

# **Eldorado Homeowners' Association, Inc**

**Amended**

**And**

**Restated**

**By-Laws**

**March 15, 2005**



[www.eldoradohomeowners.org](http://www.eldoradohomeowners.org)



AMENDED AND RESTATED  
BY-LAWS  
OF  
ELDORADO  
**HOMEOWNERS' ASSOCIATION, INC.**

CONTENTS

	Page
ARTICLE I	
<b>Name and Location</b> .....	1
ARTICLE II	
<b>Purpose: Non-Profit Character</b> .....	1
2.01 Purpose .....	1
2.02 Non-Profit Character .....	1
2.03 Prohibited Activities .....	1
ARTICLE III	
<b>Definitions</b> .....	1
3.01 "Definitions" .....	1
3.02 "Association" .....	1
3.03 "Board" .....	1
3.04 "Common Area" .....	1
3.05 "Gender" .....	1
3.06 "Lot" .....	2
3.07 "Member" .....	2
3.08 "Owner" .....	2
3.09 "Properties" .....	2
3.10 "Property Modification Committee" .....	2
3.11 "Majority" .....	2
ARTICLE IV	
<b>Meeting of Members</b> .....	2
4.01 Assessment .....	2
4.02 Voting Membership .....	2
4.03 Place of Meetings .....	2
4.04 Annual Meetings .....	2
4.05 Voting List .....	2
4.06 Special Meetings .....	2
4.07 Notice of Meetings .....	2
4.08 Waiver of Notice .....	3
4.09 Adjournment of Meetings .....	3
4.10 Quorum .....	3
4.11 Majority Vote .....	3
4.12 Voting Rights and Proxies .....	3
4.13 Record Date .....	3
4.14 Rights and Obligation of Members .....	4
4.15 Conduct of Meetings .....	4
4.16 Action Without A Meeting .....	4
ARTICLE V	
<b>Nominating Committee</b> .....	4
5.01 Composition .....	4
5.02 Method of Election, Terms, Vacancies .....	4
5.03 Selection and Term of Chair of Nominating Committee .....	4
5.04 Quorum .....	4
5.05 Responsibilities .....	4

## ARTICLE VI

<b>Nomination and Election of Directors</b> .....	5
6.01 Nomination of Directors .....	5
6.02 Election of Directors .....	5

## ARTICLE VII

<b>Board of Directors Composition, Election and Term of Office</b> .....	5
7.01 Composition .....	5
7.02 Election and Term of Office .....	5
7.03 Removal .....	5
7.04 Vacancies .....	5
7.05 Compensation .....	5

## ARTICLE VIII

<b>Officers, Professional Management Agent and Their Duties</b> .....	6
8.01 Titles .....	6
8.02 Election and Term of Office .....	6
8.03 Removal and Vacancy .....	6
8.04 Powers and Duties .....	6
a. President .....	6
b. Vice Presidents .....	6
1. Executive Vice President .....	6
2. Vice President of Communications .....	6
3. Vice President of Property Modification .....	6
4. Vice President of Landscaping/Beautification .....	6
c. Secretary .....	7
d. Treasurer .....	7
e. Professional Management Agent .....	7
8.05 Resignation .....	7
8.06 Agreements, Contracts, Deeds, Leases, Checks, Etc .....	7
8.07 Bonds .....	7

## ARTICLE IX

<b>Meetings of Directors</b> .....	7
9.01 Organizational Meeting .....	7
9.02 Regular Meetings .....	7
9.03 Special Meetings .....	7
9.04 Waiver of Notice .....	8
9.05 Quorum of Board of Directors .....	8
9.06 Conduct of Meetings .....	8
9.07 Open Meetings .....	8
9.08 Executive Session and Workshops .....	8
9.09 Action Without a Formal Meeting .....	8
9.10 Telephone Meetings .....	8
9.11 Electronic Meetings .....	8

## ARTICLE X

<b>Powers and Duties of the Board of Directors</b> .....	9
10.01 Powers .....	9
10.02 Management .....	10
10.03 Duties .....	10
10.04 Accounts and Reports .....	11
10.05 Conflict of Interest .....	11
10.06 Borrowing .....	11
10.07 Rights of the Association .....	12

## ARTICLE XI

<b>Committees</b> .....	12
11.01 General .....	12

11.02	Covenants Committee .....	12
ARTICLE XII		
	<b>Property Modification Committee</b> .....	12
12.01	Organization .....	12
12.02	Designation of Members and Terms of Office .....	12
12.03	Duties .....	13
12.04	Meetings .....	13
12.05	Property Modification Rules .....	13
12.06	Master Plan Notebook .....	13
12.07	Application for Approval of Modifications .....	13
12.08	Basis for Approval of Improvements .....	13
12.09	Form of Approval .....	13
12.10	Proceeding With Work .....	13
12.11	Failure To Complete Work .....	14
12.12	Inspection of Work .....	14
12.13	Application for Preliminary Approval .....	14
12.14	Waiver .....	15
12.15	Estoppel Certificate .....	15
12.16	Liability .....	15
ARTICLE XIII		
	<b>Books and Records</b> .....	15
13.01	Inspection .....	15
ARTICLE XIV		
	<b>Assessments</b> .....	15
ARTICLE XV		
	<b>Corporate Seal</b> .....	16
ARTICLE XVI		
	<b>Amendments</b> .....	16
ARTICLE XVII		
	<b>Certificate of Membership</b> .....	16
17.01	Certificates of Membership .....	16
17.02	Transfer of Membership .....	16
ARTICLE XVIII		
	<b>Miscellaneous</b> .....	16
18.01	The Declaration .....	16
18.02	Depositories .....	16
18.03	Audits .....	16
18.04	Legal Counsel .....	16
18.05	Fiscal Year .....	16
18.06	Parliamentary Rules .....	16
18.07	Notices .....	17
18.08	Conflict .....	17
18.09	Indemnification .....	17



**AMENDED AND RESTATED BY – LAWS**  
**OF**  
**ELDORADO HOMEOWNERS’ ASSOCIATION, INC.**

**ARTICLE I**

**NAME AND LOCATION**

The name of the corporation is the ELDORADO HOMEOWNERS’ ASSOCIATION, INC., hereinafter referred to as the “Association.” The principal location of the Association shall be in the city of McKinney, County of Collin, Texas.

**ARTICLE II**

**PURPOSE: NON-PROFIT CHARACTER**

- 2.01 Purpose.** The general purpose of the Association is civic, particularly the promotion of the public interest, health, safety and welfare of the residents of the Properties (as hereinafter defined) commonly referred to as the ELDORADO community, the preservation of the values and amenities in said community, the maintenance, administration and enforcement of covenants and restrictions and the collection and disbursement of assessments, and charges pursuant to that certain “Declaration” (as hereinafter defined) and the maintenance of the parks, open spaces and other common facilities for the benefit of said community.
- 2.02 Non-Profit Character.** The Association is a non-profit corporation and shall be operated exclusively for non-profit purposes. No part of the Association’s net earnings shall inure to the benefit of any officer, director, member or private individual, and no dividend or other distribution of income or earnings shall be made or declared to any of such persons. This section shall not prevent the payment of reasonable compensation for services rendered or the reimbursement of reasonable expenses incurred in connection with the Association’s affairs.
- 2.03 Prohibited Activities.** The Association shall not (a) carry on propaganda or otherwise attempt to influence legislation; (b) participate or intervene in any political campaign on behalf of any candidate for public office; (c) make any distribution, engage in any activity or enter into any transaction of whatever character, the effect exempt from Federal income taxes under the Internal Revenue Code of 1954, as amended, of which, under applicable Federal laws then in force, would cause the Association to cease to qualify as an organization.

**ARTICLE III**

**DEFINITIONS**

- 3.01 Definitions.** The words used in these By-laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants and Restrictions. Said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the “Supplemented Declaration”, unless the context shall otherwise require. The term “Declaration” shall mean and refer to the Declaration of Covenants and Restrictions applicable to the lots in the Village of Eldorado as shown on the recorded plat, in Vol. C, pages 133-137, Collin County Plat record and subsequent additions of property of Supplemental Declaration to additional property as provided in the Declarations of Covenants and Restrictions that may be hereafter brought within the jurisdiction of the Association
- 3.02 Association.** The term “Association: shall mean and refer to the ELDORADO HOMEOWNERS’ ASSOCIATION, INC., its successors and assigns.
- 3.03 Board.** The term “Board” shall mean the Board of Directors of the Association.
- 3.04 Common Area.** The term “Common Area” shall mean all real property and easements owned by the Association for the common use and enjoyment of Lot Owners as described in the recorded Declaration of Covenants and Restrictions and such additions thereto as may be brought within the jurisdiction of the Association.
- 3.05 Gender.** Throughout these By-Laws, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural and vice versa.

- 3.06 Lot.** The term “Lot” shall mean and refer to the numbered and subdivided single family residential Lots shown upon any recorded Subdivision Map of the Properties.
- 3.07 Member.** The term “member” shall mean and refer to those entitled to membership in the Association as provided in the Declaration and these By-Laws. Every owner of a Lot within the Properties, which is subject to assessment, shall be a member of the Association.
- 3.08 Owner.** The term “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- 3.09 Properties.** The term “Properties” shall mean and refer to all existing properties and additions thereto, as are subject to the Declaration or any Supplemental Declaration as provided in the Declaration that may hereafter be brought within the jurisdiction of the Association.
- 3.10 Property Modification Committee.** The term “Property Modification Committee” shall mean and refer to the Architectural Review Committee as provided in the Declaration and which is described and explained in Article XII of these By-Laws.
- 3.11 Majority.** As used in these By-Laws, the term “majority” shall mean those votes and owners as the context may indicate totaling more than fifty (50%) percent of the total number of quorum.

#### **ARTICLE IV**

##### **MEETING OF MEMBERS**

- 4.01 Member.** Every person or entity who is a record owner of a fee interest in any Lot which is a part of the Properties and which is subject by covenants of record to assessment by this Association shall automatically be a member of the Association PROVIDED THAT any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.
- 4.02 Voting Membership.** Members shall be entitled to one vote for each lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they, among themselves, determine but in no event shall more than one vote be cast with respect to any such lot.
- 4.03 Place of Meetings.** Meetings of the Association shall be held at such suitable place convenient to the Members, as may be designated by the Board either within the Properties or as convenient thereto as possible and practical.
- 4.04 Annual Meetings.** An annual meeting of the membership shall be set by the Board so as to occur within 90 days after the close of the Association’s fiscal year at a specific date and hour set by the Board. At such meeting the Members shall elect directors, nominating committee members, and transact such other business as may be properly brought before the meeting.
- 4.05 Voting List.** At least ten (10) days before each meeting of Members, a complete list of the Members entitled to vote at such meeting, arranged in alphabetical order, with the residence of each and the number of votes entitled to be cast by each, shall be prepared by the Secretary. Such list, for a period of ten (10) days prior to such meeting shall be kept on file in the registered office of the Association and shall be subject to inspection by any Member at any time during the usual business hours. Such list shall be produced and kept open at the time and place of the meeting during the whole time thereof, and shall be subject to the inspection of any Member who may be present.
- 4.06 Special Meetings.** Special meeting of the Members, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation or by these By-Laws or by the Declaration, may be called by the President, the Board of Directors, or Members entitled to cast at least one-tenth (1/10<sup>th</sup>) of all the votes entitled to be cast at the meetings. Business transacted at a special meeting shall be confined to the objects stated in the notice of the meeting.
- 4.07 Notice of Meetings.** Except as provided in Section 4.08 herein, notice stating the place, day and hour of the meeting, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than thirty (30) nor more than sixty (60) days before the date of the meeting, either by first-class mail or hand delivery by or at the direction of the President, the Secretary or the officer or person calling the meeting, to each member of record entitled to vote at the meeting. A member may, in writing, waive first-class mail or hand delivery notice in favor of either email or facsimile notice. Such notice shall be deemed to have been properly sent once the confirmation that the email or facsimile was sent.

Such notice shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member on the records of the Association at the time of such mailing. The last address appearing on the records of the Association at the time of mailing of any such notice shall be deemed to be the official address of such Member for all purposes hereunder, and it shall be the duty of each Member to notify the Secretary of the Association of all address changes. Any notice properly addressed and mailed to a Member at the most current address appearing for him in the records of the Association shall be deemed lawful notice to such Member of the matter or matters contained in such notice.

- 4.08 Waiver of Notice.** Waiver of notice of any meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at any meeting by a Member, whether in person or by proxy, shall be deemed waived by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted unless an objection to the calling or convening of the meeting on the basis of lack of proper notice is raised before the business is put to a vote. Any waivers received shall be kept and maintained by the Board until their expiration.
- 4.09 Adjournment of Meetings.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business, which might have been transacted at the meeting originally called, may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.
- 4.10 Quorum.** Except as otherwise provided in these By-Laws or in the Declaration, the presence of Members or their proxies representing ten percent (10%) of the total votes in the Association shall constitute a quorum at all meetings of the Association; provided, if a quorum is not present at any meeting when initially called, then the meeting may be adjourned and reconvened within thirty (30) days after the date originally called and the quorum requirement upon such reconvening shall be reduced to five percent (5%) of the total votes in the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.
- 4.11 Majority Vote.** When a quorum is present at any meeting, the vote of a majority of the Members entitled to vote thereat having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of Declaration, Articles of Incorporation or of these By-Laws, a different vote is required in which case such express provision shall govern and control the decision of such question. The Members present at a duly organized meeting and entitled to vote thereat may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.
- 4.12 Voting Rights and Proxies.** Subject to Section 4.14 hereof, each Member shall be entitled to the number of votes determined in accordance with Section 4.02 hereof on each matter submitted to a vote at a meeting of Members, unless otherwise provided by a statute or the Articles of Incorporation. At any meeting of the Members, every Member having the right to vote shall be entitled to vote in person, or by the proxy appointed by an instrument in writing subscribed by such Member, or by his duly authorized attorney-in-fact, filed with the secretary of the Association or such other person as may be designated by the Board before the opening of the meeting for which it is to be effective. Every proxy shall be revocable and shall automatically cease upon loss of good standing by any such Member or upon receipt of notice by the Association or its designee of the death or judicially declared incompetence of a Member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy. A form of proxy or written ballot may provide an opportunity to specify approval or disapproval with respect to any proposal.
- Voting need not be by written ballot unless required by the Articles of Incorporation or by vote of the Members present at the meeting.
- 4.13 Record Date.** With respect to any regular or special meeting of the Association, the Board of Directors may establish by resolution a record date for the purpose of determining the Members entitled to notice of such meeting and the Members entitled to vote at such meeting. Such record date shall be not less than thirty (30) nor more than sixty (60) days prior to such meeting. If the Board does not establish a record date for such purposes, Members of the Association at the close of business on the business day preceding the date on which notice is given are entitled to notice of the meeting and are entitled to vote at the meeting.

- 4.14 Rights and Obligation of Members.** The Members shall have the rights and shall be subject to the duties and restrictions set forth in the Declaration. The Board of Directors shall have the power to suspend the right of any Member to use any of the Common Areas and/or facilities or improvement thereon for any period during which any assessment or user fee or charge against a Lot owned by such Member remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its rules and regulations. In addition, the Board of Directors shall have the right and power from time to time to suspend the voting rights of any Member who shall be in default in the payment of any charges or assessments levied pursuant to the Declaration against such Member or any Lot owned by such Member until such default shall be cured.
- 4.15 Conduct of Meetings.** The President or, in the absence of the President, the Executive Vice-President or an officer shall preside over all meetings of the Association, and the Secretary shall be responsible for keeping the minutes of the meeting and recording in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.
- 4.16 Action Without A Meeting.** Any action, except an action to assess or increase the annual or special assessment or to change the limit on annual assessments, required or permitted by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within one hundred and twenty (120) days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Texas. Such consent shall be filed with the minutes of the Association, and shall have the same force and effect as a unanimous vote of the Members.

## ARTICLE V

### NOMINATING COMMITTEE

- 5.01 Composition.** There shall be a nominating committee consisting of five (5) members, of whom two (2) shall be selected from among the elected board members of the Board of directors and three (3) shall be non-Board members elected by the Membership.
- 5.02 Method of Election, Terms, Vacancies.** Members of the nominating committee shall be elected by the Members for a term of two (2) years, or until their successors are elected, and shall not be eligible again for nominating committee membership until after a lapse of one (1) term from the end of their last term on the nominating committee. Terms of office shall begin at the close of the annual meeting at which the elections are held and shall expire at the second annual meeting of the Members thereafter. The Board of directors shall have the power to fill vacancies in the committee until the next annual meeting of the Members.
- 5.03 Selection and Term of Chair of Nominating Committee.** The chair of the committee shall be appointed by the President of the Board from among the members of the committee for a term of one year and shall serve as chair no more than one term. The chair, if not already elected to the Board of directors, shall be an ex-officio member of the Board of directors and shall serve without privilege of vote at Board of Directors meetings. A vacancy in the office of the chair of the Nominating Committee shall be filled by appointment by the President of the Board for the remainder of the unexpired term.
- 5.04 Quorum.** In order to constitute a quorum for the transaction of business at a meeting, (a) a majority of the members of the committee must be present in person, and (b) the number of elected Board members present in person at the meeting must not exceed the number of non-Board members present in person at the meeting. Members of the committee may participate in such meetings by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and participation in a meeting as provided herein shall constitute presence in person at such 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.
- 5.05 Responsibilities.** The committee shall present to the membership at each annual meeting of the members a single slate of nominees for officers of the Association and for members of the Association nominating committee. Nominations for all elected positions may be made from the floor at the meeting of the Members provided the written consent of any individuals so nominated and not present at the meeting must be presented to the president of the Board at the meeting and the eligibility of the individuals so nominated, as determined by these By-Laws, has been established.

## ARTICLE VI

### NOMINATION AND ELECTION OF DIRECTORS AND NOMINATING COMMITTEE

- 6.01 Nomination of Directors and Nominating Committee.** Prior to each annual meeting of the Members, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which each and every Member who has a bona-fide interest in serving as a Director or Nominating Committee Member may file as a candidate for any position to be filled by votes of Members and such other rules and regulations as the Board may deem appropriate to conduct the nomination and election of directors and nominating committee members in a fair, efficient and cost-effective manner.
- 6.02 Election of Directors.** Election to the Board of Directors shall be by secret written ballot. At such election each Member or their proxy in good standing may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration, Articles of Incorporation and By-Laws. There shall be no cumulative voting. The person or persons receiving the largest number of votes for a Director or Directors shall be deemed elected.

## ARTICLE VII

### BOARD OF DIRECTORS: COMPOSITION, ELECTION AND TERM OF OFFICE

- 7.01 Composition.** The Board of Directors shall consist of the officers of the Association as provided for in Section 8.01, who shall be Members of the Association in good standing. Each Director shall have one equal vote.
- 7.02 Election and Term of Office.** The Directors shall be elected at the annual meeting by the Members for a term of two (2) years with the option to be elected for a second two (2) year term after which they rotate off the Board for one (1) year. Regardless of the number of consecutive terms any person shall have served as a non-officer, such person shall be eligible to be a member of the board when serving as an officer or as chair of the nominating committee.

At the annual meeting in 2005 the Members shall elect a President, a vice President of Communications, A Vice President of Property Modification and a Treasurer to serve a term of two (2) years and an Executive Vice President, a Vice President of Landscape and a Secretary to serve a term of one (1) year. Thereafter, the terms of all Directors shall be two (2) years. Each of said Directors shall serve the length of said terms or until their successors are elected unless they have resigned or been removed from office. Terms of office shall begin at the close of the annual meeting at which elections are held.

- 7.03 Removal.** At any regular or special meeting of the Association duly called and held, any one or more of the Directors elected by the Members may be removed, with or without cause, by a majority vote of those Members voting in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created. Any such Director whose removal has been proposed shall be given at least five (5) days notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting or to communicate his position. Additionally, as determined by the President, any Director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent on the payment of assessment for more than sixty (60) days may be removed by a majority vote of the other Directors at a regular or special Board meeting.
- 7.04 Vacancies.** In the event of any vacancy resulting from the death or resignation of a Director elected by the Members, or from the removal of such a Director where the position is not filled by a vote of the Members as provided in Section 5.03, his or her successor shall be selected by a majority of the remaining members of the Board to serve until the next annual meeting, at which a successor shall be elected to serve for the unexpired term of the predecessor.
- 7.05 Compensation.** No Director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total votes in the Association, at a regular or special meeting of the Association. Any director may be reimbursed for reasonable actual expenses incurred on behalf of the Association upon approval of a majority of the other Directors.

**ARTICLE VIII**  
**OFFICERS, PROFESSIONAL MANAGEMENT AGENT**  
**AND THEIR DUTIES**

**8.01 Titles.** The officers of the Association shall be as follows:

a President; an Executive Vice President; a Vice President of Communications; a Vice President of Landscape/ Beautification; a Vice President of Property Modification; a Secretary and a Treasurer. The Professional Management Agent shall serve without privilege of vote at Board of directors, executive committee or any other meetings.

The Board of Directors may appoint assistant officers as may be deemed necessary, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors.

Any two or more offices may not be held by the same person.

**8.02 Election and Term of Office.** The officers of the Association shall be elected by the Members pursuant to Section 7.02 of these By-Laws.

**8.03 Removal and Vacancy.** Any officer may be removed by the Board of Directors pursuant to Section 7.03 of these By-Laws. Any vacancy shall be filled pursuant to Section 7.04 of these By-Laws.

**8.04 Powers and Duties of Officers and Professional Management Agent.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be conferred or imposed by the Board of Directors. Specific duties of the officers shall be as follows:

- a) **President.** The president of the Board shall be the chief corporate officer of the association and shall preside at all meetings of the association and Board of Directors. The president of the Board shall be responsible for seeing that the lines of direction given by the Members of the association and the actions of the Board of Directors are carried into effect, and for reporting to the membership and to the Board of Directors on the conduct and management of the affairs of the association. The president of the Board shall be an ex-officio member of all committees established by the Board of directors, and shall perform such other duties as are assigned by the Board or prescribed elsewhere in the By-Laws.
- b) **Vice Presidents.** Each Vice President shall have such powers and perform such duties as the Board of Directors may prescribe or as the President may delegate to him; in addition to the following specific responsibilities:
  1. **Executive Vice President** - shall preside in the absence of the president, shall assist the president in the execution of business, and shall be responsible for securing a place for Board meetings and all meetings of the Members. In addition, he shall serve as the Board liaison to the Holiday Lights Committee.
  2. **Vice President of Communications** – shall be chair of the Communications Committee; shall be responsible for the publication of a quarterly newsletter and for its distribution to all members; shall be responsible for the dissemination of the information to said members; including the publication of all votes taken by the membership at the annual meeting and Board meetings; and shall be responsible for notifying said members of special meetings. The vice president of communication must present the newsletter to the President for review prior to being published. In addition, he shall serve as the Board liaison to the Block Captain Committee.
  3. **Vice President of Property Modification** - shall be the chair of the Property Modification Committee; shall be responsible for ensuring all property modifications adhere to the guidelines set forth in the Master Plan Notebook; and shall be responsible for the annual review of, and when necessary, amending the Master Plan Notebook as described in Article 12 Section 12.06 of these bylaws.
  4. **Vice President of Landscaping/Beautification** - shall be the chair of the Landscape/Beautification Committee; shall be responsible for the maintenance and improvement of the landscaping in the Common Areas of the Association to include but not limited to plantings, trees, lighting, irrigation, signage, benches and art work; shall make recommendations to the Board of Directors for long range maintenance and improvements of the Common Areas; shall develop a Common Area Master Plan emphasizing seasonal ornamental plants, native plants with occasional use of other noninvasive plants to provide shade, reduce water consumption and erosion, and to provide food and habitat for birds and beneficial insects; and shall provide for the annual review of and every three (3) years an update to the Common Area Master Plan.

- c) **Secretary.** The Secretary shall attend all meetings of the Members and the Board of Directors, shall record all votes and the minutes of all proceedings in a book to be kept for that purpose; shall keep and be responsible for the custody of corporate books, records and files; shall keep a record of the names and addresses of all Members of the Association entitled to vote; shall give or cause to be given notice of all meetings of the Members and all special meetings of the Board of Directors; and shall perform such other duties as the Board of Directors may prescribe.
- d) **Treasurer.** The Treasurer shall be responsible for monitoring the control, receipt and custody of all assets of the Association including without limitation a record of all receipts and disbursements affecting the Association and its administration; and shall deposit all monies and other valuables in the name and the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in Article 10 Section 10.03(a) of these By-Laws and may delegate all or part of the preparation and notification duties to a finance committee, professional management agent, or both, and shall perform such other duties as the Board of Directors may prescribe.
- e) **Professional Management Agent.** The professional management agent of the Association shall be responsible for providing advice and assistance to the Association, the Board of Directors, the President and other officers, and the committees; and shall be responsible for administering the operations of the Association. The professional management agent shall have such other powers and perform such other duties as may be provided by the Board of Directors through the president.
- 8.05 **Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- 8.06 **Agreements, Contracts, Deeds, Leases, Checks, Etc.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by such person or persons as may be designated by resolution of the Board of Directors.
- 8.07 **Bonds.** If required by the Board of Directors, the Treasurer and any other officers of the Association shall give the Association a bond in such form, in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of such officers.

## **ARTICLE IX**

### **MEETINGS OF DIRECTORS**

- 9.01 **Organizational Meetings.** The first meeting of the members of the Board of Directors shall be held immediately following the annual meeting of the Members for the purpose of establishing the first regular meeting of the Board pursuant to Section 8.02 of this Article.
- 9.02 **Regular Meetings.** Regular meetings of the Board shall be held at such time and place as shall be determined by a majority of the Directors, except that the Board shall meet no less than four (4) times during each fiscal year with at least one (1) meeting per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.
- 9.03 **Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice shall be given to each director by one of the following methods: (a) by personal delivery (b) by written notice sent by first class mail, postage prepaid or (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director. All such notices shall be given or sent to the Director's business office and/or home, at the address or the telephone or telecommunication number(s) shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by any other means shall be personally delivered or communicated at least seventy-two (72) hours before the time set for the meeting. A Director may, in writing, waive first-class mail or hand delivery notice in favor of either email or facsimile notice. Such notice shall be deemed to have been properly sent once the confirmation that the email or facsimile was sent. Notices of special meetings of the Board should be given not less than seventy-two (72) hours prior to the scheduled time of the meeting

- 9.04 Waiver of Notice.** The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.
- 9.05 Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors unless the vote of a greater number is required by these By-Laws or by applicable law. If a quorum shall not be present at any meeting of directors, the directors present thereat may adjourn the meeting to a time not less than five (5) or more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business, which might have been transacted at the meeting originally called, may be transacted without notice other than announcement at the meeting.
- 9.06 Conduct of Meetings.** The President or, in the President's absence, the Executive Vice President or another officer shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.
- 9.07 Open Meetings.** All meetings of the Board (excluding workshop meetings and meetings to discuss personnel, pending or threatened litigation and other similar confidential matters) shall be open to all Members but Members other than Directors may not participate in any discussion or deliberation except in accordance with a format approved by the Directors or as follows:
- a) the Directors shall publish a meeting agenda and permit Members a reasonable opportunity to express their opinions concerning such agenda matters prior to taking any formal action: and
  - b) the Directors shall allow an "open" or "new business" portion of the meeting in which any Member can express his opinion concerning any new or previously non-discussed matter.
- The Directors shall at all times have the right to reasonably limit the number of speakers, the time limit for each presentation, and to adopt other rules of efficiency and decorum.
- 9.08 Executive Session and Workshops.** The Board may, with approval of a majority of a quorum of the Board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and other business of a similar confidential nature. The nature of any and all business to be considered in executive sessions shall first be announced in open session. The Board may also attend "workshop" meetings or sessions to discuss long-range concepts, receive educational assistance and training and the like, provided no official action of any sort is taken.
- 9.09 Action Without a Formal Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors or any committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by a majority of the members of the Board of Directors or committee, as the case may be. Such consent may also be sent via email from the email address of record with the Association. Such consent shall have the same force and effect as a unanimous vote at a meeting. An explanation of the action taken shall be recorded in the minutes at the next regular board meeting.
- 9.10 Telephone Meetings.** Subject to the provisions required or permitted by statute or the Articles of Incorporation for notice of meetings, members of the Board of Directors, or members of any committee designated by the Board, may participate in and hold a meeting of the Board or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participating in a meeting pursuant to this section shall constitute presence in person at such 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 was not lawfully called or convened.
- 9.11 Electronic meetings.** The use of electronic meetings shall be limited to the actions permitted by Section 9.09 of these By-laws.

**ARTICLE X**

**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**10.01 Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association and the management and conduct of the affairs thereof, as provided by law and may do or cause to be done all acts and things as are not expressed in the Declaration, Articles of Incorporations or these By-Laws, except as may be expressly reserved to a vote of the membership.

The Board of Directors may delegate to one or more of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of and/or matters directly or indirectly pertaining to the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

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

- a) **Powers and Duties.** Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration.
- b) **Enforce Common Area Provisions.** Enforce the provisions of the Declaration and adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon.
- c) **Assessments.** The Board shall have the power to impose reasonable assessments, which shall constitute a lien upon the property of the violating Owner, and to suspend the voting rights and right to use of the Common Area by a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association or violation of any covenant or duty imposed under the Declaration, these By-laws, or any rules and regulations of the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days for infraction of published rules and regulations; provided, however, the Association cannot suspend or limit the right of any member to use any private driveway within the properties for vehicular ingress or egress for any reason whatsoever, or abridge an Owner's right to use his individually owned Lot except where the loss or forfeiture is the result of a court judgment, arbitration decision or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessments levied by the Association. In the event that any occupant, guest or invitee of a Lot violates the Declaration, By-laws or a rule or regulation and a fine is imposed, the Owner shall pay the assessment upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so in the future.
- d) **Notice.** Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator with written notice by certified mail, return receipt requested, such notice shall contain information regarding (i) the nature of the alleged violation, (ii) the proposed sanction or sanctions to be imposed, (iii) a period of not less than 30 days within which the alleged violator may present a written request to the Board of Directors or its delegate for a hearing, (iv) a statement that one or more of the proposed sanctions may be imposed as contained in the notice unless a written request for a hearing is submitted within 30 days of the notice; and (v) if a hearing is to be held before a committee, the notice must state that the owner has the right to appeal the committee's decision to the Board by written notice to the Board. If a timely request for a hearing is not submitted, the sanction stated in the notice may be imposed.
- e) **Hearing.** If a hearing is requested within the allotted 30-day period, the hearing shall be held in executive session affording the alleged violator a reasonable opportunity to be heard. The Association shall hold a hearing under this section not later than the 30<sup>th</sup> day after the date the Board 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 date of the hearing. The Board or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the Association may make an audio recording of the meeting. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery, is entered by the officer, Director, agent or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed by the Board or, in the case of a hearing held before a delegate of the Board, the sanction recommended to be imposed.

The Board may accept or reject such recommendation or may impose an alternative sanction in its discretion. The Board shall notify the violator in writing of its action within ten (10) days after the hearing. The Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

- f) **Appeal.** Following a hearing before a delegate of the Board, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within ten (10) days after the date of written notice of the results of the hearing.
- g) **Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations, removal of unauthorized structures, and entering upon a Lot to perform needed maintenance) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.
- h) **Employ and Dismiss Personnel.** Employ, dismiss and prescribe the duties of the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Common Properties and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties. No contract for services for the Association provided shall exceed one year in duration unless prior approval of a majority of members, has been obtained by the Board.
- i) **Master Plan Notebook.** Make and amend rules and regulations as set forth in the Master Plan Notebook.
- j) **Legal Enforcement of Provisions.** Enforce by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings, which may be instituted on behalf of or against the Members concerning the Association.
- k) **Fines.** Levy a fine against any Lot Owner who shall fail or refuse to obey the Association Rules.

**10.02 Management.** The Board of Directors may employ for the Association a professional management agent or agents or executive manager each and all of whom will be sometimes referred to herein as the "Professional Management Agent" at a compensation established by the Board of Directors to perform such duties and services, as the Board of Directors shall authorize. The Board of Directors may delegate to the professional management agent, subject to the Board's supervision, all of the powers granted to the Board by these By-Laws; provided, Section 10.02 of this Article shall be exclusively exercised by the Board.

**10.03 Duties.** It shall be the duty of the Board of Directors to undertake all duties and responsibilities of the Association as expressed in the Declaration and the management and the conduct of the affairs of the Association except as expressly reserved to a vote of the membership. Such duties shall include, but are not limited to the following:

- a) Prepare and adopt the annual budget in which there shall be established the contribution of each Owner to the Common Expenses.
- b) Collect the assessments, deposit the proceeds thereof in a bank depository which it shall approve, and use the proceeds to operate the Association, provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks.
- c) Open bank accounts and/or banking-type accounts on behalf of the Association and designating the signatories required.
- d) Pay the cost of all services rendered to the Association.

- e) Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote.
- f) Supervise all officers, agents and employees of the Association and see that their duties are properly performed.
- g) As more fully provided in the Declaration, to:
  1. Fix the amount of the annual assessment against each Lot to defray the Common Expenses at least sixty (60) days in advance of each annual assessment period, establish the means and methods of collecting such assessments, and establish the period of installment payments of the annual assessment.
  2. Send written notice of each assessment to every owner subject thereto at least sixty (60) days in advance of each annual assessment period; and
  3. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- h) Issue or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- i) Procure and maintain adequate liability and hazard insurance on the Common Area as provided in the Declaration.
- j) Cause all officers and agents having fiscal responsibilities to be bonded, as it may deem appropriate.
- k) Cause the Common Area and Lots to be maintained as prescribed in the Declaration.
- l) Make or contract for the making of repairs, additions, and improvements to or alterations of the Common Properties in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty.
- m) Make available to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee, and the holders and insurer, and guarantors of a first Mortgage on any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, Master Plan Notebook or rules governing the Lot and all other books, records, and financial statements of the Association.
- n) Permit utility suppliers to use portions of the Common Properties reasonably necessary to the ongoing development or operation of the Properties.

**10.04 Accounts and Reports.** The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- a) cash or accrual accounting (as determined by the Board from time to time), as defined by generally accepted accounting principles, shall be employed;
- b) accounting and controls should conform to the established American Institute of Certified Public Accountants (AICPA) guidelines and principles;
- c) a segregation of accounting duties should be maintained, and disbursements by check shall require only one signature, except as otherwise specified by a resolution of the Board;
- d) cash accounts of the Association shall not be commingled with any other accounts;
- e) no remuneration shall be accepted by the managing agent from vendors, independent contactors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;
- f) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- g) financial reports shall be prepared for the Association at least quarterly containing:
  1. an income statement reflecting all income and expense activity for the preceding period on a cash or an accrual basis, as the Board may prescribe;
  2. a statement reflecting all cash receipts and disbursements for the preceding period;
  3. a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
  4. a balance sheet as of the last day of the preceding period; and
  5. a delinquency report listing all Owners who are delinquent in paying assessments at the time of the report and describing the status of any action to collect such assessments. (Any assessment or installment thereof shall be considered to be delinquent on the thirtieth (30) day following the due date unless otherwise specified by resolution of the Board of Directors).

- h) An annual report consisting of at least the following shall be made available for inspection by the Members in accordance with the provisions of Section 9.04 (g) within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited or reviewed basis, as determined by the Board; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Lot, the Association shall provide an audited financial statement.

- 10.05 Conflict of Interest.** An annual Conflict of Interest statement shall be signed by all members of the Board of Directors.
- 10.06 Borrowing.** The Association, acting through the Board of Directors, shall have the power to borrow money, provided the Board shall obtain specific approval of the Members of the Association, for the purpose(s) of operations, capital improvements, repair, replacement or restoration of Common Properties where such proposed borrowing has been theretofore reflected in an annual budget of the Association. The Board shall also have the power to borrow money for other purposes; provided, the Board shall obtain Member approval in the same manner provided in the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five (5%) percent of the budgeted gross expenses of the Association for that fiscal year. Notwithstanding anything to the contrary contained in the Declaration, these By-Laws, or the Articles of Incorporation, no Mortgage lien shall be placed on any portion of the Common Properties without the affirmative vote or written consent, or any combination thereof, of Members representing at least fifty-one (51%) percent of the total votes in the Association.
- 10.07 Rights of the Association.** With respect to the Common Properties, and in accordance with the Articles of Incorporation and the Declaration and to the maximum extent permitted by the applicable law, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operations, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, both within and without the Properties. Such agreements shall require the consent of a majority of the total number of Directors of the Association.

## ARTICLE XI

### COMMITTEES

- 11.01 General.** Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present.
- a) Operation. Each committee shall operate in accordance with the provisions of the Declarations of Covenants and Restrictions, these By-Laws, and the resolutions or the rules adopted by the Board of Directors designating the committee.
- b) Appointment of Chairperson. With the exception of the Property Modification Committee, the Communication Committee and the Landscape/Beautification Committee, the President shall appoint the chairperson and the members of each committee with the approval of the Board. The chairperson shall preside at the meetings and shall be responsible for transmitting any and all communications to the Board of Directors.
- c) Removal. A person will automatically be removed from a committee for failure to attend three (3) consecutive committee meetings without giving prior notice to the chair. The Board of Directors may remove any committee member by an affirmative vote of a majority of the entire Board of directors whenever in the judgment of the Board the best interests of the committee will be served thereby. Such action shall be recorded in the Minutes of the Association.
- d) Resignations. Any member of a committee may at any time resign from the committee upon written notice delivered to the Board of Directors.
- e) Vacancies. Vacancies on a committee however caused, shall be filled by the Board of Directors.
- f) Minutes. All committees so appointed shall keep regular minutes of the transactions of their meetings and shall cause them to be recorded in books kept for that purpose in the office of the association.
- g) Board Responsibility. The designation of any such committee and the delegation of authority thereto, shall not relieve the Board of Directors of any responsibility imposed by law.
- 11.02 Covenants Committee.** In addition to any other committees which may be established by the Board pursuant to Section 11.01 the Board of Directors may appoint a Covenants Committee consisting of at least five (5) and no more than seven (7) members. It shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 10.01(e).

## ARTICLE XII

### PROPERTY MODIFICATION COMMITTEE

- 12.01 Organization.** There shall be a Property Modification Committee consisting the Vice President of Property Modification and four (4) additional persons who shall be Members of the Association in good standing.
- 12.02 Designation of Members and Terms of Office.** The chairperson shall be the Vice President for Property Modification. The non Board members of Property Modifications Committee shall be appointed by the President of the Board with the approval of the Board. The term of all Property Modification Committee members appointed shall be two (2) years and shall serve for no more than two (2) consecutive terms after which they rotate off the committee for one year. Each member shall serve the length of said term unless he has resigned or been removed from the committee. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term.
- 12.03 Duties.** It shall be the duty of the Property Modification Committee to ensure all property modifications adhere to the guidelines set forth in the Master Plan Notebook; be responsible for the annual review of and when necessary amending the Master Plan Notebook; to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by these By-Laws.
- 12.04 Meetings.** The Property Modification Committee shall meet at regularly scheduled, bi-monthly meetings to properly perform its duties. The meeting schedule shall be communicated to the Members of the Association. The vote or written consent of any three (3) members shall constitute an act by the Committee unless the unanimous decision of its members is otherwise required by these By-laws. The Committee shall keep and maintain a record of all actions taken by it at such meetings or otherwise. The members of the Property Modification Committee shall be entitled to reimbursement for reasonable expenses incurred by them in the performance of any Property Modification Committee function.
- Any action required or permitted to be taken at a meeting of the Property Modification Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by a majority of the members of the committee, as the case may be. Such consent may also be sent via email from the email address of record with the Association. Such consent shall have the same force and effect as a unanimous vote at a meeting. An explanation of the action taken shall be recorded in the minutes at the next regular committee meeting.
- 12.05 Property Modification Rules.** The Property Modification Committee may, from time to time, adopt and amend and repeal, by a majority vote, rules and regulations to be known as "Property Modification Rules" subject to approval by the Board of Directors. Said Rules shall interpret and implement the provisions hereof by setting forth the standards for the architectural design or modification but not limited to, placement of buildings, drainage, landscaping, color schemes, exterior finishes and materials and similar features for the use in the Properties, PROVIDED, HOWEVER, that said Rules shall not be in derogation of the minimum standards required by the Declaration of Covenants and Restrictions and the ordinances of the City of McKinney.
- 12.06 Master Plan Notebook.** The philosophy, intent and a comprehensive description of the rules and regulations set forth by the Property Modification Committee and approved by the Board of Directors shall be defined in the Master Plan Notebook. Said Notebook and all amendments will be provided to each Lot owner and others pursuant to Section 10.03 (m) of these By-Laws
- 12.07 Application for Approval of Modifications.**
- a) Any Owner, proposing to perform any exterior modifications of any kind whatever which requires the prior approval of the Property Modification Committee pursuant to Article XII, or any other Section of the Declaration shall apply to such Committee for approval by notifying the Property Modification Committee of the nature of the proposed work with such information as the committee may require, including but not limited to (1) a site plan of the Lot showing the drainage scheme and the location of all existing and proposed improvements; (2) floor plans; (3) elevation drawings; (4) a description of exterior materials and colors and (5) the Owner's proposed construction schedule.
  - b) Failure to receive approval pursuant to this Section may result in a fine or appropriate action as per Article VI Section 29 of the Covenants and Restrictions and Article X Section 10.01 (k) of these bylaws.
- 12.08 Basis for Approval of Improvements.** The Property Modification Committee shall grant the requested approval only if,
- a) The Owner shall have strictly complied with the provisions of paragraph 12.06 above; and
  - b) The Property Modification Committee shall find that the plans and specifications conform to the Declaration, and to the Property Modification rules in effect at the time such plans were submitted to such Committee; and
  - c) The members of the Property Modification Committee shall determine that the proposed improvements would be

compatible with the standards set for the Properties and the purposes of the Declaration as to quality and workmanship and materials, as to harmony of external design with existing structures, and as to location with respect to topography and finished grade elevations.

- 12.09 Form of Approval.** All approvals given under paragraph 12.07 shall be in writing; PROVIDED, HOWEVER, that any request for approval which has not been rejected within thirty (30) days from the date of submission thereof to the Property Modification Committee shall be deemed approved.
- 12.10 Proceeding with Work.** Upon receipt of approval from Property Modification Committee pursuant to section 12.08, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavations pursuant to said approval, said commencement to be, in all cases, within three (3) month from the date of such approval. If the Owner shall fail to comply with this paragraph, any approval given pursuant to section 12.08, shall be deemed revoked unless the Property Modification Committee, upon written request of the Owner made prior to the expiration of said three month period, extends the time for such commencement. No such extension shall be granted except upon finding by the Property Modification Committee that there has been no change in the circumstances upon which the original approval was granted.
- 12.11 Failure to Complete Work.** The Owner shall in any event complete the construction, reconstruction, refinishing, or alteration of any such improvement within nine (9) months after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his agents. If Owner fails to comply with this section, the Property Modification Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of section 12.12 as though the failure to complete the improvement were a non-compliance with approved plans.
- 12.12 Inspection of Work.** Inspection of work and correction of defects there shall proceed as follows:
- a) Upon completion of any construction or reconstruction or the alteration or refinishing of the exterior of any improvements, or upon the completion of any other work for which approved plans are required under this Article, The Owner shall give written notice thereof to the Property Modification Committee.
  - b) Within sixty (60) days thereafter the Property Modification Committee, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished to substantial compliance with the approved plans. If the Property Modification Committee finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) days period, specifying particulars of noncompliance, and shall require the Owner to remedy such noncompliance.
  - c) If upon the expiration of thirty (30) days from the date of such notification, the Owner shall have failed to remedy such noncompliance, the Property Modification Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Covenants Committee or the Board shall be held regarding the alleged noncompliance. The hearing date shall not be more that thirty (30) days nor less than fifteen (15) days after notice of the noncompliance is given to the Board by the Property Modification Committee. Notice of the hearing date shall be given at least ten (10) days in advance thereof by the Board to the Owner, the Property Modification Committee and, in the discretion of the Board, to any other interested party.
  - d) At the hearing, the Owner, the Property Modification Committee and, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance and, if so, the nature of thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Board shall require the Owner to remedy or remove the same within a period of not more that forty-five (45) days from the date of the Board ruling. If the Owner does not comply with the Board ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the noncomplying improvement or remedy the noncompliance and the Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Owner to the Association the Board shall levy a reimbursement assessment against such Owner.
  - e) If for any reason the Property Modification Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt of said notice of completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans.
- 12.13 Application for Preliminary Approval.** Any Owner proposing to construct improvements requiring the prior approval of the Property Modification Committee may apply to the Committee for preliminary approval by submission of preliminary drawing of the proposed improvements in accordance with the Property Modification Rules. The purpose of the preliminary approval procedure is to allow an Owner proposing to make substantial improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required

to apply for final approval. Application for preliminary approval shall be considered and disposed of as follows:

- a) Within thirty (30) days after proper application for preliminary approval, the Property Modification Committee shall consider and act upon such request. The Property Modification Committee shall grant the approval only if the proposed improvement, to the extent its nature and characteristics are shown by the application, would be entitled to a final approval on the basis of a full and complete application. Failure of the Property Modification Committee to act within said thirty (30) day period shall constitute approval. In granting or denying approval, the Property Modification Committee may give the applicant such directions concerning the form and substance of the final application for approval, as it may deem proper or desirable for the guidance of the applicant.
- b) Any preliminary approval granted by the Property Modification Committee shall be effective for a period of ninety (90) days from the date of the issuance thereof. During said period, any application for final approval, which consists of proposed improvements in accordance with the provisions of the preliminary approval, and is otherwise acceptable under the terms of these By-laws, shall be approved by the Property Modification Committee.
- c) In no event shall any preliminary approval be deemed to be an approval authorizing construction of the subject improvements.

**12.14 Waiver.** The approval by the Property Modification Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Property Modification Committee under these, By-Laws shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

**12.15 Estoppel Certificate.** Within thirty (30) days after written demand is delivered to the Property Modification Committee by any Owner, with a maximum of two (2) requests allowed in any twelve (12) months time period, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the Property Modification Committee shall deliver an estoppel certificate, executed by any two (2) of its members, certifying (with respect to any Lot of said Owner) that as of the date thereof either (a) all improvements made and other work done upon or within said Lot comply with these By-laws or (b) such improvements or work do not so comply in which event the certificate shall also identify the noncomplying improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through him, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association and all Owners and such persons deriving any interest through them.

**12.16 Liability.** Neither the Property Modification Committee nor any member thereof shall be liable to the Association or to any owner for any damage, loss of prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications (c) the development of any property within the Properties or (d) the execution and filing of an estoppel certificate pursuant to Section 12.14, whether or not the facts therein are corrected: PROVIDED, HOWEVER, that such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of the foregoing, the Property Modification Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Property Modification Committee.

### ARTICLE XIII

**13.01 Books and Records.**

- a) **Inspection by Members and Mortgagees.** The Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, the membership register, books of account and minutes of meetings of the Members, of the Board and of committees of the Association shall be made available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member of the Association or by his duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his interest in the Lot, at the office of the Association or at such other place within the Properties as the Board shall prescribe.
- b) **Rules for inspection.** The governing body shall establish reasonable rules with respect to:
  1. notice to be given to the custodian of the records by the member desiring to make the inspection;
  2. hours and days of the week when such an inspection may be made; and
  3. payment of the cost of reproducing copies of documents requested.
- c) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make reasonable extracts and copies of documents requested.

## ARTICLE XIV

### ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for therein by non-use of the Common Area or abandonment of his Lot.

## ARTICLE XV

### CORPORATE SEAL

The Board may but shall not be required to, adopt, use and at will alter a corporate seal. Such seal, if adopted, shall be affixed to all corporate documents, but failure to affix the seal to any corporate instrument shall not affect the validity thereof.

## ARTICLE XVI

### AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the Members by the vote or written consent of:

- a) At least a bare majority of a quorum but not more than a bare majority of the voting power of the Association; and
- b) Provided that the proposed amendment shall have been included in the notice of the meeting.
- c) Whenever an amendment or new by-law is adopted, it shall be copied in the book of the By-Laws the date of the meeting at which the repeal was enacted or written assent was filed, shall be stated in such book.

## ARTICLE XVII

### CERTIFICATE OF MEMBERSHIP

- 17.01 Certificates of Membership.** The Board of Directors may (but shall not be required to) provide for the issuance of certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board. Such certificates, if issued, shall be signed by the President or a Vice President and by the Secretary or an Assistant Secretary and shall be sealed with the seal of the Association, if such a seal is adopted. All certificates evidencing membership of any class shall be consecutively numbered. The name and address of each member and the date of issuance of a certificate shall be entered on the records of the Association. If any certificate shall become lost, mutilated, or destroyed, a new certificate may be issued therefore upon such terms and conditions as the Board of Directors may determine.
- 17.02 Transfer of Membership.** Upon the sale of any Lot, the membership of the selling owner shall terminate and the certificate, if any, issued to such member shall be cancelled. The new purchasing owner shall receive a newly issued certificate if the Association has elected to issue certificate evidencing membership in the Association as provided in Section 17.01.

## ARTICLE XVIII

### MISCELLANEOUS

- 18.01 The Declaration.** All provisions contained in the Declaration with regard to rights, powers and duties of the Association, the members thereof, and the Board of Directors thereof, are hereby incorporated into these By-Laws by this reference, with the same effect as if such provisions were fully set forth herein, except as provided in Article XVI.
- 18.02 Depositories.** All funds of the Association shall be deposited to the credit of the Association and in such banks or other financial institutions as shall be designated by the Board of Directors.
- 18.03 Audits.** A certified public accountant or other independent public accountant shall be retained by the Board of directors to make an annual examination of the financial accounts of the Association. A report of all examinations shall be submitted to the Board of directors.

- 18.04 Legal Counsel.** Independent legal counsel may be retained by the Association to: a) insure compliance with federal and state requirements; b) review and advise on any, and all, legal instruments the Association executes, such as leases, contracts, property purchase, or sales; and c) review and advise on any official statements developed for the press and media.
- 18.05 Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year except the first fiscal year shall begin on the date of incorporation.
- 18.06 Parliamentary Rules.** Except as may be modified by Board resolution, Robert's Rules of Order, in its most recent revision, shall be the parliamentary authority governing the meetings of the Association, the Board of Directors, and all committees of the Association when not in conflict with Texas law, the Articles of Incorporation, Declaration, and the By-Laws (in that order) shall prevail.
- 18.07 Notices.** Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:
- a) If to a Member or Members, at the address which the Member or Members has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Members; or
  - b) If to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the professional management agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.
- 18.08 Conflict.** If there are conflicts between the provisions of federal law, Texas law, the Articles of Incorporation, The Declaration and these By-Laws the provisions of federal law, Texas law, the Articles of Incorporation, The Declaration, and the By-Laws (in that order) shall prevail.
- 18.09 Indemnification.**
- a) The Association shall indemnify any person made a party to any action, suit or proceeding, whether civil or criminal, by reason of the fact that he, his testator, or intestate, is or was a director, officer, or employee of the Association, against the reasonable expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the defense of the action, suit, or proceeding or in connection with any appeal in it. This right of indemnification shall not apply (1) to any action, suit or proceeding under the Securities Act of 1993 except payment of expenses incurred in the successful defense of such action, suit or proceeding, (2) in relation to matters as to which the director, officer or employee shall be adjudged in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty to the Association, or (3) in relation to matters in any such action, suit, or proceeding that are settled or compromised. The right to indemnification conferred by this section shall not restrict the power of the Association to make any indemnification permitted by law.
  - b) The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the association or who is or was serving at the request of the association as an officer, employee, or agent of another corporation, partnership, joint venture, trust, other enterprise, or employee benefit plan, against any liability asserted against such person and incurred by such person in any such capacity or arising out of any status as such, whether or not the corporation would have the power to indemnify such person against such liability under the provisions of this Article.
  - c) All costs of such insurance shall be paid by the Association

\*\*\*\*\* End of By-Laws\*\*\*\*\*

Amended and Restated By-Laws of the Eldorado Homeowners' Association, Inc.  
Approved by a majority vote at the March 15, 2005 Annual Meeting.

\_\_\_\_\_  
Don Christensen, President      Mike Carr, Vice President      David Ewing, Treasurer      Pam Hinterscher, Secretary

\_\_\_\_\_  
Tom Solomon, Vice President

