

Sealy Homestead

HOMEOWNER'S ASSOCIATION, INC.

P.O. Box 1110 Sealy, TX 77474
979-472-8853

1. 2023 in Review

- We began recognizing our neighbors that take pride in their yards by presenting a Yard of the Month each month.
 - Congratulations to the winners up to this point!
- We had another great Potluck in the Park! Thank you to *Yvonne Zapalac and her committee* for organizing and decorating!
- We had to have some major work done on valves for the sprinkler system.

2. ****There are two officer positions** (Vice President and Secretary) opening this year and will be voted on at the upcoming meeting.

- If you are interested in serving in an officer position, please contact the Board via email, phone, or text.
We look forward to working with you.

3. Change to By-Laws Article III Section A Proposal

- *The ballot for this proposal is included in this mailing and should be returned with your dues payment.*

- The **Current Policy** is in black with the new **Proposed Policy changes** in red:

The term for Board Members shall be two (2) years with one (1) year of ineligibility in between positions currently held *if the member steps down or is replaced by a new member.*

The Board positions shall be alternating election years as follows:

1. President and Treasurer positions are available in years ending with odd numbers. Vice President and Secretary positions are available in years ending with even numbers. This allows for two (2) Board Members to provide guidance to the newly elected Board Members.
2. *The current Board Members in positions up for election may be nominated for the same position(s) for another two (2) year term, if they are willing, and a vote will take place following nominations of all those homeowners interested in each position.*
3. In the event the current board position up for election does not have a homeowner interested in running for the position, the current Board Member may either continue for another two (2) year term or step down. If the Board member steps down, they are eligible to run again after a one (1) year break.
4. If the Treasurer position is vacated, the Secretary shall assume the duties, until a homeowner is either elected or appointed depending on what part of the term the vacancy occurred.

SealyHomesteadHOA@gmail.com <https://www.facebook.com/groups/sealyhomestead> <http://www.sealyhomesteadhoa.org>

President: John Knueppel

Vice-President: Yvonne Zapala

Treasurer: Lenore Williamson

Secretary: Cheryl McLaughlin

4. **There are a few important reminders we need to emphasize.**

- It is extremely important that we all help maintain the beauty and safety of our neighborhood by following the Deed Restrictions. These were set up to protect our property values. We all knew our neighborhood had Deed Restrictions when we purchased our homes, so it is up to all of us to follow those. Every homeowner received a copy of the Deed Restrictions and By-Laws at some point. They can also be found on the HOA website.
- We are a self-policing neighborhood. That means if you see any issues, please notify the HOA Board through email or phone call/text. Your information remains confidential. The Board members do not patrol the neighborhood.
- Please remember to keep trash/recycle bins out of sight in your garage or behind the wooden fence at all times other than on pickup days. ***Fines of \$25 per week will be assessed for failure to comply.***
- Please remember to maintain your yards, which includes mowing, edging sidewalks and along houses and fence lines, and cleaning up the clippings. This also includes keeping your flower beds maintained as well, trimming hedges and weeding the beds. ***Fines of \$25 per week will be assessed for failure to comply.***
- Please remember to maintain the upkeep on your house. This includes cleaning mold off the sides of your home, fixing broken windows, replacing rotten wood, etc. ***Fines of \$25 per week will be assessed for failure to comply.***

5. **An ACC (Architectural Control Committee) form must be filled out and submitted at least 30 days in advance of a project to get approval to make sure all policies are being followed properly. This form can be found on the website and emailed to the Board to pass on to the Committee. Pictures showing the placement/color of the proposed changes need to be included as well. ***Fines of \$25 up to 10% of the homeowner's cost of the project will be assessed for failure to get prior approval.*** Included in these projects are:**

- Installation of solar panels (10% or less to be on the front)
- Changing the color of or modifying/adding to the structure of your house, trim, doors
- Modifying or changing the color, size, or materials of your fence (maximum height 6'6", except 4' maximum on wrought iron fence)
- Standby generators

**Sealy Homestead HOA Waiver and Release from Liability
Use of Sealy Homestead Common Areas and/or Class B Amusement Rides**

 Pamela Cannon , HEREBY WAIVE AND RELEASE, indemnify, hold harmless and forever discharge **SEALY HOMESTEAD HOMEOWNERS' ASSOCIATION, INC.**, and its agents, employees, officers, directors, affiliates, successors, managers and assigns, of and from any and all claims, demands, debts, contracts, expenses, causes of action, lawsuits, damages and liabilities, of every kind and nature, whether known or unknown, in law or equity, that I ever had or may have, arising from or in any way related to my use of **Sealy Homestead Common Areas and/or Class B Amusement Rides**.

I have inspected the premises and believe them to be satisfactory for the purpose of my use of **Sealy Homestead Common Areas and/or Class B Amusement Rides**. I understand the use of **Sealy Homestead Common Areas and/or Class B Amusement Rides** may be inherently dangerous and can cause serious or grievous injuries, including bodily injury, damage to personal property and/or death. On behalf of myself, my heirs, assigns, and next of kin, I waive all claims for damages, injuries and death sustained to me or my property that I may have against the aforementioned released party to such activity.

By this Waiver, I assume any risk, and take full responsibility and waive any claims of personal injury, death or damage to personal property associated with the use of **Sealy Homestead Common Areas and/or Class B Amusement Rides**.

This WAIVER AND RELEASE contains the entire agreement between the parties, and supersedes any prior written or oral agreements between them concerning the subject matter of this WAIVER AND RELEASE. The provisions of this WAIVER AND RELEASE may be waived, altered, amended or repealed, in whole or in part, only upon the prior written consent of all parties.

The provision of this WAIVER AND RELEASE will continue in full force and effect even after the termination of the activities and use of **Sealy Homestead Common Areas and/or Class B Amusement Rides**.

A Class B Amusement Ride is classified by the State of Texas as any portable ride not permanently affixed in an amusement park setting. Homeowners are to notify the Board by email, at least seven (7) days prior to the day of the rental of a Class B Amusement Ride. (Deed Restrictions, Article VI, 6.7 bb)

The homeowner is required to provide to the board:

- Amusement Ride Company Name
- Amusement Ride Contact Information
- Current Ride Certification
- Current Ride Annual Inspection

The Operator's (Amusement Ride Company) current insurance certificate must be in the amounts required by Texas law.

I have read, understand and fully agree to the terms of this WAIVER AND RELEASE. I understand and confirm that by signing this WAIVER AND RELEASE I have given up considerable future legal rights. I have signed this Agreement freely, voluntarily, under no duress or threat of duress, without inducement, promise, or guarantee being communicated to me. My signature is proof of my intention to execute a complete and unconditional WAIVER AND RELEASE of all liability to the full extent of the law. I am 18 years of age or older and mentally competent to enter into this waiver.

_____ *Pamela Cannon* _____ *Pamela Cannon*
Date Printed Name Signature

_____ _____ _____
Date Printed Name of Signature of
Sealy Homestead HOA Representative Sealy Homestead HOA Representative

Sealy Homestead

HOMEOWNER'S ASSOCIATION, INC.

P.O. Box 1110 SEALY, TX 77474
832-582-1904

September 26, 2022

Dear Homeowners,

We are pleased to finally have all the neighborhood information brought up to Texas law standards. Texas state HOA laws were updated for 2020-2021 in a 909-page book that was used as the primary resource for these updates. This included updating the Declarations (Deed Restrictions) and the By-Laws, which required retaining an attorney to review and confirm that we are in compliance with the most current HOA laws. Some of the updates were made regarding the changeover from the previous Board of Directors under Travis Light to our neighborhood HOA as well.

Compared to the original Sealy Homestead Deed Restrictions and By-Laws, the updated versions are now compliant with the most current Texas HOA laws and are more stream-lined and homeowner friendly.

One of the requirements under the current HOA laws was for us to set up a neighborhood website where you will be able to find information and meeting or neighborhood reminders.

Website: <http://www.sealyhomesteadhoa.org>

HOA Phone Number: 832-582-1904

We have put this packet together so you have all of the updated and necessary information.

This packet includes:

1. Revised Declarations (the old ones are posted on our neighborhood website for comparison)
2. Revised By-Laws (the old ones are posted on our neighborhood website for comparison)
3. Ballot (we must have a vote to legally update the Declarations and By-Laws)
 - a. Ballot can only be filled out by the HOMEOWNER and only one vote per address
 - b. Ballots must be returned by **Sunday, October 23, 2022**
 - c. Ballots may be returned by
 - i. mailing to the neighborhood address
 - ii. voting online on our website (your response/information goes directly to the Board Members and is not public online)
 - iii. bringing the ballot to the meeting on Sunday, October 23, 2022
 - d. Ballot includes information **required** for us to keep on file for safety and security purposes
4. Architectural Control Committee Form (also available on the website)
5. HOA Rules and Reminders highlights some of the main issues to help keep our neighborhood a safe and beautiful place to live (also available on the website)
6. Waiver and Release from Liability Form for use of Sealy Homestead Common Areas and/or Class B Amusement Rides (also available on the website)

In April, 2023, the positions of President and Treasurer will be up for election. If you are interested in the positions, please let us know.

The main function of the Sealy Homestead HOA is to maintain and enhance our homes and community.

SealyHomesteadHOA@gmail.com

<https://www.facebook.com/groups/sealyhomestead>

<http://www.sealyhomesteadhoa.org>

President: John Williamson

Vice-President: Perry Collins

Treasurer: Kay Ely

Secretary: Cheryl McLaughlin

**BY-LAWS
OF
SEALY HOMESTEAD HOMEOWNERS' ASSOCIATION, INC.**

Article I

Name, Principal Office, and Definitions

- A. **Name.** The name of the Association shall be SEALY HOMESTEAD HOMEOWNERS' ASSOCIATION, INC. (hereafter referred to as the "Association").
- B. **Principal Office.** The principal location of the Association shall be in Austin County, Texas.
- C. **Definitions.** The words used in these By-Laws shall have the same meanings as set forth in that Declaration of Covenants, Conditions and Restrictions for Sealy Homestead recorded in the Austin County, Texas public records (said Declaration, as amended, renewed, or extended from the time to time, is hereinafter sometimes referred to as the "Declaration").

Article II

Association: Membership, Meetings, Quorum, Voting

- A. **Membership.** The Association shall consist of the Homeowners of Sealy Homestead Subdivision.
- B. **Place of Meetings.** Meetings of the Association shall be held at a suitable place convenient to the Homeowners as may be designated by the Board Members.
- C. **Annual Meetings.** Annual Meetings shall be held once a year set by the Board giving the Date, Location, Subject and Time, no less than 144 hours (6 days) notice.
- D. **Regular Meetings.** Regular Meetings shall be set by the Board, giving the Date, Location, Subject and Time, no less than 144 hours (6 days) notice. Notice of meetings to be made by posting on the Association website, sign placed conspicuously on the HOA common area, and sent to the Homeowners with registered email on file, no less than 6 days (144 hours) prior to the start of the meeting.
- E. **Special Meetings.** The President of the Board may call Special Meetings. The Date, Location, Subject only to be discussed and Time, shall be no less than 144 hours (6 days) prior to start of the meeting. Notice of special meetings to be made by posting on the Association website, sign placed conspicuously on the HOA common area, and sent to the Homeowners with registered email on file, notice to contain the subject to be discussed.
- F. **Adjournment of Meetings.** If a meeting of the Association cannot be held because there is no quorum of Homeowners present, then the meeting is considered adjourned to a date and time specified no less than 10 days and no more than 30 days, at which time the regular business of the original meeting that was called shall be the agenda for that meeting.
 - 1. The notice for a reconvened meeting must be under the same guidelines used for Regular and Special meetings. Date, Location, Subject and Time no less than 6 days (144 hours) from the start time of the reconvened meeting.
 - 2. Notice of reconvened meetings to be made by posting on the Association website, sign placed conspicuously on the HOA common area, and sent to the Homeowners with registered email on file.
- G. **Voting.** The Voting rights of the Homeowner membership shall be set forth as specifically incorporated by the Declaration, unless specified otherwise in the Declaration or these By-Laws, each lot/homesite is to have only 1 vote. If a Homeowner owns multiple lots/homesites, that Homeowner can still only have 1 vote per lot/homesite owned.
- H. **Majority.** As used in these By-Laws, the term "majority" shall mean those votes, homeowners, as the context may indicate totaling more than fifty (50%) of the total eligible number.
- I. **Quorum.** Except otherwise provided in the By-Laws or Declaration, if the presence of the number of homeowners is ten percent (10%) or greater of the majority of the total eligible to vote this shall constitute a quorum at all meetings of the Association.
- J. **Conduct of Meetings.** The President shall preside over the meetings of the Association, and the Secretary shall record the minutes of the meeting, as well as recording in the minute book all resolutions and transactions occurred.

Article III

Board Members: Number, Meetings, Powers

Board Members. *The Board Members of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the Homeowners of the Association. The Board Members may appoint such other Board Members, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such Board Members to have the authority and perform the duties prescribed from time to time by the Board Members. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.*

- A. **Term of Board Members.** The term for Board Members shall be two (2) years with one (1) year of ineligibility in between positions currently held. The Board positions shall be alternating election years as follows:
1. President and Treasurer positions are available in years ending with odd numbers. Vice President and Secretary positions are available in years ending with even numbers. This provides two (2) Board Officers to provide guidance to the newly elected Board Members.
 2. In the event the current board position up for election does not have a homeowner interested in running for the position, then the current Board Member may either continue for another two (2) year term or step down. If the Board Member steps down, they are eligible to run again after a one (1) year break.
 3. If the Treasurer position is vacated, the Secretary shall assume the duties, until a Homeowner is either elected or appointed depending on what part of the term the vacancy occurred.
- B. **Powers and Duties.** The Board Members of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board Members. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification to a finance committee, management agent, or both.
- C. **Resignation.** Any Board Member may resign at any time by giving written notice to the Board Members, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such a resignation shall not be necessary to make it effective.
- D. **Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) Board Members or such other person or persons as may be designated by resolution of the Board Members.
- E. **Composition and Selection**
- Section 1. Governing Body: Composition.** The affairs of the Association shall be governed by an elected Board by the Homeowners. The Board Members shall have only one (1) vote.
- Section 2. Number of Board Members.** The number of Board Members of the Association shall not be less than three (3) nor more than five (5).
- Section 3. Nomination of Board Members.** Thirty (30) days prior to the Annual meeting of the Association, notice will be given indicating the officer positions that are up for election for that year and nominate a homeowner for that position. If no nominations are received, then the current Board Member is automatically nominated. If the current Board Member chooses not to remain on the board, then at the Annual Meeting, the President can ask for nominations. In the event that it is for the position of President, then the duty falls to the Vice President.
- Section 4. Removal of Board Member and Vacancies.** Any vacancy during an initial term may be filled by the remaining Board Members. If the vacancy occurs during a regular Association Meeting, then the President or Vice President can ask a homeowner to fill the vacancy for the remainder of the term, and put it to a vote with the homeowners present at the meeting. If there are no volunteers, then the Board can appoint a new Board Member.
- a. **Removal of a Board Member.** The removal of a Board Member can either be done by the Board, or by the Association requesting such removal, can be done with or without just cause. If a Board Member is removed, he/she is then ineligible from seeking a Board position for 2 years from removal. If the Board Member being removed was elected, (but not appointed) by the Association's majority vote, then a majority vote of the Association is required for removal. If the Board Member was appointed, the

removal of the Board Member is done by a majority of the Board with a quorum being present at the meeting of the Board. The Board then appoints a homeowner to fill the vacancy. *If the removal occurs due to a vote of the homeowners, then the Board shall ask for a nomination and majority vote from the homeowners to fill the vacancy.*

- b. **Incapacitation of a Board Member.** In the event of a Board Member's death, disability, resignation, or ineligibility, the Board will appoint a homeowner to fill the vacancy for the remainder of the term.

F. **Board of Members Meetings**

Section 1. Organizational Meetings. The Board shall have a Board Members meeting within sixty (60) days after the Annual Association meeting and fifteen (15) days prior to any regular Association meetings occurring after the Annual Meeting.

- a. **Notice of Meetings.** Notice of meetings may be made by posting on the Association website, sign placed conspicuously on the HOA common area, and sent to the Homeowners with registered email on file, no less than 6 days (144 hours) prior to the start of the meeting. This provision shall be used for all regular and special meetings called by a Board Member. Any Board Member may call for a meeting date, location and time must be in the notice.

Section 2. Regular Meetings. The Board may hold regular monthly or quarterly meetings. Prior to the regular Association meetings, the notice of such meetings is mentioned in F, Section 1, a.

Section 3. Special Meetings. The President may call a special board meeting to address special issues of the HOA and homeowners. Notice of special meetings is mentioned in F, Section 1, a.

If the meeting is an emergency meeting, then a 48-hour notice must be given by posting on the Association website, sign placed conspicuously on the HOA common area, and sent to the Homeowners with registered email on file. Date, Location, Time, and Cause for meeting must be stated in the notice.

Section 4. Waiver of Notice. The transaction of any meeting of the Board of Members however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting, or an approval of the minutes, the waiver of notice is signed by the person or persons entitled to said notice. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall be deemed given to any Officer who attends the meeting without protesting in writing before or at its commencement about the lack of adequate notice.

Section 5. Quorum of Board Members All Board Member meetings must have quorum present to conduct all Board Meetings, Regular, Special and Emergency meetings. A presence of three (3) or more Board Members is a quorum. A Board Member can be present in person or may be considered in attendance if they are present by electronic means during the entire meeting. If no quorum is present, the meeting is adjourned and must be reconvened no less than eight (8) days nor more than sixteen (16) days of no quorum of original meeting. The rules of notice shall apply to regular and special meetings found in Article III, F, Section 1, a. Emergency meetings adhere to the emergency meeting rule in Article III, F, Section 3.

Section 6. Compensation. No Board Member shall receive compensation of any kind from the Association or Homeowners. Service for the Board Member is strictly voluntary. The Board Member may be reimbursed for any expenses incurred on behalf of the duties of the Association upon approval of a majority of the Board.

Section 7. Conduct of Meetings. The President shall preside over all meetings of the Board of Members, and the Secretary shall keep a minute book of meetings of the Board of Members, recording therein all resolutions adopted by the Board of Members and all transactions and proceedings occurring at such meetings.

Section 8. Open Meetings. All meetings of the Board shall be open to all Homeowners, but Homeowners other than Board Members may not participate in any discussion or deliberation unless permission to speak is requested. In such case, the President may limit the time any Homeowner may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding Homeowners, to discuss or vote on matters of a sensitive nature, such as pending or threatened litigation, personal matters, etc.

Section 9. Action without a Formal Meeting. Any action to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board Members may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the Board Members, and such consent shall have the same force and effect as a unanimous vote.

G. Powers and Duties

Section 1. Powers. The Board Members shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association's affairs.

The Board Members shall *delegate to one or more of its Members the authority to act on behalf of the* Board Members on all matters relating to the duties of the managing agent or manager that might arise between meetings of the Board Members.

In addition to the duties imposed by these By-Laws, Texas law, or by any resolution of the Association that may hereafter be adopted, the Board Members shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, by way of explanation, but not limitation:

- a. Preparing and adopting of annual budgets;
- b. Making assessments, establishing the means and methods of collecting such assessments, and establishing the payment schedule for Special Assessment and any Neighborhood Assessment, if other than annual;
- c. Collecting the assessments, depositing the proceeds thereof in a bank depository that it shall approve, and using the proceeds to operate the Association; provided, any reserve fund may be deposited, in the Board's best business judgment, in depositories other than banks;
- d. Providing for the operation, care, upkeep, and maintenance of all Common Areas and Exclusive Common Areas.
- e. Making or contracting for the making of repairs, additions, and improvements to or alterations to the Common Areas and exclusive Common Areas in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;
- f. Designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its Property and the Common Areas and exclusive Common Areas, if any, and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- g. Making and amending rules and regulations and promulgating, implementing, and collecting fines for violations of the rules and regulations;
- h. Opening of bank accounts on behalf of the Association and designating the signatories required;
- i. Enforcing by legal means the provisions of the Declaration, including the provisions regarding architectural control, these By-Laws, and the rules and regulations adopted by the Association, and bring any proceedings that may be instituted on behalf of or against the Homeowner concerning the Association;
- j. Obtaining and carrying insurance against casualties and liabilities with policy limits, coverage, and deductibles as deemed reasonable by the Board Members and paying the premium thereof;
- k. Paying the cost of all services rendered to the Association and not chargeable directly to specific Homeowners;
- l. Keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;
- m. Maintaining a membership register reflecting, in alphabetical order, the names, property addresses and mailing addresses of all Homeowners.
- n. Making available upon request to any prospective purchaser, and Homeowner, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Property, for any proper purpose during normal business hours by advance appointment, copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing such Property, and all other books, records, and financial statements of the Association for a reasonable charge. The Declaration, By-Laws, Articles of Incorporation, and Rules are available on the website for viewing;
- o. Permitting utility supplies to use portions of the Common Areas and exclusive Common Areas, if any, reasonably necessary to the ongoing development or operation of the Property; and
- p. Bids must be taken for all contract work in the Association as necessary to Common Areas and exclusive Common Areas, if any. If work to be done is at a cost of Five Thousand Dollars (\$5,000) or more, bids for the work is required.

Section 2. Management. The Board Members may employ for the Association a professional agent or agents at a compensation established by the Board Members to perform such duties and services as the Board Members shall authorize. The Board Members may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board Members by these By-Laws, other than the powers set forth in Article III, G, Section 1, b, f, g, and i.

Section 3. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

- a. Accrual or cash accounting, as defined by generally accepted accounting principles, shall be employed.
- b. Accounting and controls should conform to generally accepted accounting principles.
- c. Cash accounts of the Association shall not be commingled with any other accounts.
- d. No remuneration without full disclosure and prior agreement of the Board Members, or as contained in a written management contract, shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association.
- e. Any financial or other interest that any Board Member or the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board Members.
- f. Financial reports shall be prepared for the Association on a monthly basis containing:
 - i. An income statement reflecting all income and expense activity for the preceding period on an accrual or cash basis;
 - ii. A statement reflecting all cash receipts and disbursements for the preceding period;
 - iii. A variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
 - iv. A balance sheet as of the last day of the preceding period; and
 - v. A delinquency report listing all Homeowners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments that remain delinquent.
- g. An annual report consisting of at least the following shall be made available at each meeting of Homeowners to all Homeowners within one hundred twenty (120) days after the close of the fiscal year: (1) a Balance Sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant.

Section 4. Borrowing. The Board Members shall have the power to borrow money for the purpose of maintenance, repair, or restoration of the Common Areas and exclusive Common Areas, if any, or for any other proper purpose without the approval of the Homeowners of the Association.

Section 5. Rights of the Association. With respect to the Common Areas and exclusive Common Areas, if any, and in accordance with the Articles of Incorporation and the Declaration the Association shall have the right to contract with any person or entity for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreement with trusts, condominiums, cooperatives or other Neighborhood owner or resident associations, both with and without the Properties. Such agreements shall require consent of a majority of the total number of Board Members of the Association.

Section 6. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's rights to vote or any person's right to use the Common Areas and exclusive Common Areas, if any, for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted by the Association; provided, however, nothing herein shall authorize the Association or the Board Members to limit ingress and egress to or from a Lot, Tract, or Homesite. In addition, the Association shall be entitled to suspend any services provided by the Association to a Lot, Tract, or Homesite in the event that the Owner of such Lot, Tract, or Homesite is more than forty-five (45) days delinquent in paying any assessment due to the Association. In the event that an occupant, guest, or invitee of a Lot, Tract, or Homesite Owner violates the Declaration, By-Laws, or a rule or regulation and fine is imposed, the fine shall first be assessed against the occupant and/or owner; provided, however, if the fine is not paid by the occupant

within the time period set by the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation, it shall not be deemed a waiver of the right of the Board to do so thereafter.

As provided in the Declaration, each Owner is obligated to pay the Association certain charges and Assessments, including such charges and Assessments as may be included, from time to time, by amendment to the Declaration. All costs, expenses, and fees charged to, or paid by, the Association in collecting, or attempting to collect, such charges and Assessments, as well as interest as specified in the Declaration, shall be assessed against the Owner and the Lot, Tract, or Homesite and shall become part of the Assessment due on the Lot, Tract, or Homesite. Likewise, all costs, expenses, and fees incurred by the Association in rectifying, or attempting to rectify, a violation of the Declaration shall be assessed against the Owner and the Lot, Tract, or Homesite, and shall become part of the Assessment due on the Lot, Tract, or Homesite. Such costs, expenses, and fees shall include, but are not limited to:

- a. Actual expenses, including attorneys' fees and court costs;
- b. A Late Processing Fee may be set annually by the Board Member, which shall be assessed for any account that has an unpaid balance on or after forty-five (45) days after the due date, as inducement to pay on time and to offset administrative costs and expenses incurred in the collection process;
- c. A Dishonored-Check Processing Fee, set by the Board Members, which shall be assessed for any payment check dishonored by the bank, to offset the additional processing cost incurred;
- d. A Partial Payment Processing Fee, set by the Board members, which shall be assessed on any payment for less than the full amount due at the time payment is made, to offset the additional processing costs incurred; and
- e. A Transfer Fee, set by the Board Members, which shall be assessed for the transfer of ownership of any Lot, Tract, or Homesite, including by foreclosure, to offset the administrative costs and expenses associated with (1) quoting, in writing, the status of the Assessments and other charges due on the Lots, (2) tracking, researching, and determining or attempting to determine ownership, (3) updating the books and records of the Association to reflect the transfer, and (4) preparing and mailing introductory information regarding the subdivision, the Association, and/or the covenants, conditions, restrictions, rules, and regulations applicable to the new owner.

Notwithstanding anything to the contrary herein contained, the Association, acting through the Board Members, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association, to make sure the notice is sent by regular mail and certified return receipt mail, or by suit at law or in equity to enjoin any violation or to recover monetary damages, or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, fines, and costs to repair, including reasonable attorneys' fees actually incurred.

Article IV Committees

- A. **General.** The Board Members are hereby authorized to establish committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Board Members present at a meeting at which a quorum is present. Each committee established by the Board shall operate in accordance with the terms of the resolution of the Board Members, designating the committee and in accordance with such rules as are adopted by the Board Members. All committees of the Association shall be vested with advisory powers only and are not authorized to act on behalf of the Association.

Article V Miscellaneous

- A. **Fiscal Year.** The fiscal year of the Association shall be January 1 to December 31 of each year.
- B. **Parliamentary Rules.** Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law, the Articles of Incorporation, the Declaration, or these By-Laws.

- C. **Conflicts.** If there are conflicts between the provisions of Texas law, the Articles of Incorporation, the Declaration, and/or these By-Laws, then the provisions of Texas law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.
- D. **Books and Records.**
1. **Inspection by Homeowners and Mortgagees.** The Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, the membership register, and the minutes of meetings of the Homeowners, the Board, and committees shall be made available for inspection and copy by any holder or guarantor of a first mortgage on a Lot, Tract, or Homesite, Homeowner of the Association, or by the duly appointed representative of any of the foregoing at any reasonable time for proper purpose during normal business hours at the office of the Association or at such other place within the Property as the Board shall prescribe, by appointment. The website will have the following: The Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, and the meeting minutes of the Homeowners.
 2. **Rules for Inspection.** The Board shall establish reasonable rules with respect to:
 - a. Notice to be given to the custodian of records;
 - b. Hours and days of the week when such an inspection may be made by appointment for a proper purpose;
 - c. Payment of the cost of reproducing copies of documents requested.
 3. **Inspection by Board Members.** Every Board Member shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association, and the physical Property owned or controlled by the Association. The right of inspection by a Board Member includes the right to make a copy of relevant documents at the expense of the Association.
- E. **Notices.** Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first-class postage pre-paid:
1. If to a Homeowner, at the address that the Homeowner has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot, Tract, or Homesite of such Homeowner; or
 2. If to the Association, Board Members, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Homeowners pursuant to this Section.
- F. **Amendment.** These By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of a majority of the Board Members. Notwithstanding the above, the percentage of votes or other approval necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

APPROVED BY:

John Williamson, President

Perry Collins, Vice President

Cheryl McLaughlin, Secretary

Kay Ely, Treasurer

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of SEALY HOMESTEAD HOMEOWNER'S ASSOCIATION, INC., a Texas Corporation;

That the foregoing By-Laws constitute the By-Laws of said Association, as duly adopted at a meeting of the Board Members thereof held on the ____ day of _____, 2022.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this ____ day of _____, 2022.

Secretary of SEALY HOMESTEAD HOMEOWNERS'
ASSOCIATION, INC., a Texas corporation.

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SEALY HOMESTEAD HOMEOWNERS' ASSOCIATION, INC.**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SEALY HOMESTEAD (this "Declaration") is made on the date herein after set forth by Sealy Homestead Homeowners' Association, Inc., a Texas Non-Profit HOA, for the purpose of evidencing the covenants, conditions, and restrictions contained herein.

This Declaration is amended and restated of the restrictions, covenants, by-laws, and conditions that is recorded in Austin County, Texas.

**ARTICLE I
ADDITIONAL DEFINITIONS**

- 1.1** "ACC" shall mean Architectural Control Committee established in this Declaration.
- 1.2** "Association" shall mean and refer to SEALY HOMESTEAD HOMEOWNERS' ASSOCIATION, INC., its successors, and assigns.
- 1.3** "Areas of Common Responsibility" shall mean those areas listed below in which the Association shall maintain upkeep and repair:
- a. Any and all common areas as may be depicted on the Plat for the Development.
 - b. Any and all landscaping, entry way features, signage, landscaping and monument signage, screening walls, perimeter fencing, open spaces, green belts, irrigation systems, walking trails, lighting and improvements located within the Development, including but not limited to the entry features and signage located within the Development and screening within the Development.
 - c. Any and all landscape, utility and drainage easements, public utility easements, detention ponds, right of ways, and common areas that may be depicted on the Plat to the extent same is not maintained by the City, any governmental agency or other entity.
 - d. Any and all emergency access easements as depicted on the Plats to the extent same is not maintained by the City, any governmental agency or other entity.
 - e. Any and all sight clearance easements as depicted on the Plats to the extent same is not maintained by the City, any governmental agency or other entity.
- 1.4** "Assessment" means any amount due to the Homeowners' Association by an Owner or levied against an Owner by the Homeowners' Association.
- 1.5** "City" shall mean the City of Sealy, Texas.
- 1.6** "County" shall mean Austin County, Texas.
- 1.7** "Home" shall mean a single-family residential unit constructed on a Lot being a part of the Property, including the parking garage utilized in connection therewith and the Lot upon which the Home is located.
- 1.8** "Lienholder" or "Mortgagee" shall mean the holder of a purchase money mortgage lien, either on any Home and/or any Lot.
- 1.9** "Lot" or "Lots" shall mean and refer to a portion of the Property designated as a Lot on the Plats of the Property, excluding open space, streets, alleys, and any Area of Common Responsibility. Where the context requires or indicates, the term Lot shall include the Home and all other improvements which are or will be constructed on the Lot.
- 1.10** "Member" shall mean and refer to every person who or entity that holds membership in the Association. Each owner shall be a Member in the Association.
- 1.11** "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot and shall include any homebuilder, but shall exclude those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any Lienholder or Mortgagee who acquires fee simple title to any Lot, which is a part of the Property, through deed in lieu of foreclosure or through judicial or non-judicial foreclosure.

ARTICLE II
PROPERTY RIGHTS

2.1 Maintenance of Areas of Common Responsibility by the Association. The Association will be solely obligated to maintain and improve the Areas of Common Responsibility in a prudent manner to enhance the safety, security, and overall appearance of the Development. As such, the Association shall not, except as the Association may reasonably deem appropriate to comply with applicable laws or to protect the health, safety or welfare of the Development of the Members, (i) cause any buildings or permanent structures to be constructed within the Areas of Common Responsibility which are not present at the time the Property is deeded to the Association, or (ii) allow any interference or conflict with the natural or planted vegetation or trees in the Areas of Common Responsibility. The Association shall have the following rights with regard to the Areas of Common Responsibility:

a. the right to dedicate or transfer all of any part of the Areas of Common Responsibility to any public agency or authority subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless (a) an instrument of agreement to such dedication or transfer, provided that any such instrument of agreement or transfer shall have the prior written approval of sixty-six and two-thirds percent (66 2/3%) of the outstanding votes (determined pursuant to Section 3.2 hereof) held by the Members at a meeting at which a quorum is present, and (b) the City consents in writing to the dedication or transfer.

b. the right to borrow money to be secured by a lien against the Areas of Common Responsibility; however, the rights under such improvement mortgage shall be subordinate and inferior to the rights of the Owners hereunder.

c. the right to enter upon and make rules and regulations relating to the use of the Areas of Common Responsibility and the right to enter upon any access, maintenance, or other easements for the purposes of maintaining the Areas of Common Responsibility.

ARTICLE III
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Each person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a Member of the Association. The foregoing is not intended to include persons who or entities that hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Transfer of ownership, either voluntarily or by operation of law, shall terminate such Owner's membership in the Association, and membership shall be vested in the transferee; provided, however, that no such transfer shall relieve or release such Owner from any personal obligation with respect to assessments which have accrued prior to such transfer.

3.2 Voting Rights. The homeowners hold the right to cast votes.

3.3 No Cumulative Voting. At all meetings of the Homeowners' Association, there shall be no cumulative voting. Prior to all meetings, the Board of Officers shall determine the total number of votes outstanding and entitled to vote by the Members.

3.4 Association's Powers. In addition to the rights of the Association set forth in other sections of this Declaration, the Association shall have the duty to enforce the covenants under this Declaration and maintain all Areas of Common Responsibility and shall have the right, power, and authority to do any act which is consistent with or required by the provisions of this Declaration or the Association's By-Laws, whether the same be expressed or implied, including but not limited to the following:

a. The power to levy and collect Assessments (as hereinafter defined) of whatever nature for the maintenance, repair or replacement of the Areas of Common Responsibility existing on the Property and for such other purposes as are herein provided;

b. The power to keep accounting records with respect to the Association's activities;

c. The power to contract with and employ others for maintenance and repair; and

d. The power to adopt rules and regulations concerning the operation of the Association.

3.5 City's and County's Rights. Should the Association or its Board fail or refuse to maintain such Areas of Common Responsibility to City and/or County specifications for an unreasonable time, not to exceed ninety days after written request to do so, the City and/or County shall have the same right, power, and authority as is herein given to the Association and its Board to enforce this Declaration and levy Assessments in the manner set forth

herein. It is understood that in such event, the City and/or County may elect to exercise the rights and powers of the Association or its Board, to the extent necessary to take any action required and levy any Assessment that the Association might have, either in the name of the Association, or otherwise, to cover the cost of maintenance of such Area of Common Responsibility.

ARTICLE IV

ASSESSMENTS, MAINTENANCE FUND AND ASSESSMENT LIENS

4.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association: (i) annual assessments or charges, (ii) charges in connection with the transfer of a Lot, and (iii) special assessments for capital improvements. Such assessments (collectively, the "Assessments") are to be fixed, established, and collected as provided herein. Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be secured by a continuing lien which is hereby created and impressed for the benefit of the Association upon the Lot against which each such Assessment is made. Each such assessment, together with such interest costs and reasonable attorneys' fees shall also constitute a personal obligation of the person who or entity that was the record Owner of such Lot at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to successors in the title unless expressly assumed by such successors; however, the lien upon the Lot shall continue until paid.

4.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners of the Lots, the improvement and maintenance of the Areas of Common Responsibility and any other property owned by the Association, and the Performance and/or exercise of the rights and obligations of the Association arising hereunder. Assessments shall include, but not be limited to, funds to cover actual Association costs (including reasonable reserves) for all taxes, insurance, repair, replacement, maintenance and other activities as may from time to time be authorized by the Board of Officers; legal and accounting fees, and any fees for management services; expenses incurred in complying with any laws, ordinances or governmental requirements applicable to the Association or the Property; reasonable replacement reserves and the costs of other facilities and service activities, including, but not limited to, mowing grass, grounds care, sprinkler system, landscaping and other charges required or contemplated by this Declaration and/or that which the Board of Officers of the Association shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein.

4.3 Basis and Maximum of Annual Assessments and transfer Fees on the Sale of Lots.

a. The initial regular maximum annual Assessment shall be an amount not to exceed Four Hundred Dollars (\$400.00) per lot.

b. All amendments for any increases to the Annual Budget, as presented to the Homeowners, includes all increases to the Annual Assessment, requires a vote at an open meeting of the Homeowners. Quorum being determined as 10% (Ten Percent) or greater of the homeowners present.

c. In addition to the regular annual assessment, as a condition to the sale of every Lot by an Owner in the Association, a transfer fee, not to exceed Seventy-five dollars (\$75.00), shall be charged to the seller of such Lot being conveyed, and a resale certificate fee, not to exceed Three Hundred Seventy-five Dollars (\$375.00), shall be charged to the purchaser of the Lot being conveyed and the pro-rata share of annual assessments, if not paid in full for the year, on such Lot shall be paid by the purchaser of the Lot to the Association. The transfer fee and resale certificate fee provided herein shall be for the benefit of the Association and shall only increase by an amount to be determined by the Board of Officers.

4.4 Special Assessments. In addition to the regular annual Assessment and transfer fees payable on the sale of lots authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the costs incurred by the Association pursuant to the provisions of this Declaration, provided that any such Assessment shall have the prior written approval of sixty-six and two-thirds percent (66 2/3%) of the outstanding votes (determined pursuant to Section 3.2 hereof) held by the Members at a meeting at which a quorum is present. Any Special Assessments shall be prorated based on the period of time the Owner owns the Lot during such year.

4.5 Notice and Quorum for any Action under Section 4.3 and 4.4. Notice of meetings called shall be given to Homeowners no less than 6 days (144 hours) and no longer than twenty (20) days. Notice of meeting must be made by *placing a sign in the common area, email to registered email on file, and HOA Website.* Notices of meetings are to include date, time, and location of the meeting.

At the meeting, the presence of Homeowners or of written proxies entitled to cast sixty percent (60%) of all the votes entitled to be cast by the Homeowners of the Association shall be considered a quorum. However, if a quorum is not met, another meeting may be called subject to the same notice requirements, however only one-half (1/2) of the number of homeowners is required.

4.6 Uniform Rate of Assessment. Both the regular annual and Special Assessments shall be fixed at a uniform rate for all Lots, and shall commence and be due in accordance with the provisions of Section 4.7 hereof. Each Owner shall pay one hundred percent (100%) of the established Assessment for each Lot they own.

4.7 Date of Commencement of Annual Assessment: Due Dates.

a. The Assessments shall then be due on such payment dates as may be established by the Association. Assessments shall be due and payable on an annual basis unless otherwise designated by the Association.

b. The Annual Assessment shall be fixed by the Board. The amount of annual assessment shall be given in writing to every homeowner thirty (30) days prior to being due. For the upcoming year, if there is going to be an increase of the annual assessments, a written notice of increase must be given at the open meeting of the homeowners, in which a vote to increase the annual assessment is proposed. Approval of ten percent (10%) of the outstanding votes of the homeowners present shall be considered a quorum.

c. No Owner may exempt himself from liability for Assessments by waiver of the use or enjoyment of any portion of the Development or Areas of Common Responsibility or by abandonment of his home.

4.8 Effect of Non-Payment of Assessments: Remedies of the Association.

a. All payments of the Assessments shall be made to the Association at its principal place of business in Austin County, Texas, or at such other place as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any Owner has any dispute with the Association, any other Owner or any other person or entity regarding any matter to which this Declaration relates or pertains. Payment of the Assessments shall be both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

b. Any Assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within forty-five (45) days after the date of delinquency, the Assessment shall be from the date of delinquency (with no notice required to be given), until paid, at the rate of \$25.00 per month or the maximum rate allowed by law, whichever is the lesser. The Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or, upon compliance with the notice provisions hereof, foreclose the lien against the Lot as provided in Subsection 4.8(d) hereof. There shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorneys' fee, together with the costs of action. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or in equity foreclosing such lien against such Owner, and the expenses incurred in connection therewith, including interest costs and reasonable attorneys' fees shall be chargeable to the Owner in default. Under no circumstances, however, shall the Association be liable to any Owner or to any other person or entity for failure or inability to enforce any Assessments.

c. No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided in less than forty-five (45) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the Office of the County Clerk of the County; said notice of claim must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid Assessment at the maximum legal rate, plus reasonable attorneys' fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association.

d. Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Property Code

of the State of Texas (as it may be amended from time to time), or in any other manner permitted by law. Each Owner, by accepting a deed to a Lot, expressly grants to the Association a power of sale as set forth in said Section 51.002 of the Property Code, in connection with the Assessment lien. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

e. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association but not to exceed the actual costs of preparing and filing or recording the lien and the release. The Assessment lien and the right to foreclosure sale hereunder shall be in addition to and not in substitution of all other rights and remedies which the Association and its successors or assigns may have hereunder and by law, including the right of suit to recover a money judgement for unpaid Assessments, as above provided.

4.9 Subordination of Lien to Purchase Money Mortgages. The lien securing the Assessments provided for herein shall be expressly subordinate to the lien of any purchase money mortgage on any Lot. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any purchase money mortgage, pursuant to a decree of foreclosure or a non-judicial foreclosure under such purchase money mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such Assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due, in accordance with the terms herein provided.

4.10 Management Agreements. The Association shall be authorized to enter into management agreements with third parties in connection with the operation and management of the development and the performance of its obligations hereunder. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be canceled with or without cause and without penalty by the Association with thirty (30) days written notice and the management company with ninety (90) days written notice. Any and all management agreements shall be for a term not to exceed one year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type. The Association may, at its discretion, assume self-management of the development by the Association.

4.11 Insurance Requirements. The Association shall obtain insurance policies covering the Areas of Common Responsibility covering all damage or injury caused by the negligence of the Association, any of its employees, officers, directors and/or agents, including, but not limited to, commercial general liability insurance, directors' and officers' liability insurance, and such other insurance as the Association may from time to time deem necessary or appropriate.

4.12 Independent Accounting Firm Review. The Association shall have its income and expense statements, balance sheets and other books and records reviewed by an independent accounting firm annually; such review is to be performed within 90 days following the end of the Association's fiscal year. The review shall be performed in accordance with guidelines established by the American Institute of Certified Public Accountants.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

5.1 Appointment of Members. The Board shall appoint three (3) Members to the Architectural Control Committee. All matters before the Committee shall be decided by the majority vote of the Committee. The Committee members cannot be members of the Association Board, or any members of the same household including spouses, from serving on the Architectural Control Committee.

5.2 Submission of Plans to Architectural Control Committee. No building, fence, wall, parking area, swimming pool, spa, pole, mailbox, driveway, fountain, pond, tennis court, sign, exterior color or shape, or new or modification of a structure shall be commenced, erected or maintained upon any Lot or the patio or garage used in connection with any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to and approved by the Committee. Plans and specifications shall be submitted to the Committee at least thirty (30) days prior to the commencement of any construction or modification. The following shall be submitted for approval: a

site plan showing the entire Lot with existing improvements and floor plan and elevations of all faces of the proposed structure; and a description of all exterior construction materials.

The Committee cannot prevent a security fence from being erected as long as such fence complies with the current regulations of Association regarding fences around the Homeowners' property. This shall include any and all security measures, including home security cameras and systems.

Notwithstanding the foregoing paragraph, except with the written permission of the Committee or as provided herein, no Owner may erect or maintain (a) any direct broadcast satellite ("DBS") antenna greater than one meter (39 inches) in diameter, or (b) any multi-channel multipoint distribution service (wireless cable) ("MMDS") antenna greater than one meter (39 inches) in diameter; provided, however, such DBS or MMDS antenna being less than one meter in diameter may be placed in the least conspicuous location on a Lot where an acceptable quality signal can be received as long as such DBS or MMDS antenna is screened from view (for aesthetic reasons) of any street, alley, park, Common Areas or other public area, unless otherwise approved in writing by the Committee. The installation of any other antennal structure, such as a television broadcast service ("TVBS") antenna, will be mounted in the attic of a residential structure unless written permission is given by the ACC to place such antennal structure in another location.

The homeowner must give thirty (30) days' notice prior to installation of solar energy devices to the ACC. The ACC cannot deny the installation of solar energy devices. Solar energy devices shall be installed in a manner that ten percent (10%) or less is visible on the front side of Homeowners' Lot. If ten percent (10%) or more is needed to be visible, the ACC will notify the Board and the Board and ACC will make a determination on placement. Regarding corner Lots, this provision does not apply since the back and side of the house is visible.

5.3 Approval of Plans. The Committee shall review the plans and specifications and notify the Owner in writing of its approval or disapproval. If the Committee fails to approve or disapprove said plans and specifications within thirty (30) days after the same has been submitted to it, they will be deemed to have been approved by the Committee. Any disapproval shall set forth the elements disapproved and reason or reasons thereof. The judgement of the Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive and the Owner shall promptly correct the plans and specifications (if disapproved) and resubmit them for approval. No construction alteration, change or modification shall commence until approval of the Committee is obtained. The Committee may approve any deviation from these covenants and restrictions as the Committee, in its sole and absolute discretion, deems consistent with the purpose hereof. No members of the Committee shall be liable to any Owner for any claims, cause of action or damages arising out of the denial of any submittal or grant of any deviation to an Owner. Future requests for deviations submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a deviation to any Owner shall not constitute a waiver of the Committee's rights to strictly enforce the Declaration and the architectural standards provided herein against any other Owner. Approval by the Committee of the plans and specifications or its determination that the completed construction or modification has been constructed in accordance with the plans and specifications shall be deemed to be an acknowledgment by the Committee that such are in accordance with this Declaration and such acknowledgment shall be binding against the Owners of the Lots and the Property.

If the ACC disapproves or denies the plans and specifications or proposed change by the Homeowner, the Homeowner has a right to appeal to the Association Board.

5.4 Committee Members' Liability. Neither the Association, the Board, the Committee nor any employees, officers, directors, or members thereof shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgement, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans of specifications. Any errors in or omissions from the plan or the site plan submitted to the Committee shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Committee shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general provisions of this Declaration, City and/or County codes, state statutes or the common law, whether the same relate to Lot lines, building lines, easement or any other issues.

5.5 Homebuilder Plans. Notwithstanding anything to the contrary contained herein, once a particular set of plans and specifications submitted by a homebuilder (which for purposes hereof shall be defined as any entity or person in the business of constructing single family residences for the purpose of sale to third parties) has been

approved by the Committee or deemed approved, such homebuilder may construct homes in the Development on any Lot in accordance with such plans and specifications without the necessity of obtaining subsequent approvals therefor, so long as there are no major material changes in the plans and specifications and the Committee approves of the location of the plans and specifications to prevent unnecessary duplication thereof within the Development.

5.6 Design Guidelines. The Committee has the right to issue Design Guidelines from time to time which will contain the specific provisions applicable to all of the Lots regarding style, basic site design issues, aesthetics of each home, the use of quality exterior finish materials and minimum landscaping plans for the Lots. The Design Guidelines will be used by the Committee with the Declaration to determine the approval of all plans.

ARTICLE VI

CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

6.1 Residential Use. The Property shall be used for single-family residential purposes only. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single family residence per Lot, which residence may not exceed two and one-half (2 ½) stories in height and a private garage as provided below, which residence shall be constructed to minimum Federal Housing Authority ("FHA") and Veteran's Administration ("VA") standards, unless otherwise approved in writing by the Committee.

6.2 Single Family Use. Each residence shall be limited to occupancy by only one family consisting of persons related by blood, adoption, or marriage or no more than two unrelated persons residing together as a single housekeeping unit, in addition to any household or personal servant staff.

6.3 Garage Required. Each residence shall have an enclosed garage suitable for parking a minimum of two (2) standard size automobiles. The garage shall conform in design and materials with the main structure.

6.4 Restrictions on Resubdivision. No Lot shall be subdivided into smaller Lots.

6.5 Driveways. All driveways shall be surfaced with concrete or similar substance approved by the Committee.

6.6 Burglar Bars. No bars or obstructions intended for use as burglar bars or sold as devices intended to prohibit forced entry into a residence may be placed on the exterior of a residence, including but not limited to windows and doors.

6.7 Uses Specifically Prohibited.

a. No temporary dwelling, shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment which may be placed on a Lot only in places which are not visible from any street on which the Lot fronts) shall be permitted on any Lot except that the builder or contractor may have temporary improvements (such as a sales office and/or construction trailer) on a specifically permitted Lot during construction in the Subdivision. No building material of any kind or character shall be placed or stored upon the Property until construction is ready to commence, and then such material shall be placed totally within the property lines of the Lot upon which the improvements are to be erected.

b. No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body, automobile or motorcycle or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling or parked on any public street of the Property, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked while in use for the construction, maintenance, or repair of a residence in the Development.

c. Trucks with tonnage in excess of one and one-half (1.5) tons and any commercial vehicle with painted advertisement shall not be permitted to park overnight on the Property (except those used by a builder during the construction of improvements) unless properly concealed from public view in the garage of the residence.

d. No vehicle of any size which transports flammable or explosive cargo may be kept on the Property at any time.

e. No motorized vehicle or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks (including those with attached

bed campers) that are in operating condition and have current license plates and inspection stickers and are in current use.

f. *No structure of a temporary character, such as a trailer, tent, shack, barn, underground tank or structure or other out-building shall be used on the Property at any time as a dwelling house; provided, however, that any builder may maintain and occupy model houses, sales offices, and construction trailers during the construction period, but not as a residence.*

g. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted in or on the Property, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any part of the Property. No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained, or permitted on the Property.

h. No animals, livestock or poultry of any kind shall be raised, bred, or kept on the Property except that dogs, cats or other qualified animal may be kept as household pets. Animals are not to be raised, bred, or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the Property so that no person shall quarter on the premises cows, horses, bees, hogs, llamas, sheep, goats, guinea fowls, emus, pigeons, ducks, chickens, turkeys, skunks, or any other animals that may interfere with the peace and quiet and health and safety of the community. No more than four (4) pets will be permitted on each Lot. Pets must be restrained or confined to the homeowner's rear yard within a secure fenced area or within the house. It is the pet owner's responsibility to keep the Lot clean and free of pet debris or odor noxious to adjoining Lots. All animals must be properly registered, vaccinated and tagged for identification in accordance with local ordinances.

i. No Lot or other area of the Property shall be used as a dumping ground for rubbish or accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage, or other waste (collectively "Trash"), shall only be kept in sanitary containers that must be stored out of public view at all times. Notwithstanding the foregoing, Trash containers may only be visible on designated trash collection days and for only the period of time in which Trash is to be collected. In no event should Trash containers be left out overnight. All containers for the storage or other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may only be stored on Lots during construction of the improvement thereon.

j. No individual water supply system shall be permitted on any Lot.

k. No individual sewage disposal system shall be permitted on any Lot.

l. No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period) shall be occupied by any Owner, tenant, or other person prior to the erection of a residence.

m. No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence.

n. Except with the written permission of the Committee or as preempted by the FCC or other governmental agency, no antennas, satellite dishes or other equipment for receiving or sending sound or video signals shall be permitted in or on the Property except antennas for AM or FM radio reception and UHF and VHF television reception, except that one satellite dish or similar antenna that must be no greater than one (1) meter in diameter and must be placed in the least conspicuous location on a Lot where an acceptable quality signal can be received so long as it is completely screened from view from any adjacent street or other public area. No exposed cabling for satellite TV, phone lines, electrical connections, etc., can be visible from the street or side of the house.

o. No Lot or improvement thereon shall be used for a business, professional, commercial, or manufacturing purpose of any kind for any length of time. No business activity shall be conducted on the Property which is not consistent with single family residential purposes. No noxious or offensive activity shall be undertaken on the Property, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining homeowners' peaceful use and enjoyment of their residences and yards.

p. No fence, wall, hedge, or shrub planting which obstructs sight lines at an elevation between three {3'} and six feet, six inches {6' 6"} above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within that area is ten feet (10') from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a minimum height of six feet (6') above the adjacent ground line.

q. Except for children's playhouses, dog houses, greenhouses, gazebos, and buildings for storage of lawn maintenance equipment, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected on the Property.

r. Within those easements on each Lot as designated on the Plat of the Development, no improvement, structure, planting, or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation, and maintenance of public utilities, or which might alter the direction of flow within drainage channels or which might obstruct or retard the flow of water through drainage channels. The general grading, slope and drainage plan of a Lot as established by the Developer's approved development plans may not be altered without the approval of the City and/or other appropriate agencies having authority to grant such approval.

s. No sign of any kind or character shall be displayed to the public view on any Lot or from any home on any Lot except for one professionally fabricated sign of not more than five (5) square feet advertising the property for rent or sale, or signs used by a builder to advertise the property during the construction. The Homeowner is allowed to display religious items without restriction anywhere on their Property. The Homeowners are not allowed to display religious items on any common areas or common element property of the Association or violate applicable building line, right-of-way, set back or easement or be attached to any traffic-controlled device, street lamp, fire hydrant, or utility sign, pole, or fixture. The failure to comply with this restriction will also subject any Owner to a fine of One Hundred and no/100 Dollars (\$100.00) per day for each day that such Owner fails to comply with this restriction. The non-payment for such fine can result in a lien against the said Lot, which lien may be foreclosed on in accordance with the terms set forth in this Declaration in order to collect such fine by the Association.

t. Outdoor clothes lines and drying racks visible to adjacent Properties are prohibited. Owners or residents of Lots where the rear yard is not screened by solid fencing or other such enclosures, shall construct a drying yard or other suitable enclosure or screening to shield from public view clothes drying racks, yard maintenance equipment and/or storage of materials.

u. Except within fireplaces in the main residential dwelling and outdoor cooking equipment, chimineas, metal fire pits, metal smokeless fire pits, fire pits, including gas fire pits must be made out of non-combustible materials. No burn barrels or such containers that are used for burning of trash or other debris is permitted. Also, no burning of trash or other debris of any kind is permitted on the homeowner's property.

v. All basketball goals must either be portable (temporary), set in cement next to driveway or attached to the garage on the front of the home and must be kept behind all building setback lines. No basketball nets may be allowed to hang out over any street at any time, block any sidewalk or be placed in the street at any time.

w. Aluminum or vinyl patio covers are not allowed.

x. Carports of any kind are not allowed.

y. Temporary equipment used for any sport, such as a basketball hoop, soccer netting, volleyball netting, and similar types of temporary and portable sporting use equipment are only permitted while in use on the homeowner's property. In no event can sporting equipment be used or stored in or on a roadway, sidewalk, driveway, or common area, or left out in public view on the homeowner's property when not in use.

z. Enclosed/screened-in back porches and back patios are allowed provided that they comply with Committee guidelines and standards of construction and are approved by the Committee prior to construction.

aa. Standby Generators may be installed on a homeowner's Lot with the following conditions (ACC cannot deny request):

1. The homeowner must notify the ACC and fill out the required ACC paperwork.

2. It must be a permanently installed standby generator, installed as to the requirements of the manufacturer.

3. *Standby generators must use one of the following fuel types:*

- a. Natural Gas
- b. LPG (Liquefied Petroleum Gas)
- c. Diesel Fuel
- d. Bio Diesel Fuel
- e. Hydrogen

4. All standby generators are to be installed by Licensed Professional Contractors, to include all gas lines, electric lines, plumbing lines and any and all connections associated with the installation of the generator and installed to current health, government, safety and building codes as well.

5. Upon commencement of installation, a copy of all city or county permits obtained by the contractor needs to be emailed to the ACC to be placed with the ACC generator request paperwork.

6. All standby generators must be installed in the yard behind a fence hidden from view.

7. Standby generators are to be used in emergency power loss situations only. They cannot be used for electricity due to non-payment of electric bill resulting in cut off from electric services.

8. All standby generators must be maintained in good working order according to manufacturer's specifications for maintenance and be applicable to all governmental, health, safety and building codes as well.

9. Portable generators are allowed to be used on the homeowner's Lot and must comply with subsections 6 and 7.

bb. Class B Amusement Rides – classified by the State of Texas is any portable ride, not permanently affixed in an amusement park setting

1. Homeowners are to notify the Board by email, seven (7) days prior to the day of the rental. The homeowner is required to provide to the board:

- a. The ride (Amusement) company name
- b. Contact Information
- c. Current Ride Certification
- d. Current Ride Annual Inspection
- e. Operator's current insurance certificate must be in the amounts required by Texas law.

2. The ride must be placed within the boundaries of the homeowner's Lot. The ride cannot be placed on the streets or blocking any sidewalks, cannot be placed in any common areas, common exclusive areas, front entrance ways, detention pond grounds or any other claimed areas of common ground of the Association.

3. The homeowner will be required to sign a waiver releasing the Association from all liability of damages, use, abuse, neglect, or injuries to the homeowner and those using the ride.

4. The homeowner will be responsible for all damages and injuries to the Association common areas for use of the ride.

5. Violation of this section: Upon discovery of not properly notifying the Association, a verbal notification will be given and the ride will need to come down.

cc. No home can be used as a vacation rental by the use of any vacation companies, such as VRBO, AIRBNB, etc. or any realtor that is engaged in any vacation rentals. Short-term rentals of no less than six (6) months are allowed providing they adhere to the same rules and regulations of a long-term lease agreement and all information required by law must be given to the Association.

dd. No Corporate Investment firms, Capital Fund Companies, Investment trusts, realtors or individuals working for any kind of investment corporation or trust where such company is a silent partner can own more than one (1) lot. Corporate Short-Term or Long-Term housing is allowed and must meet the requirements of the short term and long-term rental provisions of subsection cc. The occupants and the corporate owners are bound by and required to adhere to all the dedicatory instruments, and By-Laws that govern Sealy Homestead Homeowners' Association, Inc.

6.8 Minimum Floor Area. The total air-conditioned living area of the main residential structure, as measured to the outside of exterior walls (but exclusive of open porches, garages, patios and detached accessory buildings), shall be not less than the minimum floor area as specified by the City.

6.9 Building Materials. The total exterior wall area (excluding windows, doors and gables of each residence constructed on a Lot) shall not be less than the minimum percentage as established by the City as by ordinance or building code requirement of brick, brick veneer, stone, stone veneer, stucco, cement plank, fiber cement siding, or other masonry material approved by the Committee.

6.10 Setback Requirements. No dwelling shall be located on any Lot nearer to the front lot line or nearer to the side lot line than the minimum setback lines shown on the Plat or as required by the City and/or County.

6.11 Waiver of Setback Requirements. With the written approval of the Committee and subject to plat and zoning restrictions, any building may be located farther back from the front property line of a Lot than provided above, where, in the opinion of the Committee, the proposed location of the building will enhance the value and appearance of the Lot and will not negatively impact the appearance of adjoining Lots.

6.12 Fences and Walls. All Lots along the detention areas shall have wrought iron fences four feet (4') in height. All other fences and walls shall be constructed of masonry, brick, wood, or other material approved in writing by the Committee. No chain link or wire fencing is allowed. No fence or wall on any Lot shall extend nearer to any street than the front of the residence thereon. Except as otherwise specifically approved by the Committee, all street side yard fencing on corner Lots shall be set no closer to the abutting side street than the property line of such Lot. No portion of any fence shall exceed six feet, six inches (6'6") in height. Any fence or portion thereof that faces a public street shall be constructed so that all structural members and support posts will be on the side of the fence away from the street and not visible from any public right-of-way.

6.13 Sidewalks. All walkways along public rights-of-way shall conform to the minimum property standards of the City, County, FHA, and VA.

6.14 Mailboxes. Mailboxes shall be standardized and shall be constructed of a material and design approved by the Committee (unless gang boxes are required by the U.S. Postal Service).

6.15 Windows. Windows, jambs, and mullions shall be composed of anodized or painted aluminum or vinyl. All front elevation windows shall have baked-on painted or anodized aluminum windows (no mill finish).

6.16 Landscaping. Landscaping of each Lot shall be completed within sixty (60) days (subject to extension for delays caused by inclement weather, restrictions or delays caused by governmental regulations prohibiting new planting or watering due to restricted water use) after the home construction is completed and shall include grassed yards.

6.17 General Maintenance of Lots. Following occupancy of the Home upon any Lot, each Owner shall maintain and care for the Home, all improvements and all trees, foliage, plants, and lawns on the Lot and otherwise keep the Lot and all improvement thereon in good condition and repair and in conformity with the general character and quality of properties in the immediate area, such maintenance and repair to include but not be limited to: (i) the replacement of worn and/or rotted components, (ii) regular painting of all exterior surfaces, (iii) the maintenance, repair and replacement of roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, drives, parking areas and other exterior portions of the improvements to maintain an attractive appearance, and (iv) regular mowing and edging of lawn and grass areas. Upon failure of any Owner to maintain a Lot owned by them in the manner prescribed therein, the Association at its option and discretion, but without any obligation to do so, but only after ten (10) days written notice to such Owner to comply herewith, may enter upon such Owner's Lot and undertake to maintain and care for such Lot to the condition required hereunder and the Owner thereof shall be obligated, when presented with an itemized statement, to reimburse the Association for the cost of such work within ten (10) days after presentment of such statement. This provision, however, shall in no manner be construed to create a lien in favor of any party on any Lot for the cost or charge of such work or the reimbursement of such work.

ARTICLE VII GENERAL PROVISIONS

7.1 Additional Easements

a. **Utility and Telecommunication Utility Easements.** The Developer hereby reserves the right to grant perpetual, non-exclusive easements in gross for the benefit of Developer or its designees, upon, across, over, through and under any portion of the Property designated on the plat thereof for easements for the purpose of ingress, egress, installation, replacement, repair, maintenance, use and operation of any and all utility and service

lines and service systems, public and private, including, without limitation, telephone, cable, fiber optic and any other cable or wiring system designed to provide or deliver communication of any form, video or telecommunications, computer access, "Internet" or e-mail access, security monitoring or other services to any Owner. The Developer also reserves the right to grant perpetual, non-exclusive easements in gross for the benefit of Developer or its designees across and over any portion of the Property for the purpose of delivering satellite, "broadband," cellular or other wireless communication designed to provide or deliver communication of any form, video or telephone communications, computer access, "Internet" or email access, security monitoring or other services to any Owner. In addition, the Developer also reserves the right to grant perpetual, non-exclusive easements in gross in the areas of Common Responsibility to erect one or more transmission towers as required, to facilitate the providing or delivering of satellite, "broadband", cellular or other wireless communication designed to provide or deliver communication of any form, video or telephone communications, computer access, "Internet" or email access, security monitoring or other services to any Owner.

Developer, for itself and its designees, reserves the right to retain or transfer title to any and all wires, pipes conduits, lines, cables, transmission towers or other improvements installed on or in such easements and to enter into franchise or other agreements with private or public providers of telecommunication type packages that are designed to provide such services to the Development.

b. **Continued Maintenance Easement.** In the event that the Owner fails to maintain the Lot as required herein, or in the event of an emergency, or in the event the Association requires entry upon any Lot to repair or maintain any Area of Common Responsibility, the Association shall have the right to enter upon the Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. Entry upon the Lot as provided herein shall not be deemed a trespass, and the Association shall not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

c. **Drainage Easements.** Easements for installation and maintenance of utilities, storm water retention/detention ponds, and/or a conservation area are reserved as may be shown on the Plat. Within these easement areas, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may hinder or change the direction of flow of drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible. Developer hereby reserves for the benefit of Developer and any Builder a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Developer or any Builder to correct or maintain any drainage facilities within the Property.

d. **Universal Easements.** The Owner of each Lot is hereby granted an easement not to exceed three feet (3') in width over all adjoining Lots for the purpose of accommodating any encroachment or protrusion due to engineering or fence line errors, trees, landscaping or retaining wall located along property lines, errors in original construction, surveying, settlement or shifting of any building, or any other cause. There shall be easements for the maintenance of said encroachment, protrusion, settling or shifting; provided, however, that in no event shall an easement for encroachment or protrusion be created in favor of an Owner or Owners of said encroachment or protrusion occurred due to willful misconduct of said Owner or Owners. In addition, the Owner of each Lot is hereby granted an easement for encroachments not to exceed three feet (3') in width by misplaced fences or fence lines and overhanging roofs, eaves or other improvements as originally constructed over each adjoining Lot and for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to each affected Lot and shall pass with each conveyance of said Lot.

e. Developer may transfer to any third-party Developer's rights under Section 7.1.

7.2 Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the

provisions of this Declaration, the By-Laws, and Certificate of Formation. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees from the non-prevailing party. The failure of any Owner to comply with any restrictions or covenants will result in irreparable damage to the Association and/or other Owners of Lots in the Subdivision; thus, the breach of any provisions of this Declaration may not only give rise to an action for damages at law but also may be made the subject of an action for injunctive relief and/or specific performance in equity in any court of competent jurisdiction. In the event enforcement actions are instituted and the enforcing party recovers, then, in addition to the remedies specified above, court costs and reasonable attorneys' fees shall be assessed against the violator. In addition to the remedies for enforcement provided for elsewhere in this Declaration, the violation or attempted violation of the provisions of this Declaration or any amendment hereto, or Rules and Regulations promulgated by the Board, by an Owner, their family, guests, lessees, or licensees, shall authorize the Board (in case of all of the following remedies) or any Owner (in case of the remedies provided in (d) below), to avail itself of any one or more of the following remedies:

- a. The imposition of a special charge not to exceed Fifty and no/100 Dollars (\$50.00) per violation, or
- b. The suspension of the Owner's right to use any Association property for a period not to exceed thirty (30) days per violation, plus attorneys' fees incurred by the Association with respect to the exercise of such remedy, or
- c. The right to cure or abate such violation including the right to enter any Lot upon which such violation exists without liability for trespass, and to charge the expense thereof, if any, to such Owner, plus attorneys' fees incurred by the Association with respect to the exercise of such remedy, or
- d. The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to, attorneys' fees and court costs.

Before the Board invokes the remedies provided in subparagraphs (a), (b), (c), and (d) above, it shall give written notice of such alleged violation to the Owner, and shall afford the Owner a hearing. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default. All charges assessed against an Owner shall constitute a continuing lien upon the Lot of such Owner as fully as if such charge were an unpaid annual or special assessment.

7.3 Severability. If any condition, covenant, or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the final judgement or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant, or restriction, each of which shall remain in full force and effect.

7.4 Amendment.

a. This Declaration may be amended or modified upon the express written consent of ten percent (10%) or greater of homeowners present (determined pursuant to Section 3.2 hereof) which determines a quorum. If the proposed amendment involves a modification of any of the Association's agreements, covenants or restrictions pertaining to the use, maintenance, operation, maintenance and/or supervision of any Areas of Common Responsibilities, the approval of the City and/or County must be obtained for such amendment. Any and all amendments, if any, shall be recorded in the office of the County Clerk of the County.

b. Board intends that this Declaration may be amended to comply if not in compliance with all requirements of the Federal Home Loan Mortgage Corporation ("FHLMC"), Federal National Mortgage Association ("FNMA"), FHA and VA. Notwithstanding anything to the contrary contained herein, if this Declaration does not comply with FHLMC, FNMA, VA or FHA requirements, the Board shall have the power in its discretion (on behalf of the Association and each and every Owner) to amend the terms of this Declaration or to enter into any agreement with FHLMC, FNMA, VA or FHA, or their respective designees, reasonably required by FHLMC, FNMA, VA or FHA to allow this Declaration to comply with such requirements. Should the FHLMC, FNMA, VA or FHA subsequently delete any of their respective requirements which necessitate any of the provisions of this Declaration or make any such

requirements less stringent, the Board, without approval of the Owners, may, upon reasonable justification, cause an amendment to this Declaration to be executed and recorded to reflect such changes.

7.5 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men, or women, in all cases shall be assumed as though fully expressed in each case.

7.6 Remedies. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity, including, without limitations, an action for injunctive relief, it being acknowledged and agreed that a violation of the covenants, conditions and restrictions contained herein could cause irreparable injury to the Board and other Owners and that the Board and/or other Owner's remedies at law for any breach of the Owners' obligations contained herein would be inadequate. Enforcement may be commenced by the Association, the City and/or County, or any Owner against any person or persons violating or attempting to violate them, and failure by the Association, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The rights created herein are unique and enforceable by specific performance. In addition to the remedies set forth herein, the Association will also have the right and power to levy fines against any Owner in breach of their obligations set forth in this Declaration.

7.7 Notices to Member/Owner. Any notice required to be given to any Member and/or Owner under the provisions of this Declaration shall be deemed to have been properly delivered forty-eight (48) hours after deposited in the United States Mail, postage prepaid, certified, or registered mail, and addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

7.8 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender and words in the singular, shall be held to include the plural and vice versa unless the context requires otherwise.

7.9 Formation of Association: Inspection of Documents, Books and Records. The Association shall be formed by the Developer as a non-profit corporation in accordance with the laws of the State of Texas. Management and governance of the Association shall be implemented and/or undertaken in accordance with its Certificate of Formation, in accordance with this Declaration, and in accordance with the By-Laws which shall be adopted by the Association following its formation. The Association shall make available copies of the Declaration, By-Laws, Certificate of Formation, rules, and regulations governing the Association as well as the books, records, and financial statements of the Association for inspection by Owners or any Mortgagee during regular business hours or other reasonable times.

7.10 Indemnity. The Association shall indemnify, defend, and hold harmless the Board, the Committee and each director, officer, employee and agent of the Board and the Committee from all judgements, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses (including attorneys' fees) incurred by such indemnified person under or in connection with this Declaration or the Property to the fullest extent permitted by applicable law. Such indemnity to include matters arising as a result of the sole or concurrent negligence of the indemnified party, to the extent permitted by applicable law.

7.11 FHA/VA Approval Requirement. As long as any first lien mortgage is in effect with respect to any Lot which is insured by FHA or VA, the following actions shall require prior approval of FHA or VA if such approval is required under the then applicable FHA or VA regulations: amendment of the Certificate of Formation, Declaration or By-Laws; annexation of additional property; mortgaging or dedication of the Open Space; and dissolution of the Association.

7.12 Failure of Association to Perform Duties. Should the Association fail to carry out its duties as specified in this Declaration, the City and/or County or its lawful agents shall have the right and ability, after due notice to the Association to remove any landscape systems, features or elements that are the responsibility of and cease to be maintained by the Association; to perform the responsibilities of the Association if either party fails, to do so in compliance with any of the provisions of this Declaration or of any applicable City and/or County codes or regulations; to assess the Association for all costs incurred by the City and/or County in performing the responsibilities if the Association fails to do so; and/or to avail itself of any other enforcement actions available to the City and/or County pursuant to state law or City and/or codes and regulations. Should the City and/or County

exercise its rights as specified above, the Association shall indemnify and hold harmless the City and/or County from any and all costs, expenses, suits, demands, liabilities or damages, including attorneys' fees and costs of suit, incurred or resulting from the City's and/or County's removal of any landscape systems, features or elements that cease to be maintained by the Association or from the City's and/or County's performance of the aforementioned operations, maintenance or supervision responsibilities of the Association's failure to perform said duties. The obligations described in this paragraph are solely obligations of the Association and no other party, including without limitation, any Owner, shall have any liabilities or obligations in connection therewith.

7.13 Binding Effect. Each of the conditions, covenants, restrictions, and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Property, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the owner of any land except land in the Development. This Declaration, when executed, shall be filed of record in the Real Property Records of the County so that each and every Owner or Owner of any portion of the Development is on notice of the conditions, covenants, restrictions and agreements herein contained.

7.14 Recorded Plat: Other Authorities. All dedications, limitations, restrictions, and reservations that are shown on the Plats are deemed to be incorporated herein and shall be construed as being adopted of each contract, deed or conveyance executed. If other authorities, such as the City and/or County, impose more demanding, expensive, extensive, or restrictive requirements than those that are set forth herein (through zoning or otherwise), the requirements of such authorities shall be complied with. Other authorities' imposition of lesser requirements than those that are set forth herein shall not supersede or diminish the requirements that are set forth herein.

7.15 Additions to the Development. Additional property may become subject to this Declaration.

7.16 No Warranty of Enforceability. While the Developer has no reason to believe that any of the restrictive covenants or other terms or provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Developer makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants. Any Owner acquiring a Lot in the Development in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Developer and the Committee harmless therefrom. The Developer shall not be responsible for the acts or omissions of any individual, entity, or other Owners.

7.17 Right of Enforcement. The failure by the Committee to enforce any provision of this Declaration shall in no event subject the Committee to any claims, liability, costs, or expense; it being the express intent of this Declaration to provide any Committee created by the Board with the right (such right to be exercised at its sole and absolute discretion), but not the obligation to enforce the terms of this Declaration for the benefit of any Owner(s) of any Lot(s) in the Development.

7.18 Residential Construction Liability Act. Without waiving any rights under law or equity, all Owners acknowledge, covenant, and agree that residential construction defect claims regarding any Home against the Developer or any homebuilder in Texas are controlled by the Texas Residential Construction Liability Act (Tex. Prop. Code 27.001 *et seq.*, as amended) which preempts the Texas Deceptive Trade Practice Act (Tex. Bus. & Com. Code 17.41 *et seq.*, as amended) and any other law.

7.19 EPA Compliance. The Owner of each Lot agrees to comply with all EPA rules and regulations regarding erosion control and compliance with a Storm Water Pollution Prevention Plan affecting the Lots (the "Plan") which will include elements necessary for compliance with the nationwide general permit for construction activities administered by the EPA under the National Pollutant Discharge Elimination System. Each Owner acknowledges that the Developer and any homebuilder will not bear any responsibility for complying with a Plan on any Lot upon the sale of each Lot in the subdivision.

7.20 Disclosures. In order to preserve property values in the Development, it is in every Owner's best interest to be fully aware of any and all adjacent land uses, objectionable land uses or nuisances, or prior land uses that might impact someone's decision to live in the Development. Accordingly, the Developer has the right at any time to file an instrument of record in the County that will reference this Declaration and will serve the purpose of putting all existing, potential, and future Owners of any Lot on actual notice of any such land use(s) or nuisance(s).

7.21 Soil Movement. Each Owner acknowledges that the failure or excessive movement of any foundation of any Home in the Subdivision can result in the diminished value and overall desirability of the entire Development. Each Owner agrees and understands that the maintenance of the moisture content of the soils on each Lot is

necessary to preserve the structural integrity of each home in the Development. Each Owner acknowledges that the long-term value and desirability of the Development is contingent upon each Owner maintaining their Home so that no structural failure or excessive soil movement occurs within the Development.

EACH OWNER IS HEREBY NOTIFIED THAT THE SOIL COMPOSITION IN TEXAS IN GENERAL AND THE DEVELOPMENT IN PARTICULAR AND THE CONDITION OF THE LOTS MAY RESULT IN THE SWELLING AND/OR CONTRACTION OF THE SOIL IN AND AROUND THE LOT IF THE OWNER OF THE LOT DOES NOT EXERCISE THE PROPER CARE AND MAINTENANCE OF THE SOIL REQUIRED TO PREVENT SOIL MOVEMENT.

If the owner fails to exercise the necessary precautions, damage, settlement, movement, or upheaval to the foundation may occur. Owners are highly encouraged to install and maintain proper irrigation around their Home or take such other measures to ensure even, proportional, and prudent watering around the foundation of the Home.

By each Owner's acceptance of a warranty deed to any Lot, each Owner, on behalf of Owner and Owner's representatives, successors and assigns, hereby acknowledge that the Developer, all homebuilders in the Subdivision, the Association, and the Committee shall not be responsible or liable for any damage, settlement, movement or upheaval to the foundation or any other part of the residence constructed on said Lot and hereby releases and forever discharges, developer, all homebuilders in the Subdivision, Association, and the Committee, and their respective shareholders, members, officers, directors, partners, employees, agents, representatives, affiliates, attorneys, successors and assigns, of and from any and all claim for the relief and/or causes of actions, liabilities, damages and claims whatsoever, known or unknown, direct or indirect, arising from or relating to the foundation and/or the residence constructed upon the Lot, including but not limited to any damage thereto caused by and/or related in any fashion to the soil condition upon which the same are constructed, the presence of groundwater and any other subsurface condition affecting the Lot and/or from the failure or improper or uneven watering of the Lot, inadequate grading or drainage facilities to carry water away from the foundation, or planting of improper vegetation near the foundation or any action which affects the drainage of any Lot.

The Owner of each Lot, and the Owner's legal representatives, successors and assigns, shall assume all risk and consequences to the residential structure, including but not limited to those arising or relating to the subsurface and surface soil condition in and around the Lot, the failure of the Owner or any other person or entity to exercise prudent maintenance procedures and/or the Owner's negligence in protecting and maintaining the integrity of the foundation and structure of the residence.

Sealy Homestead

HOA Rules and Reminders

These are reminders of specific expectations and processes for the community and HOA to follow. All of these rules fall under the larger scope of the Declarations (Deed Restrictions) and By-Laws that govern Sealy Homestead HOA. Contact us at: sealyhomesteadhoa@gmail.com for any questions.

Yard Maintenance and Trash/Recycling tend to be the subject of most of the complaints we get from neighbors. Please help keep our neighborhood a beautiful and safe place to live and raise our families.

1. Yard Maintenance (Article 6.17)

- a. It is up to the property owner to keep both the front and the backyard grass to a reasonable height (no more than 6" high), edging, and cleaning up the debris. Not only for the visual aspect of keeping the community neat and clean, keeping the grass cut and edged will help keep mosquitoes and other animals that hide/live in tall grass to a minimum. While it does not have to be perfect, keeping it neat and tidy is important.
- b. Trees must be kept in neat order. If tree limbs extend over the public sidewalk, they must be kept trimmed to approximately 6 feet above the sidewalk.
- c. Flower beds must also be kept in neat order. This includes weed control. It does not have to be perfect, but keeping it neat and tidy is important.

2. Trash & Recycling (Article 6.7 i)

- a. Trash & Recycling Bins must be kept out of public view at all times. This means they must be stored in the garage or hidden behind the wooden fence at all times other than pick-up days. Please put them back within 24 hours after pickup.
- b. No rubbish or accumulation of unsightly materials of any kind (broken or rusty equipment, disassembled or inoperative vehicles, discarded appliances or furniture)

3. HOA Dues (Article 4.7)

HOA Dues (maintenance fees) are due by the last day of February of each calendar year. Paying these on time will save you late charges.

4. Architectural Control Committee "ACC" (Article 5.2)

- a. All changes to the outside of the home (i.e. paint color, fencing, porches, etc.) need to be approved by the Architectural Control Committee BEFORE starting the project.
- b. Please put these requests in writing on the ACC Request Form

5. Disabled or Inoperative Vehicles (Article 6.7 i)

- a. No rubbish or accumulation of unsightly materials of any kind (broken or rusty equipment, disassembled or inoperative vehicles, discarded appliances or furniture)

6. Vehicle Parking

- a. Please park in your driveway if possible.
- b. Park on the correct side of the street if you cannot park in your driveway (this will save you getting a City of Sealy ticket)
- c. If you park on the street, please do not block a neighbor's driveway. Please do not park directly across from your neighbor's driveway which makes it difficult for the owner to get in and out of their own driveway safely.

Architectural Control Committee (ACC) Request for Review/Approval

Plan and Specification Review Determination, Application for Changes

The architectural control committee approval includes aesthetic features only and does not imply or warrant any structural integrity or code compliance. This approval is not based on an engineering review of the site plan or structure. The Covenants allow the HOA a full thirty (30) days to process requests and if needed, request more information to "complete" your request. Also, an additional forty five (45) days after request "completed" to notify of approval or rejection.

Below is completed by Homeowner:

Date Submitted: _____

Homeowner Name: _____

Address: _____

Phone: _____ Email: _____

Describe the change (i.e. porch, enclosure, fence, ramp): _____

Location: (Attach copy of plan showing planned changes or location of addition)

Specifications: (Attach copy of plans and describe the following)

Dimensions: _____

Materials: _____

Color: (include color swatch)

Contractor: _____

Below is completed by Architectural Control Committee:

Pursuant to the provisions of DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SEALY HOMESTEAD HOA BYLAWS, AND RULES AND REGULATIONS, the following determination by the Architectural Control Committee is hereby granted:

() Approve () Reject _____ Date _____

() Approve () Reject _____ Date _____

() Approve () Reject _____ Date _____

Approval subject to the following changes: _____

Rejected for the following reasons: _____