

HUNTERS CREEK NORTH NEIGHBORHOOD ASSOCIATION  
AMENDED BYLAWS – JANUARY 01, 2012

ARTICLE I

OBJECTS. MEMBERS AND DUES

SECTION I. OBJECTS. The object of the Association shall be to promote the general interests of the homeowners in the Hunters Creek North Neighborhood Association, San Antonio, Texas, and in furtherance of such object to engage in and conduct cooperative planning and organization and other joint endeavors in the general interest and for the general benefit of homeowners in the neighborhood. The Association shall be conducted as a non-profit organization and no part of the profits (if any) of the Association shall inure to the benefit of any member or other person. The Association shall be a joint Association in accordance with each of the respective declarations of the owners of Units 1, 2, and 3 of Hunters Creek North Sub-Division. The Association shall assure compliance with the terms of the various declarations on file.

SECTION 2. MEMBERS. Each owner, (whether one or more persons or entities), of a lot in Units 1 and 3, upon and by virtue of becoming such an owner shall automatically become a member of the Association and shall remain a member thereof until such ownership ceases for any reason, at which time the membership in the association shall automatically cease. Membership in the Association shall be appurtenant to, shall automatically follow, and may not be separated from the legal ownership of each lot. It shall not be necessary for any instrument to provide for transfer of membership in the Association and no certificate of membership will issue.

As to owners of lots in Unit 2, until that Unit amends its declaration of restrictive covenants, any owner of a lot in said unit may obtain the rights of membership accorded to members of Units 1 and 3 by voluntary payment of the annual assessment paid by owners in Units 1 and 3. After such time as Unit 2 has amended their Declaration of Restrictive Covenants, the owners of lots in Unit 2 shall be governed by the same rules as apply herein to owners of lots in Units 1 and 3.

The number of votes each member has at any time is equal to the number of lots owned at such time (i.e. one (1) vote per lot). If record title to a particular lot is in the name of two or more persons, all of those co-owners shall be considered a member and any and all of the co-owners may attend any meeting of the Association, but the voting rights appurtenant to each such lot may not be divided and fractional votes shall not be allowed.

Any one of said co-owners may exercise the vote appurtenant to each such lot so owned at any meeting of the members and such vote shall be binding and conclusive on all the other co-owners of said lot who are not present; provided, if one of the non-attending co-owners has given the Association written notice of objection to the attending co-owner's vote, no vote shall be cast for such lot except with written notice of unanimous consent by all such Co-owners being given to the Association. In the event more than one vote is cast for a single lot none of the votes so cast shall be counted and all of such votes shall be deemed void.

The other rights and powers of members and the procedures regarding notice, quorum and holding of membership meeting shall be as otherwise set out in the Articles of Incorporation and Bylaws of the Association.

SECTION 3. ASSESSMENTS.

(a) Creation of the Lien and Personal Obligation for Assessments. Each owner of all or any portion of a lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) an annual assessment; (ii) special assessments for capital improvements; and (iii) maintenance assessments, such assessments to be established and collected as hereinafter provided. The annual, special and maintenance assessments, together with interest thereon, reasonable attorney's fees and other costs of collection, shall be a charge on the owner's lot and shall be a continuing lien upon the lot against which each assessment is made. Each such assessment, together with any interest thereon, reasonable attorney's fees and other costs of collection shall also be the personal obligation of the person who was the owner of such lot at the time when the assessment fell due. The personal obligation or delinquent assessment shall not pass to his successor in title unless expressly assumed by them.

(b) Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents and tenants and, in particular for the improvement and maintenance of the property and for services and facilities devoted to this purpose and related to the use and enjoyment of the owners and the enforcement of the Declaration.

(c) Annual Assessment. The amount of the annual assessment to be charged against each lot shall be fixed by the Board of Directors from time-to-time but not more frequently than once per year. The annual assessment for the year 1993 shall be One Hundred Fifty and No/100 Dollars (\$150.00) per lot. In 1994 and thereafter, the annual assessment shall be the amount fixed by the Board of Directors; provided, however, unless adjusted by the owners pursuant to Article I §3(f) of these Bylaws, the annual assessment shall not be more than one Hundred Fifty and No/100 (\$150.00) Dollars adjusted percentagewise by a change in the U.S. city average Consumer Price Index of the United States Bureau of Labor Statistics for all Urban Consumers, All Items, from the official base of 1982-1984 which is equal to 100.

(d) Special Assessment. In addition to the annual assessments authorized herein, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of an Improvement located in the common areas or on property owned or leased by the Association wherever located, including fixtures and personal property related thereto; provided, however, that any such special assessment shall have the assent of at least two-thirds of the votes of the owners who are voting in person or by proxy at a meeting duly called for this purpose.

(e) Maintenance Assessment. The cost of normal and customary maintenance and repair or Improvements shall be paid from the annual assessments paid by the owners. However, in the event the need for maintenance, replacement or repair is caused, in the judgment of the Board of Directors of the Association, through the willful or negligent act of an owner, or the Owner's family, guest or invitee, the cost of such maintenance replacement or repair shall be assessed to such owner after meeting the requirements set out in Article 14, §10. Moreover, the maintenance of the Subdivision Wall is the obligation of the respective owners of the lots on which the subdivision wall is located. However, if such maintenance is not, in the judgment of the Board of Directors of the Association, satisfactory, representatives of the Association shall have the right to enter upon the lot upon which the defective portion of the Subdivision Wall lies and perform the necessary repair, reconstruction and maintenance work and assess the owner of such lot for the work so performed. As used in these Bylaws, the term "Subdivision Wall" shall mean any and all parts of the wall on the perimeter of the Subdivision located along Lockhill Selma and Huebner Roads.

(f) Owner's Adjustment and Authorization of Assessment. A written notice of a meeting for the purpose of adjusting the annual assessment or authorizing a special assessment shall be delivered to all owners by any mean or method provided in these Bylaws for Notice not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. In order for the action at such a meeting to be binding, the following quorum requirement must be met: (i) at least sixty percent (60%) of the eligible votes must be present in person or by proxy at the meeting; (ii) in the event a 60% quorum is not obtained, the meeting shall be adjourned and a subsequent meeting called, within sixty (60) days and by proper notice for the same purpose; provided that at such subsequent meeting, the required quorum for a binding vote shall be thirty percent (30%) of eligible votes are present in person or by proxy at the meeting. Approval of an adjustment to an annual assessment or the levying of a special assessment shall require a two-thirds vote of the owners voting in person or by proxy at such meeting.

(g) Uniform Rate of Assessment. Both the annual assessment and any special assessment shall be fixed at a uniform rate for every lot and may, at the Association's option, be collected on a monthly, quarterly, semi-annual or annual basis.

(h) Commencement of the Assessment Obligation. The obligation of payment of annual assessments as provided herein shall commence on the first day of the month following substantial completion of Improvements on a lot when such Improvements are to be used either for the owner's use or leased out by the owner; provided, however, that in the event a lot is owned by an investor/builder, then such owner shall not be required to commence payment of annual assessments upon completion of Improvements on such lot but instead the obligation for payment of annual assessments shall commence on the first of the month following the earlier of: (a) the execution of a lease

agreement for the lot; or (b) the closing of the sale of such lot to a non-investor owner. The initial obligation for an annual assessment shall be adjusted according to the number of months remaining in the current calendar year. The obligation of payment of special assessments and maintenance assessments as provided herein shall commence upon ownership of a lot. The due date for any special or maintenance assessment shall be fixed in the resolution and vote authorizing such special or maintenance assessment.

(i) Duties of the Board of the Association. The Board of the Association shall fix the amount of the annual assessment due for the subsequent calendar year at least thirty days prior to the end of the current calendar year. Written notice of the assessment shall thereupon be sent to each owner subject thereto. The due date for all assessments shall be established by the Board. The Association shall upon demand at any time and for a reasonable charge furnish a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified lot have been paid as provided in Article I, §3(j).

(j) Request For Subdivision Information.

A. If a request for subdivision information is received from an owner or his agent, a purchaser of property in the subdivision or his agent, or a title insurance company contracted to close on the sale of a home in the subdivision, the Association shall, not later than the 10<sup>th</sup> business day after it receives such a request in writing, deliver to the owner or his agent, the purchaser of property in the subdivision or his agent, or the title insurance company contracted to close on the sale of the home a resale certificate. Before the Association begins the process of preparing or delivering such resale certificate, the Association may require the purchaser or his agent to provide it reasonable evidence that the purchaser has a contractual or other right to acquire property in the subdivision.

A resale certificate must contain:

1. A statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property.
2. The frequency and amount of any regular assessments.
3. The amount and purpose of any special assessment that has been approved before and is due after the resale certificate is delivered.
4. The total of all amounts due and unpaid to the property owners' Association that are attributable to the owner's property.
5. Capital expenditures, if any, approved by the property owners' Association for the property owners' Association's current fiscal year.
6. The amount of reserves, if any, for capital expenditures.
7. The Association's current operating budget and balance sheet.
8. The total of any unsatisfied judgments against the Association.
9. The style and cause number of any pending lawsuit in which the Association is a party, other than a lawsuit relating to unpaid ad valorem taxes of an individual member of the Association.
10. A copy of a certificate of insurance showing the Association's property and liability insurance relating to the common areas and common facilities.
11. A description of any conditions on the owner's property that the Board of Directors has actual knowledge are in violation of the restrictions.
12. A summary or copy of notices received by the Association from any governmental authority regarding health or housing code violations existing on the preparation date of the certificate relating to the owner's property or any common areas or common facilities.
13. The amount of any administrative transfer fee charged by the Association for a change of ownership of property in the subdivision.
14. The name, mailing address, and telephone number of the Association's managing agent, if any.
15. A statement indicating whether the restrictions allow foreclosure of the Association's lien on the owner's property for failure to pay assessments; and
16. A statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

B. The Association may charge a reasonable fee to assemble, copy, and deliver the resale certificate, and any

update to that certificate, and may require payment before beginning the process of providing that certificate; however, the Association may not process that payment until the certificate is available for delivery. The Association may not charge a fee if the certificate is not provided in the time prescribed by Subsection (A).

- C. The Association shall deliver the foregoing information to the person specified in the written request. If the written request does not specify the name and location to which the information is to be sent it shall not be effective. Delivery may be by mail, hand delivery, or alternative delivery means specified in the written request.
- D. The Association is not required to inspect the affected property before issuing a resale certificate or an update to it.
- E. If the Association does not timely deliver the information the requester may submit a second request for the information by certified mail, return receipt requested, or hand delivery.
- F. If the Association fails to deliver the information before the seventh day after the second request the owner may:
  - 1. Obtain a court order directing the Association to furnish the required information, and/or
  - 2. Obtain a judgment against the Association for not more than five hundred and no/100 (\$ 500.00) dollars, and/or
  - 3. Obtain a judgment against the Association for court costs and attorney's fees, and/or
  - 4. Obtain a judgment authorizing him to deduct the amounts he is awarded from any future regular or special assessments payable to the Association, and provide a buyer under contract to purchase his property an affidavit that states that he, his agent, or title insurance company on his behalf made two written requests under this paragraph for the information and the Association did not timely provide it.
- G. If an owner provides a buyer under contract to purchase his property an affidavit in accordance with Subsection (F)(4) the buyer, lender, or title insurance company is not liable to the Association for any money that may have accrued, be due and remains unpaid on the date the affidavit was prepared, and the Association's right to collect those amounts shall terminate.
- H. The Association may not deny the validity of any statement it makes in the resale certificate, and the Association's lien to secure any undisclosed amount on the date the resale certificate or an amendment to it was prepared shall automatically terminate as a lien securing the undisclosed amount.
- I. The Association has the right to recover debts and claims and to secure payment by a lien arising or becoming due after the date the resale certificate is prepared.
- J. The Association, its officers and agents shall not be liable to an owner selling his property for the delay or failure to deliver the information required in the resale certificate except as set out in these bylaws, unless that liability is amended or the Association's duties and liabilities are reduced by statute.

If the laws dealing with the requirements and/or procedures of this section are amended to render these bylaws obsolete or out of compliance with the newly enacted mandatory laws, these bylaws shall automatically be modified to comply with the most recent mandatory laws without the necessity of physically amending them. In those instances where the amendments to the laws are not mandatory the existing bylaws shall remain unmodified.

(k) Management Certificates. The Association shall record in each county in which any portion of the residential subdivision is located a management certificate, signed and acknowledged by an officer stating:

- 1. The name of the subdivision.
- 2. The name of the Association.
- 3. The recording data for the subdivision.

4. The recording data for the declaration.
5. The name and mailing address of the Association.
6. The name and mailing address of the person managing the Association or the Association's designated representative; and
7. Other information the Association considers appropriate.

The Association shall record an amended management certificate not later than the 30<sup>th</sup> day after the date the Association has notice of a change in any information in the recorded certificate.

The Association and its officers, directors, employees, and agents are not liable to any person for delaying the recording or for failing to record a management certificate, unless the delay or failure is willful or caused by gross negligence.

If the Association fails to record a management or amended management certificate under this section, a purchaser, lender, or title insurance company is not liable to the property owners' Association for any amount due to the Association on or before the date of a transfer to a bona fide purchaser. A person is considered a bonafide purchaser if he pays valuable consideration without notice of outstanding rights of others and acts in good faith, or if that person is a third-party lender who acquires a security interest in the property under a deed of trust.

If the laws dealing with the requirements and/or procedures of this section are amended to render these bylaws obsolete or out of compliance with such newly enacted mandatory laws, these bylaws shall automatically be modified to comply with the most recent mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

(l) Alternative Payment Schedule for Certain Assessments. If a property owner requests a payment plan, that property owner may make partial payments to the Association for delinquent regular or special assessments or any other amount he owes the Association without accruing additional monetary penalties during a period of six (6) months. The Association is not required to enter into a payment plan with any owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan.

The Association shall file an alternative payment schedule guidelines in the real property records of Bexar County; however, failure by the Association to file such schedule shall not prohibit the property owner from receiving an alternative payment schedule by which he may make partial payments.

(m) Hearing Before Board – Alternative Dispute Resolution. If the owner is entitled to an opportunity to cure the violation, he has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter at issue before a committee appointed by the Board of Directors or before the Board of Directors if it does not appoint a committee. If a committee is appointed, the notice must also state that the owner has the right to appeal the committee's decision to the Board of Directors by written notice. The Association shall hold a hearing not later than the 30<sup>th</sup> day after the date the Board of Directors receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10<sup>th</sup> day before the hearing. Either the Board of Directors or the owner may request a postponement, which shall be granted for a period of not more than 10 days from the date of the request. Additional postponements may be granted by agreement. The owner or the Association may make an audio recording of the meeting. Either the owner or the Association may request to resolve a matter through the use of alternative dispute resolution.

The notice and hearing provisions of Article V, §11 and this section do not apply if the Association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel mediation. The notice and hearing provisions of Article V, §11 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. In those circumstances where an immediate risk of harm to others in the subdivision occurs, the temporary suspension is immediately effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.

(n) Priority of Payments. A payment received by the Association from the owner shall be applied to the owner's debt in the following order of priority:

1. Any delinquent assessment.
2. Any current assessment.
3. Any attorney's fees or third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure.
4. Any other attorney's fees incurred by the Association.
5. Any fines assessed by the Association; and
6. Any other amount owed to the Association.

If at the time the Association receives a payment from a property owner, that owner is in default under a payment plan entered into with the Association, the Association is not required to apply the payment in the above order of priority, but a fine assessed by the Association may not be given priority over any other amount it is owed.

If the laws dealing with the requirements and/or procedures of notice before enforcement action are amended to render these bylaws obsolete or out of compliance with such newly enacted mandatory laws, these bylaws shall automatically be modified to comply with the most recent mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

(o) Effect of Nonpayment of Assessment – Obligation of the Owner; Lien; Remedies of the Association. If the assessments are not paid on the date when due, then such assessment(s) shall become delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the lot which shall bind such lot in the hands of the then owner, the owner's successors and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain the owner's personal obligation for the statutory period and shall not pass to the owner's successors in title unless expressly assumed by such successors. If the assessment is not paid within sixty (60) days after the due date, the assessment shall bear interest from the due date at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the lot, and there shall be added to the amount of assessment the preparation and filing of the complaint in such action (including attorney's fees), and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys fees to be fixed by the court together with the costs of the action. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the common area or abandonment of the lot.

(p) Enforcement of Lien. There is, to the full extent permitted by law, hereby created a claim of lien, with power of sale, on each and every lot within the Property to secure payment of any and all assessments and fees allowed, charged, or levied by the provisions of these Bylaws and the Declarations on file and any and all monies charged or levied against any owner for failure to comply with the restrictions, covenants, conditions, assessments, fees, rights, and duties imposed, allowed or granted by the provisions of these Bylaws and the Declarations. Such lien shall arise upon the failure of the owner to pay any monies allowed, charged, or levied pursuant to this Declaration within sixty (60) days of the date on which the owner received written notice of the amount due. Each such default or violation shall constitute a separate basis for a demand or claim of lien or a lien, but any number of such defaults may be included within a single demand or claim of lien. The Association may elect to file such a claim of lien against the lot of the defaulting owner. Such a claim of lien shall be executed and acknowledged by an officer of the Association, and shall contain substantially the following information: (a) the name of the delinquent owner; (b) the legal description and street address against which the claim of lien is made; and (c) the total amounts claimed to be due and owing for the unpaid amount, interest thereon, collection costs and reasonable attorneys fees.

Upon recording a duly executed or copy of such/claim of lien, and delivering a copy thereof to said owner and all other persons entitled to notice pursuant to Article I, §3(q), the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the lot against which the charge was levied. Such a lien shall have priority over all liens or claims created subsequent to the recording of the claim of lien thereof, except only tax liens for real property taxes on any lot, assessments on any lot in favor of any municipal or governmental assessing unit, and the liens which are specifically described in §3(1) of Article I hereafter. Any such lien may be enforced and foreclosed by appropriate action in a court of law or in any other manner provided by law as the same

may be changed or amended from time-to-time, including foreclosure sale and deficiency decree. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other owners. The Association shall have the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any lot. In the event such foreclosure is by action in a court, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each owner, by becoming an owner of a lot in the Subdivision, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

(q) Prerequisites to Foreclosure. Notice and Opportunity to Cure for Certain Other Lienholders. The Association may not foreclose its assessment lien by giving notice of sale under §51.002 of the Texas Property Code or by commencing a judicial foreclosure action unless it has provided written notice of the total amount of the delinquency giving rise to the foreclosure to all other inferior or subordinate lienholders of record that are evidenced by a deed of trust, and provided the recipient of the notice with an opportunity to cure the delinquency before the 61<sup>st</sup> day after the date the recipient receives the notice.

Notice under this section must be sent by certified mail, return receipt requested, to the address of the lienholder shown in the deed records relating to the property that is subject to the assessment lien.

(r) Judicial Foreclosure Required. The Association may not foreclose on its assessment lien unless it first obtains a court order in an application for expedited foreclosure as set out in the Texas Property Code and the procedures adopted by the Texas Supreme Court. The Association may use such procedure to foreclose on any lien described by it dedicatory instruments.

(s) Removal or Adoption of Foreclosure Authority. The provision granting a right to foreclose a lien for unpaid amounts due to the Association may be removed from the dedicatory instruments and bylaws by a vote of at least 67 percent of the total votes allocated to the property owners. Owners holding at least 10 percent of all voting interests in the Association may petition it and require a special meeting to be called for the purposes of voting on this issue.

(t) Notice After Foreclosure Sale. If the Association conducts a foreclosure sale of an owner's lot it must send to the lot owner and to each lienholder of record, not later than the 30<sup>th</sup> day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing each of them of their right to redeem the property. The notice must be sent by certified mail, return receipt requested, to:

1. The lot owner's last known mailing address, as reflected in the records of the property Association.
2. The address of each lienholder on the property as evidenced by the most recent deed of trust filed of record in the real property records of Bexar county; and
3. The address of each transferee or assignee of a deed of trust who has provided notice to the Association of such assignment or transfer. Notice provided by a transferee or assignee to the Association shall be in writing, shall contain the transferee's mailing address and shall be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the Association's mailing address as reflected in the most recent management certificate filed of record.

If a recorded instrument does not include an address for the lienholder, the Association does not have a duty to notify the lienholder as provided by this section.

Not later than the 30<sup>th</sup> day after the Association sends the notice required in this section it must record an affidavit in the real property records of this county stating the date on which the notice was sent and containing a legal description of the lot. Any person is entitled to rely conclusively on the information contained in the recorded affidavit.

The notice requirements of this section also apply to the sale of an owner's lot by a sheriff or constable conducted as provided by a judgment obtained by the Association.

(u) Right of Redemption After Foreclosure. The Association or other person who purchases occupied property at a sale foreclosing the Association's assessment lien must commence and prosecute a forcible entry and detainer action to recover possession of the property to remove the occupier from the foreclosed property.

The owner may redeem the property from any purchaser at a sale foreclosing the Association's assessment lien not later than the 180<sup>th</sup> day after the date the Association mails written notice of the sale to the owner and the lienholder under Article I, §3(t). A lienholder of record may not redeem the property before 90 days after the date the Association mails written notice of the sale to the lot owner and the lienholder, and may only redeem the property if the owner has not previously redeemed it.

A person who purchases a property at the foreclosure of the Association's assessment lien may not transfer ownership of the property to a person other than the owner during the redemption period.

To redeem property purchased by the Association at the foreclosure sale, the owner or lienholder must pay the Association:

1. All amounts due to it at the time of the foreclosure sale.
2. Interest from the date of the foreclosure sale to the date of redemption on all amounts owed to it at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent.
3. Costs incurred by it in foreclosing the lien and conveying the property to the lot owner, including reasonable attorney's fees.
4. Any assessment levied against the property after the date of the foreclosure sale.
5. Any reasonable cost incurred by the Association, including mortgage payments and costs of repair, maintenance, and leasing of the property; and
6. The purchase price paid by the Association at the foreclosure sale less any amounts that were satisfied out of foreclosure sale proceeds.

To redeem property purchased at the foreclosure sale by a person other than the Association, the owner or lienholder must pay:

1. To the Association all amounts due to it at the time of the foreclosure sale less the foreclosure sales price it received from the purchaser.
2. To the Association interest from the date of the foreclosure sale through the date of redemption on all amounts it is owed at the rate stated in the dedicatory instruments for delinquent assessments or if no rate is stated at an annual interest rate of 10 percent.
3. To the Association costs incurred by the Association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees.
4. any unpaid assessments levied against the property after the date of the foreclosure sale.
5. To the Association taxable costs incurred in the foreclosure proceeding.
6. To the purchaser of the property at the foreclosure sale any assessments levied against the property by the Association after the date of the foreclosure sale and paid by the purchaser.
7. To the purchaser of the property at the foreclosure sale the purchase price paid by the purchaser at the foreclosure sale.
8. To the purchaser of the property at the foreclosure sale the amount of the deed recording fee.
9. To the purchaser of the property at the foreclosure sale the amount he paid as ad valorem taxes, penalties, and interest on the property after the date of the foreclosure sale; and
10. To the purchaser of the property at the foreclosure sale the taxable costs he incurred in the foreclosure proceeding.

If a lot owner or lienholder redeems the property under this section, the purchaser of the property at foreclosure shall immediately execute and deliver to the redeeming party a deed transferring the property to the lot owner. If a purchaser fails to comply with this section, the lot owner or lienholder may seek the remedies afforded him in the Texas Property Code.

If the property owner or lienholder redeems the property they must comply with the applicable laws concerning such redemption.

If the Association purchases the property at foreclosure, all rent and other income collected by the Association from

the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the Association and if there are excess proceeds they shall be refunded to the lot owner. If a person other than the Association purchases the property at foreclosure, all rent and other income collected by the purchaser from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the purchaser under this section, and if there are excess proceeds, those proceeds shall be refunded to the lot owner.

If a person other than the Association is the purchaser at the foreclosure sale, before executing a deed transferring the property to the lot owner, the purchaser shall obtain an affidavit from the Association or its authorized agent stating that all amounts owed the Association have been paid. The Association shall provide the purchaser with the affidavit not later than the 10<sup>th</sup> day after it receives all amounts it is owed; however failure of a purchaser to comply with this paragraph does not affect the validity of the redemption.

A property that is redeemed remains subject to all liens and encumbrances it carried before foreclosure. Any lease entered into by the purchaser of property at a sale foreclosing an assessment lien is subject to the right of redemption provided by this section and the lot owner's right to reoccupy the property immediately after redemption.

If a lot owner makes partial payment of amounts due the Association at any time before the redemption period expires but fails to pay all amounts necessary to redeem the property before the redemption period expires, the Association shall refund any partial payments to the lot owner by mailing payment to his last known address as shown in its records not later than the 30<sup>th</sup> day after the expiration date of the redemption period.

If a lot owner or lienholder sends by certified mail, return receipt requested, a written request to redeem the property on or before the last day of the redemption period, their right of redemption is extended until the 10<sup>th</sup> day after the date the Association and any third party foreclosure purchaser provides written notice to the redeeming party of the amounts that must be paid to redeem the property. After all redemption periods expire without a redemption of the property, the Association or third party foreclosure purchaser shall record an affidavit in the real property records of the county in which the property is located stating that the lot owner or lienholder did not redeem the property during the redemption period or any extended redemption period.

The Association or the person who purchased the property at the foreclosure sale may file an affidavit in the real property records of this county that states the date the citation was served in a suit and contains a legal description of the property. Any person may rely conclusively on the information contained in the affidavit.

The rights of a lot owner and a lienholder under this section also apply if the sale of the lot owner's property is conducted by a constable or sheriff as provided by a judgment obtained by the property owners' Association.

If the laws dealing with the requirements and/or procedures of foreclosure and redemption are amended to render these bylaws obsolete or out of compliance with such newly enacted mandatory laws, these bylaws shall automatically be modified to comply with the most recent mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

(v) Subordination of Lien to Mortgage. The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgages now or hereafter placed upon any lot. Sale or transfer of any lot shall not affect the assessment lien; provided, however, that the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer but such a foreclosure or proceeding in lieu thereof shall not extinguish or in any way affect the personal liability of the then record owner of such lot. No other sale or transfer shall relieve such lot from liability for any charges thereafter becoming due or from the lien thereof.

(w) Exempt Property. All common areas owned or leased by the Association and other portions of the subdivision, if any, which are exempted from taxation by the laws of the State of Texas shall be exempt from the obligation of payment of any assessment, annual, special, or maintenance.

SECTION 4. ANNUAL MEETINGS. The Association shall hold each year, commencing with the year 1990, an annual meeting of the members for the election of Directors and the transaction of any business within the powers

of the Association, at 2:30 P.M. on the second Sunday of November in each year, if not a legal holiday, and if a legal holiday, then on the first day following which is not a Sunday or a legal holiday. Any business of the Association may be transacted at an annual meeting. Notice of the date, hour and general subject of the meeting shall be contained in the Notice as set forth in Article V, §13 of these Bylaws, and such other business as specifically required by statute or by the charter to be stated in the notice. Failure to hold an annual meeting at the designated time shall not, however, invalidate the corporate existence of the Association or affect otherwise valid corporate acts. The fiscal year shall run from January 1 through December 31. Notice of the Annual Meeting shall be delivered to the owners through one of the methods provided in §8 of this Article.

SECTION 5. SEMI-ANNUAL MEETINGS. At the discretion of the Board of Directors, the Association may also hold regular semi-annual meetings, commencing with March, 1990. Any business of the Association may be transacted at a semiannual meeting. Notice of the date, hour and general subject of the meeting shall be contained in the Notice as set forth in Article V, §13 of these Bylaws, and such other business as specifically required by statute or by the charter to be stated in the notice. Failure to hold semi-annual meetings shall not, however, invalidate the corporate existence of the Association or affect, otherwise valid corporate acts. Notice of the semi-annual meeting shall be delivered to the owners through one of the methods provided in §8 of this Article.

SECTION 6. SPECIAL MEETINGS. At any time in the interval between annual meetings and regular semi-annual meetings, special meetings of the members may be called by the president or by a majority of the Board of Directors or by any ten (10) members by vote at a meeting or in writing with or without a meeting. Notice of the special meeting shall be delivered to the owners through one of the methods provided in §8 of this Article. Notice of the date, hour and general subject of the meeting shall be contained in the Notice as set forth in Article V, §13 of these Bylaws, and such other business as specifically required by statute or by the charter to be stated in the notice.

SECTION 7. PLACE OF MEETING. The meetings of the members shall be held at such place designated by the Board of Directors; but all such meetings shall be held within Bexar County, Texas.

SECTION 8. NOTICE OF MEETINGS. Notice of the meetings to the members shall be given under Article V, §13 of these Bylaws.

SECTION 9. QUORUM. Unless otherwise provided in the Charter or these Bylaws, at any meeting of the members, a majority of the members in person or by proxy and entitled to cast a vote thereat shall constitute a quorum.

SECTION 10. VOTES REQUIRED. A majority of the votes cast at a meeting of members, duly called and at which a quorum is present, shall be sufficient to take or authorize action upon any matter which may properly come before the meeting, unless more than a majority of votes cast is required by statute or by the Charter, or by these Bylaws.

SECTION 11. PROXIES. Any member may vote in person, by proxy, or by representative designated in writing by such member.

SECTION 12. VOTING. In all elections for directors, every member shall have the right to vote, in person or by proxy, or by representative, for as many persons as there are directors to be elected and for whose election he has a right to vote.

## ARTICLE II BOARD OF DIRECTORS

SECTION 1. POWERS. The business and affairs of the Association shall be managed by its Board of Directors. The Board of Directors may exercise all the powers of the Association, except such as are by statute or the charter or the Bylaws, conferred upon or reserved to the members. The Board of Directors shall keep full and fair accounts of its transactions.

SECTION 2. NUMBER OF DIRECTORS. The number of Directors of the Association shall be three (3) from

each unit until such number be changed as herein provided. By vote of a majority of the entire Board of Directors, the number of directors may be increased or decreased from time-to-time, to not exceeding eleven nor less than three directors, but the tenure of office of a director shall not be affected by any decrease in the number of directors so made by the Board.

SECTION 3. ELECTION OF DIRECTORS. At each annual meeting, the members shall elect directors to hold office until the next succeeding annual meeting or until their successors are elected and qualify.

SECTION 4. MANDATORY ELECTION REQUIRED AFTER FAILURE TO CALL ANNUAL MEETING. If the Board of Directors does not call an annual meeting of the Association members, an owner may demand that a meeting of the Association members be called not later than the 30<sup>th</sup> day after the date of that demand is made. The demand must be in writing and sent by certified mail, return receipt requested, to the registered agent of the property owners' Association and to the Association at the address for the association according to the most recently filed management certificate. A copy of the notice must also be sent to each property owner who is a member of the association.

If after the owner makes a proper demand for a meeting and the board fails to call a meeting of the members on or before the 30<sup>th</sup> day after the date the demand was received, three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of Bexar county that contains:

1. A statement that an election committee has been formed to call a meeting of owners who are members of the property owners' association for the sole purpose of electing board members.
2. The name and residential address of each committee member; and
3. The name of the subdivision over which the property owners' association has jurisdiction under a dedicatory instrument.

Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments, and the county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.

Only one committee may operate at one time. If more than one committee files such a notice, the first committee that files it after having complied with all other requirements of this section, is the committee with the power to act under this section. If the committee does not hold or conduct a successful election within four months from the date it files its notice with the county clerk, it shall be automatically dissolved, and any election it may hold or conduct afterwards shall be ineffective for any purpose.

During the time it is effective, the election committee may call meetings of the owners who are members of the property owners' association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in these bylaws shall apply to any such meeting.

SECTION 5. VACANCIES. Any vacancy occurring in the Board of Directors for any cause other than by reason of an increase in the number of directors may be filled by a majority of the remaining members of the Board of Directors, although such majority is less than a quorum. Any vacancy occurring by reason of an increase in the number of directors may be filled by action of a majority of the entire Board of Directors. A director elected by the Board of Directors to fill a vacancy shall be elected to hold office until the next annual meeting of members or until his successor is elected and qualified.

SECTION 6. REGULAR MEETINGS. Regular meetings of the Board of Directors shall be held on such dates and at such places within Bexar County in the State of Texas as may be designated from time-to-time by the Board of Directors.

SECTION 7. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called at any time by the President or by the Board of Directors by vote at a meeting, or by a majority of the directors in writing with or without a meeting. Such special meetings shall be held at such place or places within Bexar County in the state of Texas as may be designated from time-to- time by the Board of Directors. In the absence of such designation, such

meetings shall be held at such places as may be designated in the calls.

SECTION 8. NOTICE OF MEETINGS. Except as provided in Article II, §5, notice of the place, day and hour of every regular and special meeting shall be given to each director two days (or more) before the meeting, by delivering the same to him through one of the methods provided in Article I, §8. Unless required by these Bylaws or by resolution of the Board of Directors, no notice of any meeting of the Board of Directors need state the business to be transacted thereat. No notice of any meeting of the Board of Directors need be given to any director who attends, or to any director who, in writing executed and filed with the records of the meeting either before or after the holding thereof. A director attending under those circumstances is considered to have waived notice. Any meeting of the Board of Directors, regular or special, may adjourn from time to time to reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement.

SECTION 9. QUORUM. At all meetings of the Board of Directors a majority of the entire Board of Directors shall constitute a quorum for the transaction of business. Except in cases in which it is by statute, by the charter or by the Bylaws otherwise provided, the vote of a majority of such quorum at a duly constituted meeting shall be sufficient to elect and pass any measure. In the absence of a quorum, the directors present by majority vote and without notice other than by majority vote and without notice other than by announcement may adjourn the meeting from time-to-time until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

### ARTICLE III OFFICERS

SECTION 1. EXECUTIVE OFFICERS. The members of the Association shall elect a President from among the directors, and a Vice President, a Secretary and a Treasurer shall be elected by the Board of Directors from the Board of Directors. The Board may so elect more Vice Presidents, one or more Assistant Secretaries and one or more Assistant Treasurers, none of whom need be a director but shall be entitled to attend directors meeting ex-officio. Any two of the above mentioned offices, except those of President and Vice President, may be held by the same person but no officer shall execute, acknowledge or verify any instrument in more than one capacity if such instrument be required by statute, by the charter, by the Bylaws or by resolution of the Board of Directors to be executed, acknowledged or verified by any two or more officers. Each such officer shall hold office until the annual meeting of members next succeeding his election, and until his successor shall have been duly elected and qualified, or until he shall have resigned or shall have been removed. Any vacancy in any of the above offices may be filled for the unexpired portion of the term by the Board of Directors at any regular or special meeting.

SECTION 2. PRESIDENT. The President shall preside at all meetings of the members and of the Board of Directors at which he shall be present; he shall have general charge and supervision of the business of the Association; he may sign and execute, in the name of the Association, all authorized deeds, mortgages, bonds contracts or other instruments, except in cases in which the signing and execution thereof shall have been expressly delegated to some other officer or agent of the Association; and in general, he shall perform all duties incident to the office of a President of a corporation, and such other duties as, from time-to-time, may be assigned to by him by the Board of Directors.

SECTION 3. VICE PRESIDENTS. The Vice President or Vice Presidents, at the request of the President or in his absence or during his inability to act, shall perform the duties and exercise the functions of the President, and when so acting shall have the powers of the President. The Vice President or Vice Presidents shall have such other powers and perform such other duties as may be assigned to him or them by the Board of Directors or the President.

SECTION 4. SECRETARY. The Secretary shall keep the minutes of the meetings of the members and of the Board of Directors in the books provided for that purpose; he shall see that all notices are duly given in accordance with the provisions of the Bylaws or as required by law; he shall be custodian of the records of the Association; he shall see that the corporate seal is affixed to all documents the execution of which, on behalf of the Association, under its seal, is duly authorized and when so affixed may attest the same; and in general, he shall perform all duties incident to the office of a secretary of a corporation, and such other duties as, from time-to-time, may be assigned to him by the Board of Directors or the President.

SECTION 5. TREASURER. The Treasurer shall have charge of and be responsible for all funds, securities, receipts and disbursements of the Association, and shall deposit or cause to be deposited, in the name of the Association, all monies or other valuable effects in such banks, trust companies or other depositories as shall, from time-to-time be selected by the Board of Directors; he shall render to the President and to the Board of Directors, whenever requested, an account of the financial condition of the Association, and in general he shall perform all the duties incident to the office of a treasurer of a corporation and such other duties as may be assigned to him by the Board of Directors or the President.

SECTION 6. ASSISTANT OFFICERS. The Assistant officers shall have such duties as may from time-to-time be assigned to them by the Board of Directors or the Secretary. The Assistant Treasurers shall have such duties as may from time to time be assigned to them by the Board of Directors or the Treasurer.

SECTION 7. SUBORDINATE OFFICERS. The Board of Directors may from time-to-time appoint such subordinate officers as it may deem desirable. Each such officer shall hold office for such period and perform such duties as the Board of Directors or the President may prescribe. The Board of Directors may from time-to-time authorize any committee or officer to appoint and remove subordinate officers and prescribe the duties thereof.

SECTION 8. PAST PRESIDENTS. The immediate two past presidents willing to serve may serve on the Board as ex-officio members provided they notify the Association in writing

SECTION 9. REMOVAL. Any officer or agent of the Association may be removed by the Board of Directors whenever, in its judgment, the best interest of the Association will be served thereby.

#### ARTICLE IV. ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. ESTABLISHMENT. There is hereby established an Architectural control Committee ("ACC"). The members of the ACC shall be appointed by the Board of the Association and shall be a committee of such Association. Members of the ACC shall serve without salary or pay and none of the members shall be required to be an architect or to meet any other particular qualifications.

SECTION 2. FUNCTION OF THE ACC. No building, roof, fence, wall or other structure ("Improvement") shall be commenced, erected, placed, maintained or permitted to remain on any portion of the HUNTERS CREEK NORTH SUBDIVISION, UNITS 1, 2 and 3, until certain information in such form and detail as the ACC may deem necessary shall be submitted and approved in writing by the ACC. The ACC shall have the power to employ professional consultants to assist it in discharging its duties. The decision of the ACC shall be final, conclusive binding upon the applicant.

SECTION 3. ORGANIZATION. The Committee shall be composed of three (3) members appointed by the Board of Directors, one from each unit, to hold their position for a term of two (2) years. The Committee shall meet quarterly, or as required by the business of the Committee. Said Committee members may be removed from their position only by the Board of Directors.

SECTION 4. ACC RULES. The ACC shall have the authority to adopt, amend, add to, replace and rescind, from time-to-time, procedural or substantive rules to implement the purpose of the Committee. Any conflict between the rules and the Bylaws of the Association or the Declarations shall be resolved in favor of the Declarations first and the Bylaws second. A copy of such rules, as in effect from time-to-time, shall be provided to any owner requesting the same in writing.

SECTION 5. PROCEDURE FOR SUBMISSION AND APPROVAL BY ACC. Submission to and approval by the ACC shall be in accordance with these Bylaws, the Declarations and the rules promulgated by the ACC. If the ACC fails to approve or disapprove any material submitted to it within thirty (30) days after the date shown on the submittal receipt or to give notices of its action or state of consideration, it shall be conclusively presumed that the ACC has approved such materials as submitted. If the ACC requests additional or amended materials during the initial thirty (30) day period, or approves such materials subject to the condition that certain additional or amended materials be submitted, such period shall automatically be extended to fifteen (15) days following the date upon

which such additional or amended materials are delivered to and received by the ACC. If the additional or amended materials are not received on or before the required date, then the request for approval shall be automatically disapproved.

SECTION 6. WAIVER AND ESTOPPEL. The approval of the ACC of any plan, specifications or drawings or any materials accompanying same for matters requiring approval of the ACC shall not be deemed a waiver of, or create any right of estoppel against, the ACC's right to withhold approval of any similar plan, drawing, specification or materials subsequently submitted for approval.

SECTION 7. MODIFICATIONS AND WAIVERS. Upon such terms and conditions and pursuant to such procedures as it may prescribe, the ACC may, but is not required to, adopt, review and approve or disapprove, in whole or in part, with or without conditions, applications for the modification or waiver of any requirement of this Declaration, or the ACC rules. Such application shall contain such information as the ACC may prescribe and shall affirmatively show that the application of such requirements, under the circumstances, creates unnecessary and undue hardship, and that its modification or waiver will not be detrimental (aesthetically, economically, otherwise) to the owner of any lot in the subdivision.

SECTION 8. GOVERNMENTAL APPROVAL. Nothing in the Declarations or the Bylaws of the Association or the rules of the ACC shall relieve, or be interpreted as purporting to relieve, any owner from also securing such approvals, certificates or permits of any governmental agency or entity with jurisdiction as may be required by law as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the ACC may require that a copy of such approvals, certificates or permits be provided to the ACC as a final condition to any approval, or as additional assurance to the ACC that the proposed Improvements and uses meet governmental requirements.

SECTION 9. LIABILITY. Neither the ACC, any member thereof, or the Association shall be liable to any owner or any other person, association or entity, for any damage, loss or prejudice suffered or claimed on account of: (i) the approval or disapproval of any submitted materials, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved materials; (iii) the development of property; (iv) the structural Capacity or safety features of any proposed Improvement; (v) whether or not the location of the proposed improvement on the building site is free from possible hazards from flooding or from any other possible hazards whether caused by conditions occurring either upon or off the property; (vi) soil erosion causing sliding conditions; (vii) any decision made or action taken or omitted to be taken under the authority of the Declarations and these Bylaws or the rules of the ACC; or (viii) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member of the ACC, such member acted in good faith on the basis of such information as may be possessed by such member.

#### ARTICLE V. SUNDRY PROVISIONS

SECTION 1. CHECKS, DRAFTS, ETC. All checks, drafts and orders for the payment of money, notes and other evidence of indebtedness issued in the name of the Association shall, unless otherwise provided by resolution of the Board of Directors, be signed by any two of the following: President, a Vice President or Treasurer, who may be bonded if deemed necessary by the Board Of Directors.

SECTION 2. ANNUAL REPORTS. There shall be prepared annually a full and correct statement of the affairs of the Association, including a balance sheet and a financial statement of operations for the preceding fiscal year as defined in Article I, §4, which shall be submitted at the annual meeting of the members, and filed within twenty (20) days thereafter at the principal office of the Association in the State. Such statement shall be prepared by the officers of the Association as may be designated by the Board of Directors. If no other officer is so designated, it shall be the duty of the President to prepare such statement.

SECTION 3. FISCAL YEAR. The fiscal year of the Corporation shall be as defined in Article I, §4, unless otherwise provided by the Board of Directors.

SECTION 4. SEAL. The Board of Directors shall provide a suitable seal, bearing the name of the Association,

which shall be in charge of the Secretary. The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

SECTION 5. BONDS. The Board of Directors may require any officer, agent or employee of the Association to give a bond to the Association, conditioned upon the faithful discharge of his duties, with one or more sureties and in such amount as may be satisfactory to the Board of Directors.

SECTION 6. PERSONAL LIABILITY. No member of the Board or any committee of the Association or any officer of the Association, shall be personally liable to any owner, or any other party including the Association for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board or any other representative or employee of the Association; provided, however, such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

SECTION 7. AMENDMENTS. Any and all provisions of these Bylaws may be altered or repealed and new Bylaws may be adopted at any annual meeting of the members, or at any special meeting called for that purpose.

SECTION 8. PUBLIC ACCESS. The Association shall make its dedicatory instrument(s) filed in this county's deed records available on a publicly accessible website.

SECTION 9. AVAILABILITY OF ASSOCIATION RECORDS. The Association shall make its books and records open and reasonably available for examination by a property owner, his agent, attorney or certified public accountant as designated in a writing he signs and delivers to the Association by certified mail mailed to the address of the Association as reflected on its most current management certificate. An owner is also entitled to obtain from the Association copies of information contained in those books and records. The request must describe with sufficient detail the books and records requested and must contain an election either to inspect them before obtaining copies or to have copies made. The files and records of the Association's attorney, excluding invoices, are privileged and not subject to inspection or copying by the owner.

If an owner requests an inspection or copies of the books and records the Association, on or before the 10<sup>th</sup> business day after it receives the request, shall send written notice of the date during normal business hours that the owner may perform the inspection. If the Association is unable to produce the records on or before the 10<sup>th</sup> business day it shall notify the owner and make those documents available not later than the 15<sup>th</sup> business day after the date it gives that notice. All inspections shall take place at a mutually agreeable time during normal business hours.

The Association may produce copies of the requested books and records in hard copy, electronic, or other format reasonably available to the Association.

The Association shall charge for the compilation, production, and reproduction of information requested under this section. The charges may include all reasonable costs for material, labor, and overhead but may not exceed the amounts allowed by statute. The policy may be amended from time to time by the Board of Directors and shall be recorded as a dedicatory instrument in the county records of Bexar County. If the Association fails to record that policy it may not charge an owner for the compilation, production, or reproduction of information requested under this section. The owner is responsible for costs related to the compilation, production, and reproduction of the requested information and the Association may require advance payment of the estimated costs. If the actual costs are more than the estimated the costs, the Association shall submit a final invoice and include the additional amounts due from the owner. The additional amounts must be reimbursed and are payable not later than the 30<sup>th</sup> business day after the date the invoice was sent. If the owner fails to timely pay the invoice amount, the amount may be added to the owner's account as an assessment. If the estimated costs paid by the owner exceeded the final invoice amount, a refund shall be issued to the owner not later than the 30<sup>th</sup> business day after the date the invoice is sent.

The Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner, an owner's personal financial information, including records of payment or nonpayment of amounts due the Association, an owner's contact information, other than the owner's address, or information related to an employee of the Association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

If the laws dealing with the requirements and/or procedures of this section are amended to render these bylaws obsolete or out of compliance with such mandatory laws, these bylaws shall automatically be modified to comply with the most recent newly enacted mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

**SECTION 10. RETENTION OF DOCUMENTS.** The Association shall:

1. Permanently retain Certificates of formation, bylaws, restrictive covenants, and all amendments thereto.
2. Retain for seven years its financial books and records.
3. Retain for five years its account records of current owners.
4. Retain for four years contracts with a term of one year or more after the expiration of the contract term.
5. Retain for five years minutes of meetings of the owners and the Board of Directors; and
6. Retain for seven years tax returns and audit records.

Before a person brings an action against the Association under this section, he must send written notice to the mailing address of the Association as reflected in the most current management certificate the person's intent to bring an action at least ten business days before such action is filed by certified mail, return receipt requested, or delivery by the United States Postal Service with signature confirmation service and describe with sufficient detail the books and records being requested.

For purposes of these bylaws, "business day" means a day other than Saturday, Sunday, state or federal holiday.

**SECTION 11. NOTICE REQUIRED BEFORE ENFORCEMENT ACTION.** Before a property owners' Association suspends an owner's right to use a common area, file suit against an owner other than a suit to collect a regular or special assessment or foreclose under an Association's lien, charge an owner for property damage, or levy a fine for a violation of the restrictions of bylaws or rules of the Association, the Association or its agent must give written notice to the owner by certified mail, return receipt requested addressed and mailed to him at his last known mailing address, as reflected in the records of the property Association. The notice must:

1. Describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the Association from the owner; and
2. Inform the owner that he is entitled to a reasonable period and provide him with a reasonable period to cure the violation and avoid the fine or suspension, unless that owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months.

In the foregoing instances, the property owner may request a hearing before the Board of Directors through an Alternative Dispute Resolution method as described in Article I, §3(m) on or before the 30<sup>th</sup> day after the date he receives the notice, unless suit is filed seeking a temporary restraining order or temporary injunctive relief or the Association files suit that includes foreclosure as a cause of action. The notice and hearing provisions under this section and Article I, §3(m) do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section. Additionally, the owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (*50 U.S.C. app. Section 501 et seq.*), if he is serving on active military duty.

If the laws dealing with the requirements and/or procedures of notice before enforcement action are amended to render these bylaws obsolete or out of compliance with such mandatory laws, these bylaws shall automatically be modified to comply with the most recent newly enacted mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

**SECTION 12. MEETINGS AND EXECUTIVE SESSIONS.** All meetings of the Board of Directors must be open to owners, subject to the right of the board to adjourn a board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement

actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

Except for a meeting held by electronic or telephonic means the meeting of the Board of Directors must be held in this county.

### SECTION 13. ASSOCIATION RECORDS.

The Board of Directors shall keep a record of each regular or special board meeting in the form of written minutes of the meeting. The board shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request being sent to the address of the managing agent reflected on the most recently filed management certificate, and if there is no managing agent to the address of the board. Notice the member shall be given as provided in this Section.

Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:

1. Mailed to each property owner not later than the 10<sup>th</sup> day or earlier than the 60<sup>th</sup> day before the date of the meeting; or
2. Provided at least 72 hours before the start of the meeting by posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' Association members:
  - i. In a place located on the Association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or
  - ii. On any Internet website maintained by the Association or other Internet media; and
  - iii. By sending the notice by e-mail to each owner who has registered an e-mail address with the Association. It is an owner's duty to keep an updated e-mail address registered with the property owners' Association.

If the board recesses a regular or special board meeting to continue the following regular business day, the board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special board meeting is continued to the following regular business day, and on that following day the board continues the meeting to another day, the board shall give notice of the continuation in at least one manner prescribed above within two hours after adjourning the meeting being continued.

A board may meet by any method of communication, including electronic and telephonic, without the prior notice to owners if each director may hear and be heard by every other director, or the board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action. Any action taken without notice to owners must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, without prior notice to owners consider or vote on:

1. Fines.
2. Damage assessments.
3. Initiation of foreclosure actions.
4. Initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety.
5. Increases in assessments.
6. Levying of special assessments.
7. Appeals from a denial of architectural control approval; or
8. A suspension of a right of a particular owner before he has an opportunity to attend a board meeting to

present his position, including any defense, on the issue.

If the laws dealing with the requirements and/or procedures of records and maintenance of records are amended to render these bylaws obsolete or out of compliance with such mandatory laws, these bylaws shall automatically be modified to comply with the most recent newly enacted mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

SECTION 14. BALLOTS. Any vote cast in an election or vote by a member of a property owners' Association must be in writing and signed by the member. Electronic votes cast by a member constitute written and signed ballots. Written and signed ballots are not required for uncontested races.

SECTION 15. INELIGIBILITY OF PROPERTY OWNERS. A property owner may not be disqualified from voting in an Association election of board members or on any matter concerning the rights or responsibilities the owner.

A property owner cannot be restricted from running for a position on the Board of Directors unless the board is presented with written documented evidence from a database or other record maintained by a governmental law enforcement authority that that property owner has been convicted of a felony or crime involving moral turpitude.

If the Board of Directors is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member who has been convicted of a felony or crime involving moral turpitude that board member is immediately ineligible to serve on the board of the property owners' Association, and shall be automatically considered removed from the board, and prohibited from future service on the board.

SECTION 16. VOTING RIGHTS. The voting rights of a Property owner may be cast or given in the following methods:

1. In person or by proxy at a meeting of the property owners' Association.
2. By absentee ballot in accordance with this section.
3. By electronic ballot in accordance with this section; or
4. By any method of representative or delegated voting provided by a dedicatory instrument.

A. An absentee or electronic ballot:

1. May be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot.
2. May not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and
3. May not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

B. A solicitation for votes by absentee ballot shall include:

1. An absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action.
2. Instructions for delivery of the completed absentee ballot, including the delivery location; and
3. The following language: "*By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail.*"

- C. For the purposes of these Bylaws, *electronic ballot* means a ballot given by e-mail, facsimile, or posting on an Internet website for which the identity of the property owner submitting the ballot can be confirmed; and for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.
- D. If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

If the laws dealing with the requirements and/or procedures of ballots and voting are amended to render these bylaws obsolete or out of compliance with such mandatory laws, these bylaws shall automatically be modified to comply with the most recent newly enacted mandatory laws without the necessity of physically amending them. In those instances where the changes to the laws are not mandatory the existing bylaws shall remain unmodified.

SECTION 17. Tabulation of Votes. A person shall not tabulate or be given access to the ballots cast in an election or vote if he is a candidate, or an owner, or a person related to any of the foregoing referenced persons within the third degree by consanguinity or affinity, as determined under Chapter 573. Despite the foregoing, an owner shall be given access to the ballots cast in the election or vote only as part of a recount process authorized by law and these Bylaws.

A person who tabulates the votes may not disclose to any other person how an individual voted.

SECTION 18. Recount. An owner may require a recount of the votes provided he submits a written not later than the 15<sup>th</sup> day after the date an election is held. The written demand for a recount must be:

- a. Sent by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the property owners' association's mailing address as reflected on the latest management certificate filed in the county records; or
- b. Sent in person to the property owners' association's managing agent as reflected on the latest management certificate filed in the county records or to the address to which absentee and proxy ballots are mailed.
  - 1. The owner requesting the recount shall be responsible for and shall pay all costs and expenses incurred for the recount.
  - 2. After receiving payment from the Owner for the recount the Association shall retain the services and enter into a contract with a person qualified to tabulate votes for the recount. That person shall:
    - a. Not be a member of the Association or related to a member who is on the Board of Directors of the Association within the third degree by consanguinity or affinity, as determined under Chapter 573, of the Texas Government Code; and
    - b. Is a current or former:
      - i. County judge.
      - ii. County elections administrator.
      - iii. Justice of the peace.
      - iv. County voter registrar; or
      - v. Is a person agreed on by the association and the persons requesting the recount.
  - 3. The recount must be performed no later than 30<sup>th</sup> day after the date of receipt of a request and payment for a recount in accordance with this section. If the recount changes the results of the election, the Association shall reimburse the requesting owner for the cost of the recount. The Association shall provide the results of the recount to each owner who requested the recount. Any action taken by the Board of Directors during the period between the initial election vote tally and the completion of the recount is valid and shall not be affected by any recount.

SECTION 19. Charges for Providing Copies of Public Information. The Association shall adopt and file in the county records of this county those rules dealing with the costs for copying and providing information to the public

as a dedicatory instrument required in these Bylaws and statute.

SECTION 20. Additional Rules and Regulations. The Association may adopt and file in the county records rules that comply with the effective statutes dealing with installation of compost barrels, rain barrels, rain harvesting systems, efficient irrigation systems, underground drip or other drip systems, planting new turf to conserve water, displaying political signs, regulations of solar energy devices, displaying the flags of the United States and the state of Texas, and displaying certain religious items.