

BYLAWS

OF

LONG CREEK OWNERS ASSOCIATION, INC.

(A Texas Nonprofit Corporation)

(as of January 28, 2003)

**AMENDED AND RESTATED BYLAWS
OF
LONG CREEK OWNERS ASSOCIATION, INC.**

ARTICLE 1. INTRODUCTION.

- 1.1. **PURPOSE OF BYLAWS.** These Bylaws ("Bylaws") provide for the governance of LONG CREEK OWNERS ASSOCIATION, INC. (the "Association"), a property owners association whose members consist of the owners of lots and parcels within Long Creek Subdivision, located in Guadalupe County, Texas (the "Subdivision"). The Association shall be, mean, and constitute a property owners association, as defined in the Texas Property Code, Section 202.001(2), and the Declaration of Covenants, Conditions, and Restrictions for Long Creek Subdivision, as recorded in Guadalupe County, Texas, as may be amended from time to time, with respect to certain real property located within Guadalupe County, Texas and known as the Long Creek Subdivision (Declaration). The current real property located within Guadalupe County subject to the Declarations and of this property owners association is:

LONG CREEK SUBDIVISION PHASE 1 (the subject of plats recorded in Volume 6, Pages 39-43, of the Map and Plat Records of Guadalupe County, Texas), as established by the Declaration of Covenants, Conditions and Restrictions recorded in Volume 1292, Pages 0191-0232, of the Official Public Records of Real Property of Guadalupe County, Texas; LONG CREEK SUBDIVISION PHASE 2A (the subject of a plat recorded in Volume 6, Page 006, of the Map and Plat Records of Guadalupe County, Texas), as established by Declaration of Annexation of Long Creek Subdivision Phase 2A, recorded in Volume 1343, Page 766, of the Official Public Records of Guadalupe County, Texas. LONG CREEK SUBDIVISION PHASE 2B (the subject of a plat recorded in Volume 6, Page 070, of the Map and Plat Records of Guadalupe County, Texas), a 0.913 acre tract (also known as that one certain tract of land identified in Volume 1524, Pages 0568-0569, of the Official Records of Guadalupe County, Texas), and a 0.134 acre tract (also known as that one certain tract of land identified in Volume 1524, Page 0570, of the Official Records of Guadalupe County, Texas), as established by Declaration of Annexation of such real property, as recorded in Volume 1524, Page 0565, of the Official Records of Guadalupe County, Texas.

The following amendments to the Declaration have occurred:

First Amendment to the Declaration of Covenants, Conditions and Restrictions of Long Creek Subdivision Phases 1 and 2A, as recorded in Volume 1563, Pages 0731-0733 of the Official Records of Guadalupe County, Texas;

Second Amendment to the Declaration of Covenants, Conditions and Restrictions of Long Creek Subdivision, as recorded in Volume 1576, Pages 0406-0407 of the Official Records of Guadalupe County, Texas; and

Third Amendment to the Declaration of Covenants, Conditions and Restrictions of Long Creek Subdivision, as recorded in Volume 1576, Pages 0409-0411 of the Official Records of Guadalupe County, Texas.

- 1.2. **MEMBERSHIP AND PARTIES TO THESE BYLAWS.** Membership in the Association is limited to owners of lots in the Subdivision who pay assessments as provided below. Membership also includes owners of certain real property that has been subjected to the Declaration, as amended. All present or future members are subject to the Articles of Incorporation, Declaration, and Bylaws. Membership in the Association will signify that the lot owner appoints the Board of Directors of the Association to manage or regulate the Subdivision in accordance with the provisions set forth in the Articles of Incorporation, Declaration and these Bylaws and that these Bylaws are accepted, ratified, confirmed, and will be strictly followed. Further, membership in the Association will signify that the lot owner or real estate owner has designated the Association as his or her representative to initiate, defend, or intervene in litigation or an administrative proceeding affecting the enforcement of the Declaration or the protection, preservation or operation of the Subdivision and applicable real property covered by the Declaration.
- 1.3. **DEFINITIONS.** Words and phrases defined in the Declaration shall have the same meanings when used in these Bylaws. Unless defined otherwise in the Declaration or in these Bylaws, words and phrases defined in Section 202.001 of the Texas Property Code shall have the same meaning when used in these Bylaws. The following words and phrases shall have specified meanings when used in these Bylaws:
 - 1.3.1 "Officer" means an officer of the Association. "President," "Secretary," "Treasurer," and "Vice-President" mean, respectively, the president, vice-president, secretary, and treasurer of the Association.
 - 1.3.2 "Director" means a director of the Association.
 - 1.3.3 "Governing documents" means, collectively, the Declaration, these Bylaws, the Articles of Incorporation of the Association, and the rules and regulations of the

Association, as any of these may be amended from time to time.

1.3.4 "Majority" means more than 50 percent.

1.3.5 "Member" means a member of the Association, each member being an owner of a lot in the Subdivision, unless the context indicates that a member means a member of the board of directors or a member of a committee of the Association.

1.3.6 "Resident" means the occupant of a lot, whether or not such occupant is an Owner.

1.4. **NON-PROFIT PURPOSE.** The Association is not organized for profit.

1.5. **COMPENSATION.** A director, officer, member, or resident shall not be entitled to receive any pecuniary profit for the operation of the Association, and no dividend or assets of the Association shall be distributed to, or inure to the benefit of a director, officer, member, or resident [TEXAS NON-PROFIT CORPORATION ACT, SECTION Art. 1396-2.24.A]; provided, however:

1.5.1 that reasonable compensation may be paid to a director, officer, member, or resident for services rendered to the Association; and

1.5.2 that a director, officer, member, or resident may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided such expense has been approved by the board.

1.6. **GENERAL POWERS AND DUTIES.** The Association, acting through the Directors, shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Subdivision as may be required or permitted by the governing documents and State law. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the governing documents.

ARTICLE 2. BOARD OF DIRECTORS.

2.1. **NUMBER AND TERM OF OFFICE.** The board shall consist of a minimum of three (3) persons and a maximum of nine (9) persons. At each Annual Meeting, the members shall elect a minimum of three (3) directors and a maximum of nine (9) persons for a term of one (1) year. A director takes office upon the adjournment of the meeting or balloting at which he or she is elected or

appointed and, absent, death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The number of directors may be changed by amendment of these Bylaws, but shall not be less than three. [TEXAS NON-PROFIT CORPORATION ACT, SECTIONS 1396-2.15.A-B.]

2.2 QUALIFICATION. No person shall be eligible for election or appointment to the board unless such person is a Member. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.14.A.]

2.2.1. Co-Owners. Co-owners of a lot may not serve on the board at the same time. Co-owners of more than one lot may serve on the board at the same time, provided the number of co-owners serving at one time does not exceed the number of lots they co-own.

2.2.2. Absences, Delinquency, or Violation of Governing Documents. No member may be elected or appointed as a director if any assessment against the member is delinquent at the time of election or appointment or if the member is in violation of the governing documents. No member may continue to serve as a director who has four (4) consecutive absences from Board meetings or if any assessment against the member is more than fifteen (15) days delinquent or violates the governing documents. A director who is alleged to have violated the governing documents shall have the right to a hearing before the board, within thirty (30) days of that director's suspension, to contest the suspension. The remaining directors may give the suspended member a reasonable time, by a specified date, to cure the violation and be reinstated as a director.

2.3. ELECTION. Directors shall be elected by the members by secret written ballot. The election of directors shall be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by mail, facsimile transmission, or a combination of mail and facsimile transmission. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.13.B]

2.4. VACANCIES. Vacancies on the board caused by any reason, except the removal of a director by a vote of the Association, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the board. Each director so elected shall serve out the remaining term of his or her predecessor. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.16.A.]

2.5. REMOVAL OF DIRECTORS. At any special meeting of the Association, any one or more of the directors may be removed with or without cause by members representing a majority of the votes present in person or by proxy at such

meeting, and a successor shall then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given an opportunity to be heard at the meeting. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.15.D]

2.6 MEETINGS OF THE BOARD.

- 2.6.1. Organizational Meeting of the Board. Within ten (10) days after the annual meeting, the directors shall convene an organizational meeting for the purpose of electing officers. The time and place of such meeting shall be fixed by the board and announced to the directors.
- 2.6.2. Regular Meeting of the Board. Regular meetings of the board may be held at such time and place as shall be determined, from time to time, by the Board, but there shall be no requirement for more than the annual meeting. Notice of regular meetings of the board shall be given to each director, personally or by telephone or written communication, at least three (3) days prior to the date of such meeting.
- 2.6.3. Special Meetings of the Board. Special meetings of the board may be called by the president or, if he is absent or refuses to act, the secretary, or by any two directors. At least three (3) days notice shall be given to each director, personally or by telephone or written communication, which notice shall state the place, time, and purpose of such meeting.
- 2.6.4. Conduct of Meetings. The president shall preside over all meetings of the board and the secretary shall keep, or cause to be kept, a record of all resolutions adopted by the board and a record of all transactions and proceedings occurring at such meetings. When not in conflict with law or the governing documents, the then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the board.
- 2.6.5. Quorum. At all meetings of the board, a majority of directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the board. If less than a quorum is present at any meeting of the board, the majority of those present may adjourn the meeting from time to time. At any such reconvened meeting at which a quorum is present, any business that might have been transacted at the meeting as originally called may be transacted without further notice.
- 2.6.6. Open Meetings. Regular and special meetings of the board shall be open to members of the Association; provided that members who are not directors may not participate in any deliberations or discussions unless the board expressly so authorizes at the meeting. The board may adjourn any meeting and reconvene in executive session to discuss and vote upon personnel matters,

litigation in which the Association is or may become involved, and orders of business of a similar or sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

2.6.7. Telephone Meetings. Members of the board or any committee of the Association may participate in and hold meetings of the board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-9.11]

2.6.8. Action without a Meeting. Any action required or permitted to be taken by the board at a meeting may be taken without a meeting, if all of the directors individually or collectively consent in writing to such action. The written consent shall be filed with the minutes of the board. Action by written consent shall have the same force and effect as a unanimous vote.

2.7. LIABILITIES AND STANDARD OF CARE. In performing their duties, the directors are required to exercise certain standards of care and are subject to certain liabilities, including but not limited to the following provisions of State law: [Articles 1396-2.20.D., -2.25, -2.26, -2.28, -2.29, and -2.30 of the Texas Non-Profit Corporation Act.]

2.8. POWERS AND DUTIES. The board shall have all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Subdivision. The board may do all such acts and things except those that, by law or the governing documents, are reserved to the members and may not be delegated to the board. Without prejudice to the general and specific powers and duties set forth in law or the governing documents, or such powers and duties as may hereafter be imposed on the board by resolution of the Association, the powers and duties of the board shall include, but shall not be limited to, the following:

2.8.1. Rules and Regulations. The board, by resolution, may from time to time adopt and publish rules and regulations governing use of the Common Area and the personal conduct of the members, residents and their guests thereon, and may suspend the right to use of the Common Area, after notice and hearing, for a period not to exceed 60 days, for infractions of the published rules and regulations and establish other penalties for infractions thereof.

- 2.8.2. Assessments. The board shall fix the amount of the annual assessment against each lot and send written notice to every owner at least thirty (30) days in advance of each annual assessment period as provided in the Declaration.
- 2.8.3. Delinquent Accounts. The board may establish, levy, and collect reasonable late charges for members' delinquent accounts. The board may also establish a rate of interest to be charged on members' delinquent accounts, provided the rate of interest does not exceed 18 percent or the maximum rate permitted by State law, whichever is smaller. The board may suspend the voting rights and right to use the Common Area of any member whose account is delinquent. The board may take action as outlined in the Declaration, Article XII, Section (H) against any member or lot for which assessments are not paid.
- 2.8.4. Fidelity Bonds. The board shall require that all officers, agents, and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds may be a common expense of the Association.
- 2.8.5. Ex-Officio Directors. The board may, from time to time, designate one or more persons as ex-officio members of the board, pursuant to Article 1396-2.14.F. of the Texas Non-profit Corporation Act. The presence of a duly designated ex-officio member at a meeting may not be counted to establish a quorum.
- 2.8.6. Employees. The board may employ independent contractors or employees as deemed necessary, and may prescribe their duties.
- 2.8.7. Appointment of Committees. The board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the board with its responsibilities. The resolution shall establish the purposes and powers of each committee created, provide for the appointment of its members, as well as chairperson, and shall provide for reports, termination, and other administrative matters deemed appropriate by the board. Members of committees shall be appointed from among the owners and residents.
- 2.8.8. Fines. The board may levy fines for each day or occurrence that a violation of the governing documents persists after notice and hearing, provided the amount of the fine does not exceed the amount

necessary to ensure compliance with the governing documents.

2.8.9. Contracts for Services. The board may enter into contracts for services on behalf of the Association, and, when appropriate, shall solicit competitive bids based on a standard statement of work prepared or approved by the board.

2.8.10. Professional Association Management Services. The board may employ a manager or managing agent for the Association, at a compensation established by the board, to perform duties and services authorized by the board.

ARTICLE 3. OFFICERS.

3.1. DESIGNATION. The principal officers of the Association shall be the president, the vice-president, the secretary, and the treasurer. The board may appoint such other officers and assistant officers as it deems necessary. The president and vice-president shall be directors. Other officers may, but need not, be directors. Any two offices may be held by the same person, except the offices of president and secretary. If an officer is absent or unable to act, the board may appoint a director to perform the duties of that officer and to act in place of that officer, on an interim basis. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.20.A-B.]

3.2. ELECTION OF OFFICERS. The officers shall be elected no less than annually by the directors at the organizational meeting of the board and shall hold office at the pleasure of the board. Except for resignation or removal, officers shall hold office until their respective successors have been designated by the board. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.20.A.]

3.3. REMOVAL AND RESIGNATION OF OFFICERS. A majority of directors may remove any officer, with or without cause, at any regular meeting of the board or at any special meeting of the board called for that purpose. A successor may be elected at any regular or special meeting of the board called for that purpose. An officer may resign at any time by giving written notice to the board. Unless the notice of resignation states otherwise, it is effective when received by the board and does not require acceptance by the board. The resignation or removal of an officer who is also a director does not constitute resignation or removal from the board. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.21]

3.4. STANDARD OF CARE. In performing their duties, the officers are required to exercise the standards of care provided by Article 1396-2.20.D. of the Texas Non-profit Corporation Act.

3.5. DESCRIPTION OF PRINCIPAL OFFICES.

- 3.5.1. President. As the chief executive officer of the Association, the president shall be a director and shall: (i) preside at all meetings of the Association and of the board; (ii) have all the general powers and duties which are usually vested in the office of president of a corporation organized under the laws of the State of Texas; (iii) have general supervision, direction, and control of the business of the Association, subject to the control of the board; and (iv) see that all orders and resolutions of the board are carried into effect. The president shall not vote except to break a tie.
- 3.5.2. Vice-president. The vice-president shall be a director and, in the absence of the president or in the event of the president's inability or refusal to act, shall perform the duties of the president. The vice-president shall perform such duties as are assigned by the president and board.
- 3.5.3. Secretary. The secretary shall: (i) keep the minutes of all meetings of the board and of the Association; (ii) have charge of such books, papers, and records as the board may direct; (iii) maintain a record of the names and addresses of the members for the mailing of notices; (iv) prepare and give all notices in accordance with the Texas Non-profit Corporation Act and the governing documents; (v) act as the custodian of records of the Association; (vi) review all mail on behalf of the Association; (vii) keep a current register of the names and addresses of members; and (viii) in general, perform all duties incident to the office of secretary.
- 3.5.4. Treasurer. The treasurer shall: (i) be responsible for Association funds; (ii) keep full and accurate financial records and books of account showing all receipts and disbursements; (iii) prepare all required financial data and tax returns; (iv) deposit all monies or other valuable effects in the name of the Association in such depositories as may from time to time be designated by the board; (v) prepare the annual and supplemental budgets of the Association; (vi) review the accounts of the managing agent on a monthly basis in the event such managing agent is responsible for collecting and disbursing Association funds; and (vii) perform all the duties incident to the office of treasurer.

- 3.6. **AUTHORIZED AGENTS.** Except when the governing documents require execution of certain instruments by certain individuals, the board may authorize any person to execute instruments on behalf of the Association, by written resolution. In the absence of board designation, the president and the vice-president shall be the only persons authorized to execute instruments on behalf of the Association.

ARTICLE 4. MEETINGS OF THE ASSOCIATION.

- 4.1. **ANNUAL MEETINGS.** Annual meetings of the Association shall be held at _____ p.m. on the fourth (4th) Monday of March each year at a location within the Subdivision and to be part of the Notice each year. At the Annual Meeting, the members shall elect directors in accordance with these Bylaws. The members may also transact such other business of the Association as may properly come before them. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.10.A.(2)]
- 4.2. **SPECIAL MEETINGS.** It shall be the duty of the president to call a special meeting of the Association if directed to do so by a majority of the board or by a petition signed by members representing at least ten percent (10%) of the votes in the Association. Such meeting shall be held within thirty (30) days after the board resolution or receipt of petition. The notice of any special meeting shall state the time, place, and purpose of such meeting. No business, except the purpose stated in the notice of the meeting, shall be transacted at a special meeting. Should the president be unavailable or otherwise unavailable to give any notice prescribed herein, any two (2) directors may give such notice.
- 4.3. **PLACE OF MEETINGS.** Meetings of the Association shall be held at a suitable place convenient to the members, as determined by the board. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.10.A (1)]
- 4.4. **NOTICE OF MEETINGS.** At the direction of the board, written notice of meetings of the Association shall be given to members entitled to vote at least ten (10) days but no more than sixty (60) days prior to such meeting. Notices shall identify the type of meeting as annual or special, and shall state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the board. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.11]
- 4.5. **INELIGIBILITY.** The board may determine that no member may (i) receive notice of meetings of the Association, (ii) vote at meetings of the Association, or (iii) be elected to serve as a director if the member's financial account with the Association is in arrears on the record dates provided below. The board may specify the manner, place, and time for payment for purposes of restoring eligibility.

4.6. RECORD DATES.

4.6.1.

Determining Notice Eligibility. The board shall fix a date as the record date for determining the members entitled to notice of a meeting of the Association. The record date may not be more than 60 days before the date of a meeting of the Association at which members will vote. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.11.A.-D.]

4.6.2.

Determining Voting Eligibility. The board shall fix a date as the record date for determining the members entitled to vote at a meeting of the Association. The record date may not be more than 60 days before the date of a meeting of the Association at which members will vote. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.11A., B., & D.]

4.6.3.

Determining Rights Eligibility. The board shall fix a date as the record date for determining the members entitled to exercise any rights other than those described in the preceding two paragraphs. The record date may not be more than 60 days before the date of the action for which eligibility is required, such as nomination to the board. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.11A., C., & D.]

4.6.4.

Adjournments. A determination of members entitled to notice of or to vote at a meeting of the Association is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote. The board must fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date more than 90 days after the record date for determining members entitled to notice of the original meeting. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.11A. - E.]

4.7. VOTING MEMBERS LIST. The board shall prepare and make available a list of the Association's voting members in accordance with Art. 1396-2.11B of the Texas Non-Profit Corporation Act.

4.8. QUORUM. At any meeting of the Association, the presence in person or by proxy of members entitle to cast at least ten percent (10%) of the votes that may be cast for election of the board shall constitute a quorum. Members present at a

meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of members constituting a quorum. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.12]

- 4.9. LACK OF QUORUM. If a quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power then to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.
- 4.10. VOTES. Members of the Association shall have one vote for each lot owned in the Subdivision. The vote of members representing at least a majority of the votes cast at any meeting at which a quorum is present shall be binding upon all members for all purposes, except when a higher percentage is required by these Bylaws or by law. There shall be no cumulative voting.
- 4.10.1. Co-Owned Lots. If a lot is owned by more than one member and only one member is present at a meeting of the Association, that person may cast the vote allocated to that lot. If more than one of the multiple owners is present, the vote allocated to that lot may be cast only in accordance with the owners' unanimous agreement. Multiple owners are in unanimous agreement if one of the multiple owners casts the vote allocated to the lot and none of the other owners makes prompt protest to the person presiding over the meeting.
- 4.10.2. Corporation-Owned Lots. If a lot is owned by a corporation, the vote appurtenant to that lot may be cast by an officer of the corporation in the absence of express notice of the designation of a specific person by the board of directors or bylaws of the owning corporation. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.
- 4.11. PROXIES. Votes may be cast in person or by written proxy. To be valid, each proxy shall (i) be signed and dated by a member or his attorney-in-fact; (ii) identify the lot to which the vote is appurtenant; (iii) name the person in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the purpose or meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the secretary or to the person presiding over the Association meeting for which the proxy is designated. Unless

the proxy specifies a shorter or longer time, it shall terminate eleven (11) months after its date. To revoke a proxy, the granting member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting that is adjourned, recessed, or scheduled shall be valid when such meeting reconvenes. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.13.B]

- 4.12. **CONDUCT OF MEETINGS.** The president, or any person designated by the board shall preside over meetings of the Association. The secretary shall keep, or cause to be kept, the minutes which shall record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the governing documents. Votes shall be tallied by tellers appointed by the person presiding over the meeting.
- 4.13. **ORDER OF BUSINESS.** Unless the notice of meeting states otherwise, the order of business at meetings of the Association shall be as follows:
- Determine votes present by roll call or check-in procedure
 - Announcement of quorum
 - Proof of notice of meeting
 - Reading and approval of minutes of preceding meeting
 - Reports
 - Election of directors (when required)
 - Unfinished or old business
 - New business
- 4.14. **ADJOURNMENT OF MEETING.** At any meeting of the Association, a majority of the members present at that meeting, either in person or by proxy, may adjourn the meeting to another time.
- 4.15. **ACTION WITHOUT MEETING.** Subject to board approval, any action that may be taken by a vote of the members at a meeting of the Association may also be taken without a meeting by written consent. The board may permit members to vote by ballots representing at least a majority of votes in the Association and shall constitute approval by written consent. This Paragraph may not be used to avoid the requirement of an annual meeting and shall not apply to the election of directors.

ARTICLE 5. COMMITTEES.

- 5.1. **NOMINATING COMMITTEE.** Nominations for the election of the board of directors may be made by a Nominating Committee. The Nominating Committee shall make as many nominations to the board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the annual meeting.
- 5.2. **OTHER COMMITTEES.** The Board of Directors may appoint other committees as the board deems appropriate to carry out its purposes.

ARTICLE 6. RULES.

- 6.1. **RULES.** The board shall have the right to establish and amend, from time to time, reasonable rules and regulations for: (i) the administration of the Association and the governing documents; (ii) the maintenance, management, operation, use, conservation, and beautification of the Subdivision; and (iii) the health, comfort, and general welfare of the residents; provided, however, that such rules may not be in conflict with law or the governing documents. The board shall, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the members. Rules need not be recorded in the county's real property records.
- 6.2. **ADOPTION AND AMENDMENT.** Any rule may be adopted, amended, or terminated by the board, provided that the rule and the requisite board approval are properly recorded as a resolution in the minutes of the meeting of the board.
- 6.3. **NOTICE AND COMMENT.** The board shall give written notice to an owner of each lot of any amendment, termination, or adoption of a rule, or shall publish same in a newsletter or similar publication which is circulated to the members, at least 10 days before the rule's effective date. The board may, but shall not be required, to give similar notice to residents who are not members. Any member or resident so notified shall have the right to comment orally or in writing to the board on the proposed action.
- 6.4. **DISTRIBUTION.** Upon request from any member or resident, the board shall provide a current and complete copy of rules.

ARTICLE 7. ENFORCEMENT.

The violation of any provision of the governing documents shall give the board the right, in addition to any other rights set forth in the governing documents, to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

ARTICLE 8. OBLIGATIONS OF THE OWNERS.

- 8.1. **PROOF OF OWNERSHIP.** Any person, on becoming a member of the Association, shall furnish to the board evidence of ownership in the lot, which copy shall remain in the files of the Association. A member shall not be deemed to be in good standing nor be entitled to vote at any annual or special meeting of the Association unless this requirement is first met.
- 8.2. **OWNERS' ADDRESSES.** The owner or the several co-owners of a lot shall register and maintain one mailing address to be used by the Association for mailing of statements, notices, and all other communications. The owner shall keep the Association informed of the member's current mailing address. If an owner fails to maintain a current mailing address with the Association, the address of that owner's lot shall be deemed his mailing address. An owner who mortgages his or her living unit and lot shall furnish the board with the name and mailing address of the mortgagee.
- 8.3. **ASSESSMENTS.** All owners shall be obligated to pay assessments imposed by the Association to meet the common expenses as defined in the Declaration. A member shall be deemed to be in good standing and entitled to vote at any meeting of the Association if he is current in the assessments. No owner may waive or otherwise escape liability for assessments by nonuse of the Common Area or abandonment of his or her lot.
- 8.4. **COMPLIANCE WITH DOCUMENTS.** Each owner shall comply with the provisions and terms of the governing documents, and any amendments thereto. Further, each owner shall always endeavor to observe and promote the cooperative purposes for which the Association was established.

ARTICLE 9. ASSOCIATION RECORDS.

- 9.1. **RECORDS.** The Association shall use its best efforts to keep the following records:
- 9.1.1 Minutes or a similar record of the proceedings of the meetings of the members;
 - 9.1.2 Minutes or a similar record of the proceedings of the meetings of the board;
 - 9.1.3 Names and mailing addresses of the members, the currency and accuracy of the information being the responsibility of the members;
 - 9.1.4 Financial records and books of account for the Association, kept in a manner consistent with generally accepted accounting principals;
 - 9.1.5 Copies of income tax returns prepared for the Internal Revenue Service; and

- 9.1.6 Copies of the governing documents and all amendments to any of these.
- 9.2. **INSPECTION OF BOOKS AND RECORDS.** Books and records of the Association shall be made available for inspection and copying pursuant to Article 1396-2.23.B. of the Texas Non-profit Corporation Act.

ARTICLE 10. NOTICES.

- 10.1. **CO-OWNERS.** If a lot is owned by more than one person, notice to one co-owner shall be deemed notice to all co-owners.
- 10.2. **DELIVERY OF NOTICES.** Any written notice required or permitted by these bylaws may be given personally, by mail, or by facsimile transmission. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the member at the address shown on the Association's records. If transmitted by facsimile, the notice is deemed delivered on successful transmission of the facsimile. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-2.11.A.]
- 10.3. **WAIVER OF NOTICE.** Whenever any notice is required to be given to an owner, member, or director, a written waiver of the notice, signed by the person entitled to such notice, whether before or after the time stated in the notice, shall be equivalent to the giving of such notice. Attendance by a member or director at any meeting of the Association or board, respectively, shall constitute a waiver of notice by such member or director of the time, place, and purpose of such meeting. If all members or directors are present at any meeting of the Association or board, respectively, no notice shall be required and any business may be transacted at such meeting. [TEXAS NON-PROFIT CORPORATION ACT, SECTION 1396-9.09]

ARTICLE 11. AMENDMENTS TO BYLAWS.

- 11.1. **PROPOSALS.** These Bylaws may be amended by the members according to the terms of this Article. The Association shall provide each member with a detailed description, if not exact wording, of any proposed amendment. Such description shall be included in the notice of any annual or special meeting of the Association if such proposed amendment is to be considered at said meeting.
- 11.2. **CONSENTS.** An amendment shall be adopted by the vote, in person or by proxy, or written consents of members representing at least a majority of the votes cast or present at a meeting for which a quorum is obtained.
- 11.3. **EFFECTIVE.** To be effective, each amendment must be in writing and be signed by at least two officers acknowledging the requisite approval of members, and be

delivered to each member at least ten (10) days before the amendment's effective date.

ARTICLE 12. GENERAL PROVISIONS.

12.1. CONFLICTING PROVISIONS. *If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, such conflicting Bylaw provision shall be null and void, but all other provisions of these Bylaws shall remain in full force and effect. In the case of any conflict between the Articles of Incorporation of the Association and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.*

12.2. SEVERABILITY. Invalidation of any provision of these Bylaws, by judgment or court order, shall in no wise affect any other provision that shall remain in full force and effect. The effect of a general statement shall not be limited by the enumerations of specific matters similar to the general.

12.3. FISCAL YEAR. The fiscal year of the Association shall be the calendar year.

12.4. WAIVER. No restriction, condition, obligation, or covenant in the Declaration, the Articles of Incorporation, or these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

ARTICLE 13. ALTERNATE DISPUTE RESOLUTION (ADR).

In an effort to reasonably enforce restrictions in order to promote a community spirit, a modern approach is to establish an alternate approach to resolve a deed restriction dispute.

13.1. DISPUTE RESOLUTION. No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; or the Association. Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

13.2. OUTSIDE MEDIATOR. In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself or herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought

before a mutually selected mediator. Such mediator will be an attorney-mediator skilled in community association law. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board shall maintain a list of five (5) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty [30] days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

- 13.3. **MEDIATION IS NOT A WAIVER.** By agreeing to use ADR process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.
- 13.4. **ASSESSMENT COLLECTION.** The provisions of these Bylaws concerning ADR shall not apply to the collection of assessments by the Association as set out in the Declaration.

ARTICLE 14. ARCHITECTURAL REVIEW COMMITTEE (ARC).

SUBJECT ONLY TO THE DECLARATION (ARTICLES IV AND V) AND THE EXISTING DESIGN GUIDELINES:

- 14.1 No buildings, additions, modifications or improvements shall be erected, placed or performed on any Lot until the construction plans and specifications including, but not limited to, the site plan, design development plan, and exterior plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. Builder may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color, that may be used when building each design. The ARC or Board of Directors may, at their sole discretion, retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Board of Directors, experienced or qualified to review same, who may then render an opinion to the ARC or Board of Directors. Approval of plans and specifications shall not cover or include approval for any other purpose and specifically, but without limitation, shall not be construed as any representation as to or responsibility for the structural design or engineering of the improvement or the ultimate construction thereof. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. The ARC or its assignee, at its sole discretion and to the extent wherein not expressly prohibited by the Declaration and any amended or Supplemental Declaration, is hereby

permitted to approve in writing deviations in the general use restrictions set forth in Articles VI or V in instances where, in its judgment, such deviations will result in a more common beneficial use and enhance the overall development plan for the Property. **The approval of a deviation in the general use restrictions by the ARC does not obligate the ARC to approve a similar deviation at a later time.** Notwithstanding any other provision contained herein, any structures, additions, or improvements erected or placed on any Lot shall be deemed to comply with the building requirements of the ARC and related covenants contained in the Declaration unless the ARC so notifies the Owner otherwise in writing within four (4) years from the completion thereof. This provision, however, shall not be deemed a waiver of the right of the ARC or Declarant to enforce the continuing restriction of use contained herein. The ARC shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Lot, where such actions have not first been reviewed and approved, or which constitute a violation of the Declaration, the Design Guidelines or any other documents promulgated by the ARC. The violating Owner shall remove such violating improvements or site work at its sole expense and without delay, returning same to its original condition or bringing the Lot into compliance with the Declaration, ARC documents and any plans and specifications approved by the ARC for construction on that Lot. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided in the Declaration and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time, or loss of business involved.

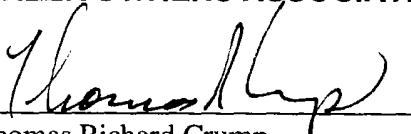
- 14.2 Written notice may be delivered to Owner or any agent or contractor with apparent authority to accept such notice and shall be binding on Owner as if actually delivered to Owner.
- 14.3 The ARC or its agents or assigns shall have the right, but not the obligation, to enter any Lot to determine if violations of this Declaration, the Design Guidelines, or any other documents promulgated by the ARC exist. In so doing, the ARC shall not be subject to any liability for trespass, other tort, or damages in connection with, or arising from such entry nor in any way shall the Association, or its agent be liable for any accounting or other claim for such action.
- 14.4 The ARC shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days to commence construction and nine (9) months to complete construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date, the plans shall be deemed not approved.

- 14.5 The ARC has the right to charge a review fee, to be established by the Board of Directors, for review of any plans or specifications submitted for approval to the ARC.

Executed as of the 28th day of January, 2003.

Certified on this 28th day of January, 2003.

LONG CREEK OWNERS ASSOCIATION, INC.



Thomas Richard Crump
Secretary