notice of meeting of the board and of the members; keep appropriate current records showing the members of the association together with their addresses, and shall perform such other duties as required by the board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the association; shall disburse such funds as directed by resolution of the board of directors; shall sign all checks and promissory notes of the association; shall keep proper books of account; shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting; and, shall deliver or otherwise make available a copy of each to the members.

ARTICLE IX

Committees

The board of directors, acting on behalf of the association, shall appoint an Architectural Control Committee (ACC), as provided in the declaration, and a nominating committee, as provided in these bylaws. In addition, the board of directors shall appoint other

committees as deemed appropriate in carrying out its purpose. All committees serve at the pleasure of the board and their powers and duties reside in the association as governed by the board. Decisions of a committee that are disputed by a member may be appealed to the board for final action, following notice by the member to the committee chair and to the board President, and provided the decision and appeal are posted on the agenda of the board meeting in which the appeal is to be heard.

ARTICLE X

Books and Records

Section 1. Availability of Books and Records. The association's books and records within the custody and control of the association and not otherwise excluded by statute shall be open to and made reasonably available for inspection by any member, or their designated representative or agent, upon request in writing to the association. Copies of requested books and records shall also be made available upon written request to the secretary and the member's acceptance and payment to the treasurer of the association-provided estimate of reasonable copying costs.

Section 2. Producing and Copying Charges. The association establishes and hereby records the following fee schedule, for estimating and recovering the costs of producing and copying records that are chargeable to a requesting member, effective for requests made on or after January 1, 2012:

- (a) Association labor time to search, produce, and deliver the record: \$60 per hour;
- (b) Local mileage to retrieve records from storage or deliver records to requesting member: Prevailing IRS mileage reimbursement rate (55.5 cents per mile, as of January 1, 2012);
- (c) Third-party copying costs for standard-size paper: Ten (10) cents per B&W impression; Fifty (50) cents per color impression.

Any additional costs involved in producing or copying the records other than those scheduled in this section shall be identified as such on the estimate provided by the association before acceptance and payment by the member.

Section 3. Records Retention. The board shall develop, adopt, and comply with a records and document retention policy and procedures that assure security and availability of the association's records. At a minimum, the retention times for the various types of records and documents must meet those statutory requirements of Texas Property Code Section 209.005, but the board is authorized to implement longer retention times for certain record types if it asserts they are in the interest of the association. The board shall meet no less frequently than annually to assess compliance with the policy of this section,

to consider changes to the policy, and to designate those records and documents that are past their retention times and should be removed from archives and destroyed.

ARTICLE XI

Assessments

As more fully provided in the declaration, each member is obligated to pay the association annual and special assessments that are secured by a continuing lien upon the property against which the assessment is made. Any assessment that is not paid when due shall be considered delinquent. If the assessment is not paid within thirty (30) days after the due date, or such other later date as declared by the board, the assessment shall then be subject to late fees or bear interest from the date of delinquency at the rate as allowed by law, or both, at the discretion of the board. Following a good-faith effort to collect the amounts then due, the association may bring an action at law against the member personally obligated to pay the same or foreclose the lien against the property, and interest, late fees, other costs, and reasonable attorney's fees of any such action shall be added to the amount of the assessment. No member may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common area or by abandonment of his/her lot.

ARTICLE XII

Amendments

Section 1. These bylaws may be amended at any annual, regular or special meeting of the board of directors by a vote of a majority of the entire board, subject to the approval of the members, by a majority of the votes present and entitled to vote cast by the members of the association, at a meeting duly called at which a quorum is present, and for which notice of the purpose of the meeting is given, provided that no amendment inconsistent with the articles of incorporation, applicable law or the declaration shall be valid, and provided, further, that such action shall not be binding upon the Federal Housing Administration or the Veterans' Administration.

Section 2. In the case of the conflict between the articles of incorporation and these bylaws, the articles shall control; and in the case of any conflict between the declaration and these bylaws or the articles, the declaration shall control.

ARTICLE XIII

Fiscal Year

The fiscal year of the association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE XIV

Energy and Water Conservation Appurtenances

Section 1. Solar Energy Devices and Panels. The association encourages the use of energy conservation measures and shall not prohibit the installation of solar energy devices and/or panels that are on the roofs or within fenced back yards of the houses of members, provided the devices or panels:

- (a) are not installed before the association assesses the compliance with this section's provisions, including providing an opportunity to appeal the approval or non-approval of the installation;
- (b) do not threaten public health or safety, and comply with any other applicable laws;
- (c) if mounted on roofs: generally conform to the slope and height of roof lines of the structure on the member's property to minimize visual impact, has framing and brackets that are of a design and color to not call inordinate attention to the device or panel, and are not on the front elevation of the structure unless other roof locations would produce in aggregate at least 10% less energy annually;
- (d) if mounted in a fenced yard: do not extend higher than the elevation of the fencing, or are otherwise substantially screened from view from adjacent streets or neighbors in their ordinary use of their property; and
- (e) are placed so as to not interfere with the use and enjoyment of the properties of adjacent members by causing unreasonable discomfort or annoyance of neighboring persons with ordinary sensibilities, as may be evidenced by written concurrence of such neighboring members or, if no concurrence exists, a written explanation of what specifically causes such discomfort or annoyance.

The ACC is charged with making a specific determination in writing as to the compliance of a proposed solar energy device and panels with these provisions and, if judged non-compliant, how the prospective installation could become compliant and be approved by the ACC. The ACC decision is reported to the board, to the member proposing the installation, and to the immediately neighboring members, and it is appealable to the board for 30 days after the ACC decision is reported, after which the decision takes effect. If timely appealed, the ACC Chair, the member proposing the installation, and

other members opposing the installation will be provided an opportunity to comment to the board on the ACC decision in a regular board meeting, after which the board will consider the appeal and approve such installation if it finds the requirements of this section are met.

The provisions of this section apply to new installations, and existing devices and panels that existed on the date the board adopted these amendments to the bylaws are grandfathered.

Section 2. Water Conservation Facilities. The association encourages the use of water conservation measures by members and shall not prohibit the installation of rainwater harvesting and use facilities, provided the facilities do not threaten public health and safety, comply with any other applicable laws, and conform to the other provisions of this section. Such facilities with above-ground storage facilities must have those components installed in the back yard of the member's residential structure. The installation shall be substantially screened from view from any street adjacent to the member's property and from neighboring property by buildings, screening vegetation, fencing, or topography, or by burying components.

Water conservation facilities shall not be installed before the association assesses the compliance with this section's provisions, including providing an opportunity to appeal the approval or non-approval of the installation. The ACC is charged with making a specific determination in writing as to the compliance of a proposed water conservation facility with these provisions and, if judged non-compliant, how the prospective installation could become compliant and be approved by the ACC. The ACC decision is reported to the board, to the member proposing the installation, and to the immediately neighboring members, and it is appealable to the board for 30 days after the ACC decision is reported, after which the decision takes effect. If timely appealed, the ACC Chair, the member proposing the installation, and other members opposing the installation, if any, will be provided an opportunity to comment to the board on the ACC decision in a regular board meeting, after which the board will consider the appeal and approve such installation if it finds the requirements of this section are met.

The provisions of this section apply to new installations, and existing facilities that existed on the date the board adopted these amendments to the bylaws are grandfathered.

ARTICLE XV

Building Permission and Construction Security Deposit.

The ACC shall review and inspect all site, building or improvement plans for any proposed construction or improvement on any lot in the association to ensure compliance with the declaration, bylaws, and other specified rules of the association. The ACC shall

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issue written permission to proceed upon ACC approval of submitted plans and upon payment of a construction security deposit by the property-owning member to the association. Such approval shall not be unreasonably denied. No construction or plan implementation of any kind or type shall begin before the issuance of this written authorization. The ACC may review and inspect the construction at any time to ensure faithful compliance with approved plans. Any modification or addition to the site and/or building plans after approvals have been issued may require additional written permission of the ACC and additional construction security deposit.

ARTICLE XVI

Fences, Walls, and Removal of Trees

Section 1. Fences and Walls. Fences and walls must be included in the development or site plan in Article XV, with respect to location, height and type of material and must be approved in writing prior to construction. No barbed wire shall be allowed in the construction of any fence on the property. Fences should be made of natural material, such as wood or rock. The structural supports of the fence, i.e. the “skeleton framing” shall not be exposed or visible from the street or neighboring property. Ornamental iron and stucco fencing is acceptable. Coated cyclone fences are acceptable, but only in back yards, as defined in these bylaws; galvanized cyclone fences are prohibited.

Section 2. Tree Removal. Each development or site plan in Article XV shall show the location of any and all individual trees to be removed. Any individual tree measuring eight (8) inches in diameter at a point three (3) feet above ground level will require specific ACC approval for its removal. Such approval shall not be unreasonably denied. No tree removal shall begin before the issuance of this written approval.

ARTICLE XVII

Violations and Fines

Section 1. Violations. Failure to comply with the rules and regulations specified in the declaration, the articles of incorporation, and the bylaws constitute a violation. Violations shall be defined and enforced in accordance with the provisions of Texas Property Code Sections 209.006 through 209.011, inclusive; any unintended differences between requirements of these statutes and the explanatory provisions in this article of these bylaws shall be resolved in favor of the applicable statutes.

Violations fall into two (2) classes, each with its own requirements on and rights of both the violating member and the board. The board shall provide notice as prescribed in the statute and providing a reasonable and specific period of time for the property-owning

member to cure the violation if of a curable nature and not an immediate threat to public health and safety. The board is authorized to impose fines and charge for property damage for both types of violations if the violation remains uncured or is incurable, provided the amounts and procedures used are in accord with the declaration. The member shall have a right to make an appeal to the board for a board-imposed fine within a specified time frame, in order to provide additional information not considered in establishing the violation or setting the fine. Certain members may have additional rights and relief under federal law under certain circumstances that the board may take into consideration in enforcement actions. Pursuant to Declaration Section 8.16, the board may impose a lien against the property in question for unpaid duly-authorized fines and damages.

(a) Class "A". All violations that can be cured are defined as Class A violations. Fines shall not be imposed for this type of violation if the property-owning member has not committed a similar violation within the preceding 12 months and cures the violation within the specified time frame. Following that period, fines for these violations may be imposed by the Board to promote rapid compliance. Examples of Class A violations include, but are not limited to:

- (1) a parking violation;
- (2) a maintenance violation;
- (3) the failure to construct improvements or make modification in accordance with approved plans and specifications; and
- (4) an ongoing noise violation such as a barking dog.

The association or its authorized agent, such as a member of the ACC, shall give written notice to the property-owning member by certified mail of any proposed enforcement action under the declaration EXCEPT for a suit to collect a regular or special assessment or foreclose under an association's valid lien. The notice shall describe the violation or property damage that is the basis for the proposed action, charge, or fine and state any amount due the association from the member; and inform the member that the member is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the member was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and the member may request a hearing as provided under Property Code Section 209.007, on or before the 30th day after the date of the notice.

The property-owning member has the right to request a hearing before a committee appointed by the board of the association or before the board. If a hearing is held, the property-owning member also has the right to appeal the committee decision to the board. If a property-owning member requests a hearing, a hearing will be allowed, not later than the 30th day after the date the board received the member's request for a hearing, and the property-owning member will receive a notice of the hearing date, time, and place not

later than the 10th day before the date of the hearing. If a property-owning member requests a postponement of the hearing, a postponement shall be granted for a period of not more than 10 days, and any additional postponements may only be granted by agreement of the parties. The member or the association may make an audio recording of the meeting.

If the association elects to file a lawsuit seeking a temporary restraining order or injunctive relief or seeks foreclosure as a cause of action, the notice and hearing provisions of Property Code Section 209.006 do not apply.

Any agents of the association will also collect any debts or fines owed by attempting to comply in good faith with any current fair debt collection laws. Therefore, the association will notify any property-owning member that it is the original creditor, and any demand letters or communications related to same are an attempt to collect a debt and any information obtained will be used for that purpose. The property-owning member has thirty (30) days to dispute this debt or request verification of the debt in writing. If not disputed, the debt will be assumed to be valid. The fact that a property-owning member elects to dispute a debt does not prevent or prohibit the association from taking further collection actions against a property-owning member, including but not limited to filing a lien or lawsuit to collect damages.

(b) Class "B". Class B violations are acts that, once committed, cannot be corrected or cured. A violation is considered incurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For purposes of this section, the non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy. Fines and possibly assessed damages for these violations will be imposed after they are confirmed by the board.

The minimum fine for a Class B violation is \$500.00, to be assessed on a per-incident basis if of a multiple-incident nature; additional enforcement amounts may be imposed by the board after determination of the damages incurred. Fines for these violations will be imposed after they are confirmed by the board and after damages are competently assessed. Such fines are not intended to be the exclusive remedy for these violations. Examples of Class B violations include, but are not limited to:

- (1) shooting-off fireworks;
- (2) a noise violation that is not ongoing;
- (3) any open fires;
- (4) any site clearing before ACC approval;
- (5) beginning of construction of any type before issuance of an ACC permit;

- (6) removal of any individual tree outside of the footprint of a new or existing structure's foundation with a trunk diameter of eight (8) inches or more, as measured three (3) feet above ground level, without ACC approval;
- (7) violations of the rules and restrictions governing easements; and
- (8) any act constituting a threat that materially affects the physical health and safety of an ordinary resident.

Section 2. Fining Procedures. The procedures differ between the two classes of violations.

(a) Class "A". The association through its board is authorized to establish regular and special assessments, and fines for violation of the declaration, the bylaws, the articles of incorporation, or the ACC rules. The association, acting through its board and duly appointed ACC, shall also set fines for various violations of the above instruments, up to \$200.00 per day, after a property-owning member has been given the above listed required notices and opportunity to cure violations, and any required hearings, and still has failed to comply with the governing instrument. The association acting through its board, and duly appointed ACC shall also have the right to retain a security deposit from a property-owning member deposited for faithful compliance with approved plans and compliance with the declaration, bylaws and other rules of the association, after the notices to the property-owning member are sent as outlined above.

Attorney's fees may be collected from a property-owning member for fees incurred in collecting amounts, including damages, due the association for enforcing restrictions or the bylaws or rules of the association provided the member is given written notice that the attorney's fees and costs will be charged to the member if the delinquency or violation continues after a date certain contained in the notice of non-compliance sent to the property-owning member and after conclusion of any requested hearing.

(b) Class "B". Once a Class B violation has been confirmed by the board and any damage assessed, the board will notify the violator via certified mail, postage paid, that he/she, or his/her representative, has allegedly committed a Class B violation. The notification will include details of the violation, the amount of the fine assessed, the type and amount of damage incurred, and will define the sections of the declaration, articles of incorporation or bylaws that the board believes have been violated. The property-owning member will have 30 days to make an appeal before the board or pay the fine and damages, if any, assessed in the notice. If the property-owning member does not respond within the 30 days given, the board will authorize its attorney to proceed with a demand letter notifying the property-owning member that a lien will be filed against his/her property if the fine is not paid by the date stated in the demand letter.

This section is intended to comply with the Texas Residential Property Owners Protection Act, and any terms and conditions contained in that act, including those upon its

amendment, that differ from the provisions in this section supersede the provisions stated herein.

Section 3. Limitation on Foreclosure of Liens. The association may not foreclose on a property lien arising from an association assessment if the debt securing that lien is solely a) fines assessed by the association, b) attorney's fees related to the assessment and recovery of such fines, c) fees for recount requests, and/or d) fees related to producing and copying association records.