

**2008 RESTATED AND AMENDED BYLAWS  
OF COMMODORE CAPE PROPERTY OWNERS ASSOCIATION**

**A NONPROFIT CORPORATION**

**ARTICLE 1. OFFICE DEFINITIONS AND PURPOSES**

- 1.01 The principal office of the Commodore Cape Property Owners Association ("Association"), shall be in Polk County, Texas, and the mailing address is P. O. Box 415, Livingston, Texas 77351.
- 1.02 The Association shall have and continuously maintain in the state of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act and the Texas Business Organizations Code.
- 1.03 Reference is made for all purposes to the following:
- (a) The plats of the Subdivision known as "Commodore Cape" which are now recorded or may hereafter be recorded in the Map Records of Polk County, Texas; and
  - (b) Reservations, Restrictions and Covenants of Commodore Cape, as recorded, amended or hereafter recorded, in the Deed Records of Polk County, Texas (which instruments shall be collectively referred to as the "Restrictions").
- 1.04 The following terms, when used in these Bylaws, shall have the respective definitions set forth below:
- (a) The term "Commodore Cape" shall mean the aforesaid Subdivision known as Commodore Cape and shall include all platted sections and all additional sections which may be developed and platted hereafter.
  - (b) The term "Building Site" or "Lot" means each of the lots as designated on the said plat upon which a maintenance fee is assessed. Consolidated lots which are assessed one maintenance fee shall be a single "Building Site".
  - (c) The term "Common Property" means the areas of the aforesaid plats currently designated as "Reserve", "Unrestricted Reserve", "Lake", "Lake and Park Reserve", "Street" or "Restricted Reserve" and any improvements erected thereon, in the name of Commodore Cape Property Owners Association.
  - (d) The term "Subdivision" means the aforesaid Commodore Cape as shown on any recorded plat (and including all sections thereof which may be hereafter platted and any developed).
  - (e) The term "Owner of Recreational Facilities" means Commodore Cape Property Owners Association, and its successors, assigns or purchasers.
  - (f) All terms which are defined in the Restrictions shall, when used herein, have the same meaning as that set forth in the Restrictions.

- 1.05 In the event of any conflict or inconsistency between the provisions of these Bylaws and the provisions of the Restrictions, the provisions of the Restrictions shall supersede, control and govern.
- 1.06 Purposes: The purposes for which the Association is formed are for the conducting of property improvement campaigns for the residents of Commodore Cape; to promote the maintenance and preservation of the lots and common properties; to exercise the duties and prerogatives provided for the Association in the Restrictions and these Bylaws; to have and to exercise any and all powers, rights and privileges of a corporation organized under the Non-profit Corporation Act of the State of Texas now or hereafter may have or exercise; and, to the extent permitted by law, do any and all other things necessary to implement or accomplish the purposes set forth in these Bylaws. To carry out said purposes properly, the Association may, at the discretion of its Board of Directors, perform the following functions and the exercise of such functions shall be deemed to be within the scope of activities contemplated by the corporate charter:
- (a) The Association, for the benefit of Building Site owners, may accept conveyances of and may own streets and common areas in Commodore Cape, Polk County, Texas.
  - (b) The Association may enforce charges, restrictions, conditions and covenants existing upon and created for the benefit of said property over which the Association has jurisdiction; the Association may pay all expenses incidental thereto; the Association may enforce the decisions and rulings of the Association; the Association may pay all of the expenses in connection therewith; and may reimburse any declarant under any declaration of conditions, covenants, restrictions, assessments or charges affecting Commodore Cape, or any part thereof, for all costs and expenses incurred or paid by it in connection with the enforcement of any of the conditions, covenants, restrictions, charges, assessments or terms set forth in any declaration.
  - (c) The Association may own, lease, provide, control, maintain and operate recreational facilities and private park areas.
  - (d) The Association may arrange for and provide refuse collection.
  - (e) The Association may pay, file protests or otherwise challenge any ad valorem taxes and other assessments levied or imposed against the Common Property.
  - (f) The Association may construct and maintain streets, rights of way and easements.
  - (g) The Association may do all things necessary for the upkeep, repair and maintenance of all Common Property and the placement of improvements, fixtures and equipment thereon, including the replacement of obsolete or damaged improvements, fixtures and equipment.
  - (h) The Association may provide for the landscaping of the Common Property and portions of the Building Sites necessary to provide a uniform scheme of landscaping for the whole Subdivision.
  - (i) The Association may pay legal and other expenses incurred in connection with the enforcement of all recorded charges, covenants, restrictions and conditions affecting said property to which the maintenance fund charge applies.

- (j) The Association may pay all reasonable and necessary expenses in connection with the collection and administration of the maintenance fund charge, subject to the right of Developer to transfer and assign this right.
  - (k) The Association may care for vacant Building Sites (Lot) to the extent provided for by the Restrictions and may send invoices or take other necessary action to collect the cost of such maintenance from the owner of the vacant Building Site.
  - (i) The Association may provide for the employment of policemen and watchmen.
  - (m) The Association may do all things necessary to provide for the exterior maintenance of all residences, to the extent provided for by the Restrictions and may send invoices or take other necessary action to collect the cost of such exterior maintenance from the owner of the Building Site.
  - (n) The Association may do any other thing necessary or desirable in the opinion of the Association to keep the property in the Subdivision in neat and good order, or which it considers of general benefit to the owners or occupants of the Building Sites, it being understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.
  - (o) The Association shall hold and administer and expend Maintenance Funds for the purposes contemplated by and in accordance with the terms and provisions of said Restrictions and these Bylaws; shall take such action as it deems appropriate, in its discretion, to enforce the collection of the Maintenance Charges.
  - (p) The Association may acquire by gift, purchase or otherwise own, hold, enjoy, lease, operate, maintain, and convey, sell, lease, transfer, mortgage, or otherwise dispose of real or personal property in connection with the business of the Association.
  - (q) The Association may borrow for the purpose of carrying out the corporate affairs, only if the Directors deem such borrowing advisable.
  - (r) The Association may contract with other entities to collect its portion of the Maintenance Charge. Without limitation of the foregoing, the Association shall have the right to contract with the Owner of the Recreational Facilities with respect to collection of Maintenance Charges, including authorization of the Owner of the Recreational Facilities to enforce payment of Maintenance Charges in the name and on behalf of the Association.
  - (s) The Association may adopt and amend rules and regulations, affecting common areas and Building Sites and provide fines for non-compliance, provided that should suspension of membership rights and assessments of any fines shall only occur upon compliance with the procedure of Article 10, Section 10.10.
  - (t) The Association shall have the right to contract with the Owner of the Recreational Facilities regarding access to the Recreational Facilities by the users thereof.
- 1.07 Area: The activities of the Association shall be limited to the area known as Commodore Cape (and including all sections thereof which may hereafter be platted and developed); the activities of the Association shall also apply to such other areas as may hereafter voluntarily or through the operation of conditions, covenants, restrictions, easements,

reservations or charges pertaining to the same be placed under or submitted to the jurisdiction of the Association and be accepted as within the jurisdiction of the Association by resolution of the Board of Directors of the Association.

## ARTICLE 2. MEMBERS

- 2.01 The Association shall have one class of members.
- 2.02 Each person acquiring title to any residential lot or permanent residence in Commodore Cape Subdivision must be a member of the Association.
- 2.03 Each member shall be entitled to one vote for each "lot" owned by the members in Commodore Cape Subdivision, on each matter submitted to a vote of the members, except those property owners who own a portion of a lot, which shall be entitled to a proportional vote in relation to their ownership interest (i.e. a person who owns 1/4 of a lot will have a 1/4 vote, etc). "Building Site" shall refer to any residential unit or lot for which the owner pays a separate assessment as provided in the restrictions. Such assessments must be current for the member to vote.

Membership in this Association is personally not transferable or assignable. Membership shall run with the ownership of lots and/or personal residences in Commodore Cape, subject to the terms and conditions provided in the restrictions of Commodore Cape.

## ARTICLE 3. MEETINGS

- 3.01 An annual meeting of the members shall be held during the month of June, at an hour and day to be determined by the Board of Directors, for election of directors and for the transaction of other business as may properly come before the meeting.
- 3.01a Should the Board of Directors adopt an annual maintenance fee assessment for the next year which results in an increase of more than 10%, a meeting of the members for the purpose of adopting the annual maintenance fee assessment for the next fiscal year shall be held in the month of October, and as required by Deed Restriction No. 24(B). The Board of Directors shall adopt a proposed budget for the coming year and shall give notice of such proposed budget to the membership by posting the budget on the Association's website.
- 3.02 Special meetings of the members shall be held at the office of the Association in Commodore Cape Subdivision, Polk County, Texas, or at such other places as may be designated in the notice or waiver or waivers of notice of the respective meetings. Special meetings of the members may be called by the president, the board of Directors, by members having not less than one-tenth (1/10<sup>th</sup>) of the votes entitled to be cast at such meeting, or such other officers or persons as may be provided in the articles of incorporation or bylaws. Written notice of each special meeting of the members, stating

- the time and place hereof and indicating briefly the purpose or purposes thereof, shall be sent by e-mail (if the property owner has agreed to acceptance of notice by e-mail and provides the Association with an e-mail address for this purpose), mail or telegram or be delivered by the Secretary, or in the event of his absence or failure, refusal, inability or omission to do so, by the President or a Vice President to each of the members of the Association at their respective addresses, as shown by the records of the Association, at least five (5) days prior to the date set for the holding of the meeting. Unless otherwise indicated in the notice or waiver or waivers of notice thereof, any and all business may be transacted at any annual or special meeting of the members.
- 3.03 The place of the Board meetings shall be the registered office of the Association or any other location within the area decided on by the Board of Directors.
- 3.04 Written or printed notice stating the place, day and hour of any meeting of members shall be delivered, either personally, by mail, or e-mail (if the property owner has agreed to acceptance of notice by e-mail and provides the Association with an e-mail address for this purpose), to each member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting. In case of a special meeting or when required by statute or these bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his/her address as it appears on the records of the Association, with postage thereon prepaid. If e-mailed, the notice of a meeting shall be deemed to be delivered when the email is sent to the member at his/her email address as it appears on the records of the Association. The member is responsible for providing the Association of any change in the email address or if the member elects to not continue receiving email notices.
- 3.05 Ten percent (10%) of the members eligible to vote, present in person or by proxy, shall constitute a quorum for all purposes at any meeting of the members. If the number of members necessary to constitute a quorum at any annual or special meeting of the members shall fail to attend in person or by proxy, the members present in person or by proxy, may adjourn any such meeting from time to time without notice other than by announcement at the meeting until the number requisite to constitute a quorum shall be present or attend in person or by proxy. A majority of the members present in person or by proxy, may also adjourn any annual or special meeting from time to time without notice, other than by announcement at the meeting, until the transaction of any and all business submitted or proposed to be submitted to such meeting or any adjournment or adjournments thereof shall have been completed. At any such adjourned meeting at which a quorum may be present, in person or by proxy, any business may be transacted which might have been transacted at the meetings as originally notified or called.

- 3.06 At any meeting of members, a member entitled to vote may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Where Directors are to be elected by members, such election shall be conducted by ballot in such manner as specified in Article 5 of these bylaws.

#### ARTICLE 4. BOARD OF DIRECTORS

- 4.01 The affairs of the Association shall be managed by its Board of Directors.
- 4.02 The number of Directors shall be five (5). Each Director shall hold office for a term of two (2) years or until his/her successor shall have been qualified and elected.
- 4.03 A regular annual meeting of the Board of Directors shall be held without other notice than this bylaw, immediately after, and at the same place as the Annual Meeting of members. The Board of Directors shall provide by resolution the time and place for the holding of additional regular meetings of the Board with notice of such resolution being made know to the membership. The Board of Directors shall, at said annual meeting, nominate and elect officers whose terms will be one (1) year and until new Directors have been elected. Officers of the Board of Directors shall include: President, Vice-President and Secretary/Treasurer.
- 4.04 Special meetings of the Board of Directors may be called by or at the request of the President or by any two (2) Directors. The person or persons authorized to call special meetings of the Board may fix any place as the place for holding any special meetings of the Board. Notice of any special meeting of the Board of Directors shall be given all Directors at least five (5) days previously thereto.
- 4.05 A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, but if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.
- 4.06 The act of majority of the 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.
- 4.07 Directors as such shall not receive any compensation for their services.

- 4.08 Any action required by law to be taken at a meeting of the Directors, or any action which may be taken at a meeting of the Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Directors.
- 4.09 Any vacancy within the Board of Directors caused by death or resignation of a Director, or any vacancy created because a Director ceased to qualify as a member, the unexpired term thus created shall be filled at the next regular meeting of the Directors as provided in Article 5 of these bylaws.
- 4.10 To the extent permitted by Texas Business Association Act, Article 2.02-1, the Board of Directors will authorize the Association to indemnify any present or former director, officer, employee, or agent of the Association against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the person in connection with a proceeding in which the person was, is, or is threatened to be made a named defendant or respondent because the person is or was a director, officer, employee, or agent of the Association. In this regard,
- (a) Every person who is or has been a director or officer of the Association shall be indemnified by the Association to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by him in connection with any demand, claim, action, suit (or threat thereof) or proceeding in which he becomes involved as a party or otherwise by virtue of his being or having been a director or officer and against amounts paid or incurred by him in the settlement thereof.
  - (b) The words "claim," "action," "suit," or "proceeding" shall apply to all claims, actions, suits, or proceedings (civil, criminal, or other, including appeals), actual or threatened, made or commenced subsequent to the adoption of these Bylaws; and the words "liability" and "expenses" shall include, without limitation, attorneys' fees, costs, judgments, amounts paid in settlement, fines, penalties, and other liabilities.
  - (c) No indemnification shall be provided hereunder to a director or officer or any other individual:
    - (1) Against any liability to the Association by reason of willful misfeasance, bad faith, gross negligence, breach of fiduciary duty, criminal misconduct or reckless disregard of the duties involved in the conduct of his office; and/or

- (2) With respect to any matter as to which he shall have been finally adjudicated not to have acted in good faith in the reasonable belief that his action was in the best interest of the Association.
  - (d) The rights of indemnification herein provided may be insured against by policies maintained by the Association, shall be severable, shall not affect any other rights to which any director or officer now or hereafter may be entitled, shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.
  - (e) Expenses in connection with the preparation and presentation of a defense to any claim, action, suit, or proceeding of the character described in these Bylaws hereof may be advanced by the Association before final disposition thereof upon receipt of an undertaking by or on behalf of the director or officers, secured by a surety bond or other suitable insurance issued by a company authorized to conduct such business in the State of Texas, to repay such amount if it is ultimately determined that he is not entitled to indemnification under these Bylaws.
- 4.11 Directors shall authorize, at the Associations expense, insurance or make other arrangements for paying liabilities to protect the Association or its directors, officers, agents and employees, or persons serving at the Associations request as a representative of another enterprise, if the Terms of the insurance or other arrangements are consistent with Revised Civil Statutes Article 1396-2.22A.

#### **ARTICLE 5. ELECTION OF DIRECTORS**

- 5.01 The Board of Directors shall notify all members, at least ninety (90) days prior to the annual meeting of the membership, that any qualifying member may be nominated for candidacy to the Board of Directors. Any person wishing to become a candidate must complete and return an application which will be made available to all members. Such application shall be conceived by a Nominations Committee and approved by the Board of Directors prior to distribution to the membership. Candidates must complete and return the application to the Nominations Committee on or before the announced deadline, being sixty (60) days prior to the annual meeting of the membership.
- 5.02 The Nominations Committee shall be appointed by the Board of Directors and shall consist of one incumbent, midterm board member and two (2) members of the Association who are not current members of the Board of Directors. The responsibilities



of the Nominations Committee will be to: (A) present an application for nominations questionnaire to the Board of Directors for approval, and (B) insure at least a minimum number of candidates shall be the number of vacancies on the Board of Directors plus two (2).

- 5.03 For a member to qualify for nomination, the member must be a property owner and a member of the Association as provided on page two (2) of the restrictions for Commodore Cape Subdivision, for at least six (6) months prior to the deadline for nomination. The member seeking nomination must be current on all assessments, as provided in page two (2) of said restrictions prior to the deadline for nomination, shall have no outstanding legal actions regarding violations of any provision provided in the restrictions for Commodore Cape Subdivision, as recorded in the office of County Clerk, Polk County, Texas. Said qualifications shall be determined by the Nominations Committee and the decision of the Nominations Committee as to a candidate's qualifications shall be final.
- 5.04 After the required number of candidates have been nominated and qualified, candidates or their authorized representative, and the Nomination Committee, shall assemble in the office of the association to draw for the positioning of the candidates names on the ballot. The number of candidates shall be placed in a container and the candidate or his authorized representative will draw out a number. The number drawn shall determine his/her position on the ballot.
- 5.05 The president of the Board of Directors shall issue to all members, at least two (2) weeks prior to the annual meeting of the membership, a ballot indicating the number of vacancies to be filled, names of all qualified candidates, and a brief resume for each candidate.
- 5.06 All votes must be submitted on said ballots and all completed ballots must be submitted to the election committee prior to the time all ballots are called for by the President at the Annual Meeting of the Membership. All ballots must be received by the Election Committee through the United States Postal Service or by personal delivery to the principal office of the Association, or presented at the Annual Meeting of the Membership as specified above. A property owner may appoint a proxy to vote for them at any annual or special meeting, and may designate on the proxy how they direct their proxy to cast their vote.
- 5.07 An election committee consisting of three (3) members shall be appointed by the Board of Directors to collect the ballots as specified above and to count ballots at the Annual Meeting of the Membership. The Election Committee shall report the results of the

ballots count to the Board of Directors and the President shall report the results to the membership.

- 5.08 Any vacancy created by death, resignation, or dis-qualification of a Director as a member, shall be filled by vote of a majority of the Directors then in office. In the event of any increase in the number of Directors, the additional Directors shall be elected pursuant to such rules and regulations adopted by the Board of Directors then in effect for the election of Directors, unless a different method is specified in these Bylaws. Once the Directors are elected by the members, all Directors shall be members.
- 5.09 The terms of the Directors shall be alternating and overlapping in such a manner that two (2) directors shall be elected one year and three (3) directors shall be elected the following year. In the event a Director resigns from office at their mid-term, an extra directorship is to be filled by regular elections, the elected director having the least number of votes will serve the unexpired term of the Director who resigned.
- 5.10 To facilitate the replacement of an inactive member of the Board of Directors of said Association, the following rules shall apply. If any member of the Board of Directors, fails to attend three (3) consecutive board meetings or a total of four (4) regularly scheduled monthly meetings during the fiscal year, such member shall automatically be disqualified and replaced pursuant to the terms of Article 5.08.
- 5.11 The President shall be the principal executive officer of the Association and shall in general supervise and control all the business affairs of the Association. He or She shall preside at all meetings of the members and the Board of Directors. He or She may sign with the Secretary/Treasurer or any other proper officer of the Association authorized by the Board of Directors, any deeds, bonds, contracts, 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 or by these bylaws or by statute to some other officer or agent of the Association.
- 5.12 The Vice President will in the absence of the President or in the event of his or her inability or refusal to act, perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.
- 5.13 The Secretary/Treasurer shall keep the minutes of the meeting of the members in one or more books provided for that purpose; see that all notices are duly given in accordance with these bylaws or as required by law, be custodian of the corporate records; keep a

register of the post office address of each member, furnished by such member. As Treasurer, have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever and deposit all such moneys in the name of the Association in such depositories as selected by the Board; and in general perform the duties as from time to time may be assigned to him or her by the President of the Board.

#### ARTICLE 6. COMMITTEES

- 6.01 The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which shall consist of one (1) or more Directors, which committees, to the extent provided in said resolution shall have and exercise the authority of the Board of Directors in the management of the Association. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed on it or him/her by law.
- 6.02 Other Committees not having and exercising the authority of the Board of Directors in the management of the Association may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the Association and the President of the Board of Directors shall appoint the members thereof. An member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interest of the Association shall be served by such removal.
- 6.03 Each member of a committee shall continue as such until the next annual meeting of the members of the Association and until his/her successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.
- 6.04 One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.
- 6.05 Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.
- 6.06 Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a

majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

- 6.07 Each Committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the Board of Directors.

#### **ARTICLE 7. CONTRACTS, CHECKS, DEPOSITS, AND FUNDS**

- 7.01 The Board of Directors may authorize the President and/or Vice President, to enter into any contract or execute and deliver any specified instrument in the name of an on behalf of the Association.
- 7.02 All checks, drafts, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by two (2) authorized directors.
- 7.03 All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may elect.
- 7.04 The Board of Directors may accept on behalf of the Association any contribution, gift bequest, or devise for the general purposes or for any special purpose of the Association.

#### **ARTICLE 8. BOOKS AND RECORDS**

- 8.01 The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, committees having any of the authority of the Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the members entitled to vote.
- 8.02 All books and records of the Association may be inspected by any member or his agent or attorney for any proper purpose at any reasonable time, subject to the provisions of any resolution of the Board of Directors regulating such inspection and copying of the books and records of the Association.

#### **ARTICLE 9. FISCAL YEAR**

- 9.01 The fiscal year of the Association shall begin on the first day of January and end on the last day in December of each year.

#### ARTICLE 10. FEES, ASSESSMENTS, AND BUDGET

- 10.01 The Association shall assess and collect the assessments and fees, and enforce liens therefore, to carry out the purposes of the Association, as provided in the above referenced "Restrictions for Commodore Cape Subdivision."
- 10.02 All assessments and fees shall be payable according to the provisions of the above referenced Restrictions for Commodore Cape and according to the directions of the Board of Directors.
- 10.03 At the October Budget Meeting of the Board, the Board shall approve the Budget and Plan for the year.
- 10.04 Should the amount exceed 10% of the maintenance fee assessment for the current year, then the members shall approve the coming year's annual maintenance fee assessment, as provided for by Section 3.01a hereof, and as required by Deed Restriction No. 24(B).
- 10.05 Covenant to Obey Laws, Rules, and Regulations:
- (a) Each member shall be subject to the Restrictions and shall abide by these Bylaws and rules and regulations as the same are or may from time to time be established by the Board of Directors. Each member shall observe, comply with and perform all rules, regulations, ordinances and laws made by any governmental authority or any municipal, state and federal government having jurisdiction over the Subdivision or any part thereof.
  - (b) In the event that any member (or his guest or family members for whom he is responsible) should violation the Association rules, the procedure set forth by Article 10, Sections 10.08-10.10, shall apply.
- 10.07 Severability: Each of the provisions of these Bylaws shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

- 10.08 Notice: Except as otherwise provided in the Restrictions, prior to imposition of any sanction hereunder or under the Restrictions, the Board of Directors or its delegate shall serve the alleged violator with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) a period of not less than thirty (30) days within which the alleged violator or its representative may present a written request to the Board of Directors for a hearing; and (d) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within thirty (30) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided, the Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the thirty (30) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person.
- 10.09 Hearing. If a hearing is requested within the allotted thirty (30) day period, the hearing shall be held before the Board of Directors in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.
- 10.10 Fines. The Board of Directors shall have the authority, to establish by resolution, the assessment of a fine should a member not take such action, or refuse to discontinued action complained of by the Association and prohibited by the Deed Restrictions, Bylaws or Resolution of the Association, and as may be directed by the Association. Should a fine be a remedy of the Association, the following procedure shall apply:
- (1) Written notice shall be given to the property owner. Said written notice shall describe the violation of the specific Deed Restriction(s), Bylaw(s), Resolution(s), and/or Rule(s), that is the basis for the suspension action, charge, or fine, and state any amount due the association from the owner; and
  - (2) The written notice shall state and specify the action required by the property owner to avoid the imposition of further penalties and fine, by a date certain, to be not less than thirty (30) days from the date of the letter, unless the circumstances are such that allowing such thirty (30) day period would create or allow a hazardous condition to other property owners to exist; and
  - (3) The written notice must inform the owner that the owner:
    - (a) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and

- (b) may request a hearing under Section 209.007, Texas Property Code, on or before the 30th day after the date the owner receives the notice.
- (4) If a fine is assessed, the fine shall not be greater than \$100.00 for the first offense, and \$200.00 for each subsequent violation, unless otherwise specifically provided for in the Deed Restriction, Bylaws, or Resolution.

#### **ARTICLE 11. WAIVER OF NOTICE**

- 11.01 Whenever any notice is required to be given under the provisions of the Texas Non-Profit Association Act or under the provisions of the Articles of Incorporation or the Bylaws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

#### **ARTICLE 12. SECURITY**

- 12.01 THE ASSOCIATION, ITS BOARD OF DIRECTORS AND OFFICERS, ITS MANAGER, EMPLOYEES, AGENTS AND/OR ITS ATTORNEYS, ("ASSOCIATION AND RELATED PARTIES") SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION AND RELATED PARTIES BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. UNIT OWNER AND LESSEE ON BEHALF OF THEMSELVES, ALL OCCUPANTS OF THE UNIT BEING LEASED, GUESTS AND INVITEES OF ANY UNIT OWNER OR RESIDENT, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES, OR OTHER SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. UNIT OWNER AND LESSEE, ON BEHALF OF THEMSELVES, ALL OCCUPANTS OF THE UNIT BEING LEASED, GUESTS AND INVITEES OF AN UNIT OWNER OR LESSEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT

AN INSURER AND THAT EACH UNIT OWNER, LESSEE AND OCCUPANT OF ANY UNIT AND ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY UNIT OWNER OR LESSEE ON BEHALF OF THEMSELVES AND THEIR GUESTS OR INVITEES RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

### ARTICLE 13. AMENDMENTS TO BYLAWS

- 13.01 These bylaws may be altered, amended, or repealed and new bylaws may be adopted by a majority of the members present at any regular meeting or at any special meeting, if written notice is given of an intention to alter, amend, or repeal these bylaws or to adopt new bylaws at such meeting.
- 13.02 These bylaws may also be altered, amended, or repealed and new bylaws may be adopted as provided for by Article 1396-2.09, Texas NonProfit Corporation Act, ("Act"), in that the Board of Directors may amend or repeal the Association's bylaws, or adopt new bylaws, unless: (a) the article of incorporation or the Act reserves the power exclusively to the members in whole or in part; or (b) the members, in amending, repealing or adopting a particular bylaw expressly provide that the board of directors may not amend or repeal that bylaw.

These 2008 Restated and Amended Bylaws were adopted by the Board of Directors on

October 11, 2008.

BOARD OF DIRECTORS:

*AB Steiner*

*Carl Amato*

*Tom M. Smith*

*George Spulveda*

*Ernie Nodavitt*