

DRAFT

Frost Farms
Homeowners
Association, Inc.
Proposed New
Amended and
Restated Bylaws and
Deed Restrictions
September 2016

DRAFT

Table of Contents

ARTICLE 1	2
DEFINITIONS.....	2
ARTICLE 2	5
IMPOSITION OF COVENANTS.....	5
Section 2.01. Imposition by the HOA.....	5
Section 2.02. Purpose of Covenants	5
Section 2.03. Compliance by Owners	5
ARTICLE 3	5
PLAT AND EASEMENTS.....	5
Section 3.01. Incorporation of Plat and Easements.....	5
Section 3.02. Easements	5
Section 3.03. Use of Easement by Owner.....	5
Section 3.04. No Interference with Intended Use	5
Section 3.05. No Liability for Damage.....	5
Section 3.06. No Prohibited Action Permitted.....	5
ARTICLE 4	6
USE, CONSTRUCTION, AND MAINTENANCE	6
Section 4.01. Application	6
Section 4.02. Restriction of Use	6
Section 4.03. Resubdivision of Property	6
Section 4.04. Erosion Control.....	6
Section 4.05. Landscaping.....	6
Section 4.06. Existing Trees.....	7
Section 4.07. Temporary Buildings	7
Section 4.08. Outbuildings	7
Section 4.09. Prefabricated Structures.....	7
Section 4.10. Signs.....	7
Section 4.11. Setbacks.....	8
Section 4.12. Retaining Walls and Fences.....	8

Section 4.13. Roads and Driveway 9

Section 4.14. Antennae, Etc. 9

Section 4.15. Clotheslines, Garbage Cans, Etc 9

Section 4.16. Maintenance 9

Section 4.17. Commercial and Recreational Vehicles and Trailers..... 10

Section 4.18. Recreational Equipment..... 10

Section 4.19. Non-Discrimination 10

Section 4.20. Animals 10

Section 4.21. Trash and Rubbish Removal 11

Section 4.22. Reasonable Enjoyment..... 11

Section 4.23. Chimney Stacks 11

Section 4.24. Exterior Surfaces 11

Section 4.25. Roofing 11

Section 4.26. Driveways 12

Section 4.27. Pool and Spa Equipment. 12

Section 4.28. Mailboxes 12

Section 4.29. Commercial Use 12

Section 4.30. Septic Tanks..... 12

Section 4.31. Construction Work. 12

Section 4.32. Window Coolers 12

Section 4.33. Minimum Home Size. 12

Section 4.34. Garages..... 12

Section 4.35. Flags and Flagpoles..... 12

Section 4.36. Religious Item Displays..... 13

Section 4.37. Solar Energy Devices 13

Section 4.38. Rain Barrels and Rain Harvesting Systems. 14

Section 4.39. Damaged or Destroyed Residences and Structures..... 14

Section 4.40. Traffic Sight Lines 14

Section 4.41. Laws and Ordinance 14

ARTICLE 5 14

THE ASSOCIATION 14

Section 5.01. Purpose of the Association 14

Section 5.02. Principal Office 15

Section 5.03. Registered Agent..... 15

Section 5.04. Establishment and Governance 15

Section 5.05. Board of Directors. 15

Section 5.06 Powers of the Board 16

Section 5.07 Duties of the Board 16

Section 5.08 By-Laws 17

Section 5.09 Rules and Regulations 17

Section 5.10 Membership Voting..... 17

Section 5.11 Transfer of Membership 18

Section 5.12 Rights of Members 18

Section 5.13 Restrictions on Members..... 18

Section 5.14 Annual Meeting..... 18

Section 5.15 Special Meeting..... 19

Section 5.16 Notice of Meetings..... 19

Section 5.17 Quorum 19

Section 5.18 Proxies..... 19

Section 5.19 Permanent Committees 19

Section 5.20 Membership of Permanent Committees 20

Section 5.21 Meetings of Permanent Committees..... 20

Section 5.22 Reports by Permanent Committees..... 20

Section 5.23 Temporary Committees. 20

ARTICLE 6 20

DUTIES AND POWERS OF THE ASSOCIATION..... 20

Section 6.01. General Duties and Powers of the Association 20

Section 6.02. Duty to Manage and Care for the Common Property..... 21

Section 6.03. Power to Levy and Collect Assessments 21

Section 6.04. Power to Acquire Additional Property and Construct Improvements..... 21

Section 6.05. Power to Adopt Rules and Regulations..... 21

Section 6.06. Power to Borrow Money..... 21

Section 6.07. Power to Grant Easements 21

ARTICLE 7 21

ARCHITECTURAL CONTROL 21

Section 7.01. Purpose, Powers, and Duties of the ARC. 21

Section 7.02. Operations of the ARC..... 22

Section 7.03. Design Standards..... 23

Section 7.04. Submission of Plans and Specifications..... 23

Section 7.05. Approval of Plans and Specifications 24

Section 7.06. Disapproval of Plans and Specifications..... 24

Section 7.07. Obligation to Act 24

Section 7.08. Inspection Rights 25

Section 7.09. Violations..... 25

Section 7.10. Certification of Compliance..... 25

Section 7.11. Fees 26

Section 7.12. Nondiscrimination by ARC..... 26

Section 7.13. Disclaimer as to ARC Approval 26

ARTICLE 8 26

ASSESSMENTS 26

Section 8.01. Authority. 26

Section 8.02. Assessment Obligation 26

Section 8.03. Accumulation of Funds Permitted 27

Section 8.04. Regular Assessment 27

Section 8.05. Special Assessments..... 27

Section 8.06. Specific Assessments..... 27

Section 8.07. Fines. 28

Section 8.08. Transfer Fees 28

Section 8.09. Delinquent Assessments 28

Section 8.10. Late Charges and Interest 28

Section 8.11. Uniform Rate of Assessment..... 28

ARTICLE 9 28

COLLECTION OF ASSESSMENTS..... 28

Section 9.01. Creation of Lien 28

Section 9.02. Subordination of Lien 28

Section 9.03. Prerequisites to Foreclosure 29

Section 9.04. Collection Fees. 29

Section 9.05. Costs, Attorneys’ Fees, and Expenses. 29

Section 9.06. Contact 29

Section 9.07. Non-Transferability of Lien 29

Section 9.08. Alternative Payment Schedule 29

Section 9.09. Notice and Opportunity to Cure for Certain Other Lienholders. 30

Section 9.10. Foreclosure Sale Prohibited in Certain Circumstances. 30

Section 9.11. Assessment Lien Filing. 30

Section 9.12. Attorneys’ Fees 31

Section 9.13. Notice After Foreclosure Sale. 31

Section 9.14. Right of Redemption After Foreclosure. 31

Section 9.15. Removal of Foreclosure Authority. 31

ARTICLE 10 32

ENFORCEMENT OF RESTRICTIONS 32

Section 10.01. Power to Enforce Restrictions Contained in Association Governing Documents..... 32

Section 10.02. Power of Owners to Enforce. 32

Section 10.03. Duty to Provide Notice Before Enforcement Action..... 32

Section 10.04. Hearing Before Board; Alternative Dispute Resolution 33

Section 10.05. Attorneys’ Fees. 33

Section 10.06. No Waiver..... 34

ARTICLE 11 34

COMMON PROPERTY 34

Section 11.01. Conveyance of Common Property 34

Section 11.02. Right of Enjoyment..... 34

Section 11.03. Association’s Maintenance Obligations of Common Property: 34

ARTICLE 12 35

SUBDIVISION INFORMATION 35

Section 12.01. Delivery of Subdivision Information to Owner 35

Section 12.02. Online Subdivision Information Required..... 36

ARTICLE 13 36

DURATION AND AMENDMENT 36

 Section 13.01. Duration. 36

 Section 13.02. Amendments by Owners..... 36

 Section 13.03. Amendments by Association..... 37

ARTICLE 14 38

MISCELLANEOUS 38

 Section 14.01. No Reverter 38

 Section 14.02. Severability..... 38

 Section 14.03. Headings..... 38

 Section 14.04. Gender..... 38

 Section 14.05. Notices..... 38

 Section 14.06. No Liability..... 38

 Section 14.07. Insurance..... 38

 Section 14.08. Indemnification and Hold Harmless..... 39

ARTICLE 15 40

CONDEMNATION 40

 Section 15.01. Condemnation or Other Governmental Taking. 40

 Section 15.02. Condemnation of Lots..... 41

AMENDED AND RESTATED BY-LAWS
OF FROST FARMS ADDITION

This Amended and Restated By-Laws of Frost Farms Addition (“**By-Laws**”) is made effective on the date this instrument is filed of record in the Official Public Records of Dallas County, Texas, by Frost Farms Homeowners’ Association, Inc., a Texas nonprofit corporation (“**HOA**” or “**Association**”).

RECITALS

WHEREAS, LPD, INC., a Texas corporation (“**LPD**”), was owner of certain real property in Desoto, Dallas County, Texas, being known as the Frost Farms Subdivision, (“**Subdivision**”) as recorded in the plat filed in Volume 83222, Page 1844, Official Public Records, Dallas County, Texas (“**Plat**”);

WHEREAS, LPD filed a “Certificate of Correction” to the Plat as recorded in Volume 84085, Page 2030, Official Public Records, Dallas County, Texas;

WHEREAS, Meandering Trail, as reflected on the Plat, is now known as Whispering Oaks Drive;

WHEREAS, LPD filed a “Declaration of Deed Restrictions for Frost Farms Addition” filed in Volume 83158, Page 6929, Official Public Records, Dallas County, Texas (the “**Declaration**”);

WHEREAS, the Declaration provides for the creation of the HOA and notice of formation of the HOA was filed in Volume 88077, Page 2803, Official Public Records, Dallas County, Texas;

Whereas, the HOA filed its “Frost Farms Homeowners’ Association, Inc. a Non-Profit Corporation First Amended By-laws” recorded in Volume 98003, Page 2171, Official Public Records, Dallas County, Texas (“**First Amended By-laws**”);

WHEREAS, Article X of the First Amended By-Laws provides the procedure for amending the First Amended By-Laws;

WHEREAS the HOA is a Texas corporation (i) duly organized, validly existing, and in good standing under the laws of the State of Texas; (ii) has full legal power, right, and authority to carry on its business as such is now being conducted and as contemplated to be conducted; (iii) has the legal power and right to execute these By-Laws (iv) the execution and filing of these By-Laws will not violate, nor be in conflict with, any provision of its organizational documents; and (v) the execution and filing of these By-Laws is duly and validly authorized by all requisite action on the Association;

WHEREAS, the HOA desires to amend and restate certain restrictions, easements, covenants, conditions, stipulations, and/or reservations contained in the First Amended Bylaws in these By-Laws upon and against the Subdivision in order to establish a uniform plan for its

development and improvement, and to insure the preservation of such uniform plan for the benefit of both the present and future Owners of Lots (as defined herein) in the Subdivision;

WHEREAS, upon the effective date of these By-Laws, the First Amended By-Laws shall be null and void;

NOW THEREFORE, the HOA hereby adopts, establishes, and imposes upon the Subdivision the following restrictions, easements, covenants, conditions, stipulations, reservations, assessments, and/or liens, which will run with the land and title or interest therein, or any part thereof, will inure to the benefit of each Owner in the Subdivision as a whole, whether or not set out in full or incorporated by reference in any deed or other instrument of conveyance, and that the real property as reflected in the Plat, including any amendments or corrections thereto, shall be held, transferred, sold, conveyed, and occupied subject to these Bylaws hereinafter set forth.

ARTICLE 1 **DEFINITIONS**

Section 1.01. “**Assessment**” means a regular Assessment or Special Assessment, or other amount an Owner is required to pay to the HOA (including any fines levied against an Owner) under these By-Laws or other Governing Documents described herein.

Section 1.02. “**Association**” refers to Frost Farms Homeowners’ Association, Inc., a Texas nonprofit corporation, and its successors and assigns, whose membership consists of Owners, and which is designated as the representative of Owners in the Subdivision, and manages and regulates the Subdivision for the benefit of the Owners.

Section 1.03. “**Architectural Review Committee**” or “**ARC**” will mean a committee appointed by the Board of Directors to approve or disapprove improvements to be constructed on a Lot pursuant to these By-Laws and duly adopted Design Standards as described in Article IV.

Section 1.04. “**Board of Directors**” or “**Board**” refers to the governing body of the Association, each Member of which is a “**Director**.”

Section 1.05. “**By-Laws**” will mean these By-laws once adopted by the Association and filed in the Official Public Records, Dallas County, Texas, as the same may be amended from time to time.

Section 1.06. “**Collection Agent**” means a debt collector, as defined by Section 803 of the Federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692a).

Section 1.07. “**Common Property**” or “**Common Area**” shall include the HOA’s gate house at the entrance to the Subdivision, the fences, medians or walls surrounding the exterior of the Subdivisions and the land thereunder, and the land between the aforementioned fences or walls and the property owned or maintained by the City of Desoto, Texas, as well as any and all real and personal property in the Subdivision (including improvements) owned by the Association or in

certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners, as set out in Article 11 herein.

Section 1.08. “**Contractor**” refers to the person or entity with whom the HOA or any Owner contracts to construct a residential dwelling and/or other improvements on a Lot.

Section 1.09. “**Class of Membership.**” The Association shall have one (1) class of membership.

Section 1.10. “**Covenants**” mean the covenants, conditions, and restrictions contained in these By-Laws.

Section 1.11. “**Frost Farms**” shall mean the Subdivision.

Section 1.12. The “**HOA**” means the Association, and any successor or assigns.

Section 1.13. “**HOA Control Period**” means the period during which the HOA reserves the right to facilitate the development, construction, and marketing of the Subdivision, and a right to direct the size, shape, and composition of the Subdivision. The HOA Control Period will terminate twenty (20) years after the date of the recording of these By-Laws; provided however, these By-Laws shall automatically renew at the expiration of each twenty (20) year term unless one (1) year prior to these By-Laws expiring, the HOA files a document in the Official Public Records, Dallas County, Texas signed by sixty-seven percent (67%) of the total votes allocated to the HOA Owners entitled to vote evidencing their consent to these By-Laws expiring.

Section 1.14. “**Good Standing**” means a Member (1) who is not delinquent in any Assessment, (2) who, along with the Member’s lessees, guests, and invitees, are not in violation of the Governing Documents, and (3) whose Lot, Residence, and Structures are not in violation of the Governing Documents.

Section 1.15. “**Governing Documents**” means each governing instrument covering the establishment, maintenance, and operation of the Subdivision. The term includes, but is not limited to, the Dedicatory Instrument as defined by the Texas Property Code, these By-Laws, Architectural Design Standards, Rules and Regulations, Open Records and Records Retention Policies, and Alternative Payment Schedule, and all lawful amendments. Governing Documents will have no effect until filed in the Official Public Records of Dallas County, Texas.

Section 1.16. “**Lot**” refers to each tract of land designated as a Lot on the Plat, including any improvements thereon, but excluding the Common Property.

Section 1.17. “**Managing Agent**” means the Association’s designated representative as it appears on the Management Certificate.

Section 1.18. “**Management Certificate**” means the instrument required to be recorded pursuant to Section 209.004 of the Texas Residential Property Owners Protection Act.

Section 1.19. “**Member**” refers to every Owner who holds membership in the Association by virtue of ownership of a Lot.

Section 1.20. “**Owner**” or “**Homeowner**” means the holder of record title, whether one or more persons or entities, of fee simple title to any Lot that is part of the Subdivision; provided however, no mortgagee shall be considered an Owner unless and until the Mortgagee has foreclosed on a Lot.

Section 1.21. “**Perimeter Wall**” means the wall or fence that is part of the Common Property and lying within the boundaries of the Subdivision.

Section 1.22. “**Perimeter Wall Landscaping**” means any grass, trees, shrubbery, groundcover, or other plantings, and any sprinkler system or systems that are installed or maintained by the HOA between the Perimeter Wall and the edge of the pavement of the adjacent roads or the area owned or maintained by the City of Desoto, Texas.

Section 1.23. “**Plat**” means the Plat of the Subdivision and any replat, amendments, or corrections thereto recorded in the Official Public Records, Dallas County, Texas in accordance with these By-Laws.

Section 1.24. “**Property**” means that certain real property in Dallas County, Texas, being known as Frost Farms Addition, an Addition to the City of Desoto, Texas, according to the Plat.

Section 1.25. “**Residence**” means a detached building designed for and used as a dwelling by a Single Family and constructed on a Lot; provided however, no such building will become a Residence until a certificate of occupancy has been issued by the appropriate governmental authorities as a prerequisite to the occupancy of such Residence. The Owner of a Residence will notify the Association or its designee immediately upon issuance of a certificate of occupancy for the Residence.

Section 1.26. “**Rules and Regulations**” or “**Rules**” mean the Rules and Regulations of the Association adopted by the Board as may be amended from time to time.

Section 1.27. “**Single Family**” means a group of individuals related by blood, adoption, or marriage, and any caregiver employed by the Owner.

Section 1.28. “**Structure**” means any improvement (other than a Residence) on a Lot, including but not limited to a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

Section 1.29. “**Texas Residential Property Owners Protection Act**” refers to Texas Property Code Chapter 209, as same may be amended in whole or in part, and any successor statutes.

Section 1.30. “**Transfer Fee**” means a fee or charge payable for a change of ownership entered in the records of the Association.

ARTICLE 2
IMPOSITION OF COVENANTS

Section 2.01. Imposition by the HOA. The HOA imposes the Covenants as reflected in these By-Laws on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants.

Section 2.02. Purpose of Covenants. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, person or entities holding an interest in a Lot, and all invitees, licensees, and trespassers.

Section 2.03. Compliance by Owners. Each Owner and occupant of a Lot agrees to comply with the Governing Documents and agrees that failure to comply may subject him to a fine, an action for amounts due to the Association, damages, or injunctive relief.

ARTICLE 3
PLAT AND EASEMENTS

Section 3.01. Incorporation of Plat and Easements. The Plat, including but not limited to all building line setbacks thereon, and all easements shown of record affecting the Property are part of these By-Laws and are incorporated by reference.

Section 3.02. Easements. The HOA hereby expressly reserves to the HOA, its successors and assigns, easements in, on, over, and under any part of the Common Property for the purpose of erecting, installing, constructing, and maintaining the Common Property.

Section 3.03. Use of Easement by Owner. An Owner may use that portion of a Lot lying in an easement for any purpose that does not interfere with the purpose of the easement or damage any Common Property. Owners do not own the Common Properties.

Section 3.04. No Interference with Intended Use. No Owner has any right to the Common Property manner that is inconsistent or that interferes with the intended use for such easement.

Section 3.05. No Liability for Damage. The HOA is not liable for damage to any Residence, Structure, or personal property on a Lot caused by the Perimeter Wall.

Section 3.06. No Prohibited Action Permitted. None of the covenants, restrictions, or easements created or imposed by these By-Laws will be construed as permitting any action prohibited by the recorded Plat, applicable zoning laws, or by the laws, rules, or regulations of any governmental body. In the event of any conflict between such laws, rules, or regulations and the covenants, restrictions, and easements created or imposed by these By-Laws, the most restrictive provision will govern and control.

ARTICLE 4
USE, CONSTRUCTION, AND MAINTENANCE

Section 4.01. Application. The covenants and restrictions contained in Article 4 will pertain and apply to all Lots and to all Residences and Structures erected or placed thereon. Any physical conditions that currently exist and in conformance with City of DeSoto code restrictions, that are now being construed as a violation, shall be grandfathered in and not considered to be in violation of these By0Laws, provided that such physical conditions were completed before this documented was adopted.

Section 4.02. Restriction of Use. Except as provided below, no building will be erected, altered, placed, or permitted to remain on any Lot other than one dwelling unit per each Lot to be used for Single Family residential purposes. All Residences, Structures, and other improvements erected, altered, or placed on a Lot will be of new construction. No trailer, mobile home, tent, or shack, will be placed on a Lot. No duplexes or other attached housing for more than one dwelling unit will be erected on any Lot. No part of the Subdivision will ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other non-residential purposes. This restriction does not prohibit an Owner from using a Residence for personal business, or professional purposes, provided that: (i) such use is incidental to the Residence's residential use; (ii) such use conforms to all applicable laws and ordinances; (iii) there is no external evidence of such use, including, without limitation, external signage, excessive number of cars parked outside of the Residence, or the emission of odors; (iv) there is no interference with any other Owner's use and enjoyment of its Lot; and (v) such use does not entail excessive deliveries to, or pickups from the Residence by the public, employees, suppliers, or clients, such activity to be monitored by the Board and may be determined to be in violation of these By-Laws in the sole discretion of the Board. All Residences and Structures must be aesthetically compatible with the Subdivision, as determined by the ARC.

Section 4.03. Resubdivision of Property. No Lot may be split, divided, subdivided, or combined with another lot without the prior written approval of the ARC.

Section 4.04. Erosion Control. No activity that may create erosion or siltation problems will be undertaken on any Lot without the prior written approval of the ARC of plans and specifications for the prevention and control of such erosion or siltation. The ARC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 4.05. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the ARC.

Section 4.05. Landscaping. No construction or alteration of any Residence or Structure will take place without the prior written approval by the ARC of plans and specifications for the landscaping to accompany such construction or alteration. A written plan of landscaping must be submitted to

the ARC prior to installation of any materials. This plan will include a drawing to show location and description of all "hardscape" items such as fences, walls, rocks, and so forth. Landscaping will be complete in accordance with approved plans not later than sixty (60) days after: (i) final inspection by the City of Desoto, Texas, building inspector; or (ii) occupancy of a Residence, whichever is earlier. In the case of existing homes, proposed changes and additions in landscaping must be submitted for approval by the ARC in the same detail as new construction. Once the plans have been approved by the ARC, a time frame for completion of the approved changes will be agreed upon between the ARC and the homeowner.

Section 4.06. Existing Trees. No tree having a diameter of ten four inches (10") or more (measured from a point two feet (2') above ground level) will be removed from any Lot unless such removal is in conformity with approved landscaping plans and specifications submitted pursuant to the provisions of Section 4.05 hereof.

Section 4.07. Temporary Buildings. No temporary Structure will be placed upon a Lot.

Section 4.08. Outbuildings. No metal storage outbuildings will be erected, placed, or maintained upon any Lot in the Subdivision. Outbuildings or other Structures, temporary or permanent, other than the Residence or garage will be subject to approval by the ARC. Any other type of permitted outbuilding must be in keeping with the overall character and aesthetics of the Residence located on the Lot. The ARC will require prior approval of, but not limited to, all outbuildings, play structures, shade structures or pool buildings visible from the street. Any outbuilding will be required to be constructed with material and of a design that is determined by the ARC to be compatible with the design of the Residence. All playground and recreational equipment will be placed at the rear of a Lot. The ARC is hereby authorized to determine what constitutes a violation of this restriction.

Section 4.09. Prefabricated Structures. Prefabricated or factory built structures will not be employed as elements in the construction of Residences or Structures affixed to Lots or Residences within the Subdivision except by express written consent of the ARC.

Section 4.10. Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) will, without the ARC's prior written approval of plans and specifications therefore, be installed, altered, or maintained on any Lot, or on any portion of a Residence or Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" sign, such sign having a maximum face area of six (6) square feet, provided that such sign may only be displayed in the front yard of a Lot;

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ARC;

(iv) any sign required by any governmental authority having appropriate jurisdiction; and

(v) temporary signs (i.e. garage, lawn sales, etc.).

(b) All "for rent" or "for lease" signs are prohibited.

(c) The number of temporary signs must be kept to a minimum and may be put up no sooner than 24 hours in advance of a sale. Signs must be removed promptly after a sale has ended.

(d) No sign may be placed on the Common Property or the entrance areas to the Subdivision without written approval of the ARC.

Notwithstanding any language in this Section to the contrary, Owners may display on the Owner's Lot one or more signs advertising a political candidate or ballot item for an election on or after the ninetieth (90th) day before the date of the election to which the sign relates or ten (10) days after that election date. Signs will be ground-mounted and only one sign for each candidate or ballot item per Lot is allowed. Any sign that contains roofing material, siding, paving materials, flora, balloons, lights, or any other similar building, landscaping, or nonstandard decorative components; is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing Structure or object; includes the painting of architectural surfaces; threatens the public health or safety; is larger than four (4) feet by six (6) feet; violates a law; contains language, graphics, or any display that would be offensive to the ordinary person; is accompanied by music, other sounds, or streamers; or is otherwise distracting to motorists is prohibited. The Association may remove a sign displayed in violation of this Section.

Section 4.11. Setbacks. Building area setbacks will be within the building lines indicated on the Plat and as specified in the City of Desoto Zoning Ordinance (hereinafter referred to as "**Zoning Ordinance**"). In no event will the setbacks be less than those required by the Zoning Ordinance unless a variance is granted by the appropriate governmental authority and approved by the ARC. In approving plans and specifications for any proposed Residence or Structure, the ARC may require more restrictive setbacks than the minimum specified in the Zoning Ordinance for the location of such Residence or Structure. All such setbacks will be established such that they do not violate the provisions of applicable ordinances, laws, rules, regulations, or the provisions of the Plat. No Residence or Structure will be erected or placed on any Lot unless its location is consistent with such setbacks.

Section 4.12. Retaining Walls and Fences. No fence or wall of any kind will be erected, maintained, or altered on any Lot without the prior written approval of the ARC of plans and specifications for such fences and walls. No fence or wall will be constructed in violation of any applicable ordinances, laws, rules, regulations, or the provisions of the Plat.

Fences and screening may be used within the Subdivision to define private spaces or to attract or to divert attention to or from particular views. Certain objects that may be fenced or screened

include: (i) free standing utility apparatus, e.g. transformers, switching equipment, etc.; (ii) exterior, ground level machinery, e.g. heating and air conditioning equipment; (iii) outside storage and service areas for equipment and supplies; and (iv) refuse containers and related storage areas.

General guidelines for new fence construction will include: (i) no fence will be constructed more than eight feet (8') above grade in height; (ii) landscape planting as an integral component; (iii) no woven metal or chain link fences will be allowed except as approved by the ARC as small area pet enclosure (i.e. dog run), such pet enclosures to be screened by privacy fencing from direct view from the street as well as other fencing and/or plant materials as may be required and approved by the ARC; and (iv) no fence that completely blocks vision will be constructed except where the need for privacy is evident and approved by the ARC.

Any fence erected in front of the front building line on any lot in Frost Farms shall, be constructed of stucco, stone, brick, or ornamental iron. Any fence constructed shall be maintained in good repair. No concrete fences shall be allowed.

Section 4.13. Roads and Driveway. No road or driveway will be constructed or a portion of a road or driveway altered on any Lot without the prior written approval of the ARC of plans and specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standard of the ARC. No road or driveway will be constructed in violation of any applicable ordinances, laws, rules, regulations, or the provisions of the Plat.

Section 4.14. Antennae, Etc. All antennae, satellite dishes, or electronic devices of any type placed on any Residence, Structure, or Lot will be in a location not visible from the street, unless such placement would not allow reception of an acceptable quality signal. In no event shall such devices be placed in the front yard, unless approved by ARC.

Section 4.15. Clotheslines, Garbage Cans, Etc. All clotheslines, equipment, garbage cans, and woodpiles will be kept screened by adequate planting or fencing so as to conceal them from view by neighboring Residences and streets, and may be maintained in the rear yard on a Lot only.

Section 4.16. Maintenance. The Owner of each Lot will maintain the improvements, sod, trees, hedges, and plantings thereon, and the adjacent street right-of-way in a neat and attractive condition. Such maintenance will include regular mowing, weeding of plant beds, fertilizing, weed control, and watering of the turf and landscape areas on each Lot. Diseased or dead plants or trees must be removed and replaced within a reasonable time frame. On front lawns and wherever visible from any street, there will be no decorative appurtenances placed, such as sculptures, birdbaths, birdhouses, fountains, or other decorative embellishments unless such specific item(s) has been approved in writing by the ARC. In the event an Owner of a Lot fails to maintain the Lot as required by these By-Laws, the Association will have the right, after proper notice and hearing as required by law (provided at the end of such time such action has not already been taken by such Owner), (i) to mow or edge the grass thereon; (ii) to remove any debris therefrom; (iii) to trim or prune any tree, hedge, or planting that, in the opinion of the Board, by reason of its location or height or the manner in which it has been permitted to grow, is detrimental to the enjoyment of

adjoining property or is unattractive in appearance; (iv) to repair or stain/paint any fence thereon that is out of repair or not in harmony, with respect to color, with fencing on adjacent property; and (v) to do any and all things necessary or desirable in the opinion of the Association to place such property in a neat and attractive condition consistent with the intention of these By-Laws. The person who is the Owner of such property at the time such work is performed by the Association will be personally obligated to reimburse the Association for the cost of such work incurred by the Association (including, but not limited to pre-litigation attorneys' fees) and such amount will become a specific Assessment levied against the Owner as provided in Section 8.08 of these By-Laws

Section 4.17. Commercial and Recreational Vehicles and Trailers. No commercial vehicle, commercial use truck, bus, trailer, mobile home, recreational vehicle, camper, truck with camper top, boat, boat trailer, self-propelled or towable equipment, or machinery of any sort, or any item deemed offensive by the ARC or the Association, will be permitted on any Lot. Additionally, the aforementioned and all other vehicles will not be permitted to be parked on any street in the Subdivision overnight. No junk vehicles in disrepair or neglect will be stored, repaired, or displayed on any Lot, street, or otherwise in the Subdivision. Notwithstanding the foregoing, any such vehicles or equipment may be stored on a Lot, provided such vehicle or equipment is kept in an enclosed garage and is concealed from view by neighboring Residences and streets. No vehicle will ever be permitted to be parked on the lawn of any Lot. The Board reserves the right to restrict street right-of-way parking on specific streets within the Subdivision when street parking could cause restricted street access to normal traffic flow or emergency vehicles.

Section 4.18. Recreational Equipment. Recreational and playground equipment will be placed or installed only upon the rear of a Lot. Basketball goals may be placed adjacent to the driveway if the backboards are installed behind the front building line.

Section 4.19. Non-Discrimination. No Owner or person authorized to act for an Owner will refuse to sell or rent, refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot or Residence, to any person or persons because of race, color, religion, sex, age, or national origin. Anything in these By-Laws to the contrary notwithstanding, this covenant will run with the land and will remain in effect without any limitation in time.

Section 4.20. Animals. No agricultural animals may be kept on any Lot and no animals, including birds, insects, reptiles, sheep, goats, cattle, poultry, lions, tigers, monkeys, chimpanzees, orangutans, gorillas, swine, or any carnivorous or dangerous animals (the determination as to what is a dangerous animal will be in the sole discretion of the Association's Board), or livestock (except for horses which are allowed), of any kind will ever be kept in the Subdivision except that dogs, cats, or other common household pets (not to exceed a total of three animals) may be kept by the Owner or tenant of any Residence, provided they are not kept for any commercial purpose. Each property owner shall be bound by the laws, restrictions, and ordinances duly adopted by the City of DeSoto, County of Dallas, or State of Texas regarding types and number of animals which may be kept on premises. An allowance for a horse is restricted to one horse per unrestricted acre. In no instance shall the number of horses exceed two (2).

Any allowable pet that is kept in a household must be confined to its Owner's Lot either by constraints of a backyard fence, a leash, or within the residence. No animal will be permitted to run freely away from its Owner's Lot and must be controlled by a leash or trained to walk with a person unleashed. All applicable leash and licensing laws in effect in the City of Desoto and Dallas County will also apply to this animal husbandry provision. No animal will be allowed to become a nuisance in any way to another Owner.

Section 4.21. Trash and Rubbish Removal. No trash, rubbish, garbage, manure, or debris of any kind will be kept or allowed to remain on any Lot. The Owner of each Lot will remove such prohibited matter from his Lot at regular intervals at his expense, and prior to such removal all such prohibited matter will be placed in sanitary refuse containers with tight fitting lids. If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on any day that a pick-up is to be made, in order to provide access to persons making such pick-up. Except during approved construction and as approved by the appropriate governmental authority, no person will burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Property. Except for building materials employed during the course of construction of any Residence or Structure approved by the ARC, no lumber, metals, bulk materials, or solid waste of any kind will be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards. Reasonable amounts of construction materials and equipment may be stored upon a Lot for reasonable periods of time during the construction of improvements thereon. Sewage disposal shall be by and through the City of Desoto.

Section 4.22. Reasonable Enjoyment. No nuisance will ever be erected, placed, or suffered to remain upon any Lot in the Subdivision and no Owner of, or resident of, any Lot in the Subdivision will use the same so as to endanger the health or disturb the reasonable enjoyment of any other Owner or resident. No noxious or offensive activity will be carried on upon any Lot, nor will anything be done thereon that may be or may become an annoyance or nuisance to the community. The Association's Board is hereby authorized to determine what constitutes a violation of this restriction.

Section 4.23. Chimney Stacks. Chimney stacks on the front of Residences must sit on foundations veneered with brick, stone, or other approved material as applicable to each individual Residence.

Section 4.24. Exterior Surfaces. All Residences will be constructed of at least eighty percent (80%) fired brick or stucco and must comply with the building code of the City of Desoto. Any outbuildings, barns, storage sheds or the like shall be constructed of like material and architectural design.

Section 4.25. Roofing. Roofing material and color will be specified in the plans submitted to the ARC for approval. Roofs on any Residence shall be covered with No. 1 Cedar shingles, Cedar shakes, concrete tile, clay tile, standing seams, copper, slate, or other material approved by the ARC, and the pitch of the roof shall be a minimum of seven inches (7"). Notwithstanding anything herein, with the approval by the ARC, Owners may install shingles that are designed to be wind and hail resistant, provide heating and cooling efficiencies greater than and are more durable than those provided by customary composition shingles, and/or provide solar generation capabilities;

provided, however, when installed, they must resemble the shingles used or otherwise authorized for use on Lots in the Subdivision, and match the aesthetics of the Subdivision.

Section 4.26. Driveways. Driveways will be constructed with concrete or other hard surface material such as paving stones or brick that is compatible with the overall landscape flatwork scheme and as approved by the ARC. Existing trees, topography, and landscape planning should be taken into consideration and where possible driveways should curve. Front yard circular driveways and off street parking areas may be approved at the discretion of the ARC.

Section 4.27. Pool and Spa Equipment. Plans for proposed swimming pools, hot tubs, surrounding decks, fencing, and screening must be submitted for approval before any cleaning, grading, or construction is commenced. All swimming pools and hot tubs must be fenced in accordance with the applicable City of Desoto Ordinance, if applicable. No above-ground pools will be allowed.

Section 4.28. Mailboxes. All curbside mailboxes must be constructed from material similar to that of main residence. Metal boxes on wooden posts are restricted. All mailboxes must be approved by the ARC.

Section 4.29. Commercial Use. No activity, whether for profit or not, that is not related to Single Family residential purposes, will be carried on any Lot as provided in Section 4.02.

Section 4.30. Septic Tanks. No cesspool, septic tank, or privy will be placed or maintained on any Lot.

Section 4.31. Construction Work. Except in an emergency, or when other unusual circumstances exist as determined by the Board, outside construction work or noisy interior construction work will be permitted only after 8:00 A.M. and before 6:00 P.M. Construction of a Residence shall begin within one (1) year of the prior residence being removed from the Lot, and the construction shall be completed within two (2) years.

Section 4.32. Window Coolers. No window or wall type air conditioners or water coolers will be permitted to be used, erected, placed, or maintained on or in any Residence or Structure on any part of the Lot.

Section 4.33. Minimum Home Size. No Residence will be located on any Lot unless it will meet or exceed the minimum square feet (heated living area) requirement established by any applicable zoning ordinance or in no event will the minimum square feet be less than 2,500. No residence shall be built on a lot less than one (1) acre.

Section 4.34. Garages. All garages shall be constructed in a manner where it does not open from the street side of the Residence and said garage door or opening cannot be seen from the street on which the house fronts. No carports will be permitted on any Lot.

Section 4.35. Flags and Flagpoles. Subject to this Section, and approval by the ARC, Owners may display a flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States armed forces. The flag of the United States will

only be displayed in accordance with 4 U.S.C. Sections 5-10, which qualify the times and occasions for the flag's display, the position of the flag, and respect for the flag. The flag of the State of Texas will only be displayed in accordance with Chapter 31 of the Texas Government Code, as the same may be amended in whole or in part, and any successor statutes. A flagpole attached to a dwelling or a freestanding pole is to be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling on the Lot. The display of the flag, and its location and construction of the supporting flagpole will comply with appropriate ordinances, easements, and setbacks of record, and a displayed flag and flagpole on which it is flown will be maintained in good condition. Any deteriorated flag or structurally unsafe flagpole will be repaired, replaced, or removed. A flagpole attached to the dwelling on a lot may not exceed six feet (6') in height. A freestanding flagpole will not exceed twenty feet (20') in height, measured from the ground base to the top of the flagpole. Only the HOA may install flagpoles or display flags on the Common Property.

Section 4.36. Religious Item Displays. Subject to this Section, and approval by the ARC, Owners may display or affix on the entry to the Owner's Residence one or more religious items, the display of which is motivated by the Owner's or resident's sincere religious belief. No religious item may individually or in combination exceed twenty-five (25) square inches, and will not extend past the outer edge of the door frame of the dwelling. Notwithstanding the foregoing, the display or affixation of a religious item on an Owner's Residence that threatens public health or safety, violates a law, or contains language, graphics, or any display that is patently offensive to a passerby is prohibited. This Section does not authorize an Owner to use material or color for an entry door or door frame, or make an alteration to the door or door frame of the Owner's Residence that is not authorized by the ARC. The Association may remove an item displayed in violation of this Section.

Section 4.37. Solar Energy Devices. Subject to this Section, and approval by the ARC, within forty-five (45) days of submission of a plan, Owners may install solar energy devices on the roof of the Residence or other permitted improvement on a Lot, or in a fenced yard or patio not taller than the fence line. As used in Section 202.010 of the Texas Property Code, "solar energy device" has the meaning assigned by Section 171.107 of the Tax Code, which defined the term as "a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar generated power." The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. A solar energy device is not permitted anywhere on a Lot except on the roof of the Residence or other permitted Structure on the Lot or in a fenced yard or patio within the Lot. A solar energy device may not extend higher than the Residence's or other permitted improvement's roofline, and will conform to the slope of the roofline, will have a frame, support bracket, or visible piping that is a silver, bronze, or black tone commonly available in the marketplace, and will be located on a roof as designated by the ARC, unless an alternate location increases the estimated annual energy production of the device by more than ten percent (10%) above the energy production of the device if located in the area designated by the ARC. For determining estimated annual energy production, the parties will use a publicly available modeling tool provided by the National Renewable Energy Laboratory. A solar energy device located in a fenced yard or patio will not be taller than or extend above the fence enclosing the yard or patio. Solar devices should not be visible from the street. A solar energy device will not be installed on

a Lot in a manner that voids material warranties. A solar energy device that threatens the public health or safety, violates a law, or is located on the Common Property is prohibited. The ARC may not withhold approval if the guidelines of this Section are met or exceeded, unless the ARC determines in writing that placement of the device as proposed constitutes a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes *prima facie* evidence that substantial interference does not exist.

Section 4.38. Rain Barrels and Rain Harvesting Systems. No rain barrel or rainwater harvesting system will be permitted on the Common Property or located on a Lot between the front of the dwelling and an adjoining or adjacent street, be of a color inconsistent with the color scheme of the Owner's dwelling, display any language or other content that is not typically displayed by a barrel or system as it is manufactured. The ARC will regulate the size, type, and shielding of, and the materials used in the construction of a rain barrel, rainwater harvesting device, or other appurtenance that is located on the side of a dwelling or any other location that is visible from a street, another Lot, or the Common Property, if it does not prohibit the economic installation of the device or appurtenance on the Owner's Lot. There must be reasonably sufficient area on a Lot to install these devices and appurtenances.

Section 4.39. Damaged or Destroyed Residences and Structures. Any Residence or Structure that is damaged must be repaired within thirty (30) days (or within a period approved by the ARC) and the Lot restored to a clean, orderly, and attractive condition. Any Residence or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within sixty (60) days and the Lot restored to a clean and attractive condition. If homeowner needs more time due to insurance delays, the ARC may make special provisions.

Section 4.40. Traffic Sight Lines. No landscaping that obstructs traffic sight lines may be placed on any Lot.

Section 4.41. Laws and Ordinance. Owners, their lessees, guests, and invitees, will comply with all laws, ordinances, and statutes applicable to their Lot and the Subdivision, and any violation may be considered a violation of these By-Laws or other Governing Documents.

ARTICLE 5 **THE ASSOCIATION**

Section 5.01. Purpose of the Association. The purpose of the Association is to maintain the Common Area, if any, of Frost Farms, provide an organized representative to the City of DeSoto regarding matters in our best interest, provide for common services, maintenance, preservation and architectural control, collection of disbursements and charges hereinafter prescribed, administer and enforce the covenants and restrictions, to represent our interest to any other community or social organization in support of Subdivision interest, and to execute and perform all powers, duties and functions as provided in the Declaration of Deed Restrictions and the Bylaws, and to enforce the provisions thereof.

Section 5.02. Principal Office. The principal office of the Association shall be located in the City of DeSoto, Dallas County, Texas. The Association may have such other offices or meeting places, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Association may require from time to time. The current registered office of the Association is located at P.O. Box 526, DeSoto, Dallas County, Texas, 75123-0526.

Section 5.03. Registered Agent. The Association shall have and continuously maintain in the State of Texas as registered office, and a registered agent whose office is identical with such registered office, as required by the applicable law. The registered office may be, but need not be identical with the principal office of the Association in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors. Directors must notify members of any address change.

Section 5.04. Establishment and Governance. The Association was established by filing its Certificate of Formation with the Office of the Secretary of State of Texas on July 20, 1987, and is governed by the Certificate of Formation, these By-Laws, and the First Amended By-Laws. The Association has the powers of a nonprofit corporation and property owners association under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents.

Section 5.05. Board of Directors. The affairs of the Association will be managed by a Board of Directors. The Association shall have a Board of Directors consisting of seven (7) Members. The Board of Directors shall elect from its membership one of the Members to serve as Board President, Secretary/Treasurer and Vice President. The term of office for the directors shall be for a one (1) year period. However, at least three (3) directors will be voted to remain an additional year for organization continuity, making the typical service for each director two consecutive years. Subject to availability of volunteers for service, the Board can make an exception to the three (3) director carryover and the two (2) year maximum service. All Directors of the Association must remain members in good standing during their term of office. They shall act at all times in the best interests of the Association and shall represent the best interests and desires of a majority of the Membership. Each Director shall, at all times, act in furtherance of the general objectives of the Association. Should any Director's political, commercial, personal, or other interests conflict with the best interests of the Association, the other Directors may, at their discretion, ask the Director to resign, or proceed directly to removal procedures set forth herein. Any Director may be removed from the Board with or without cause by a majority vote of the members of the Association present, either in person or by proxy, at any special or annual meeting. The Board of Directors shall prepare the budget for the Association and approve all bills or other obligation over \$150.00 for any one cause, item or group of related items arising in any one (1) calendar month, that was not provided for in the approved budget. No Director(s) shall be authorized, without approval from the Board, to represent the Association in any contract, agreement, or purchase of any kind. No Director shall receive compensation for any service to the Association; however, a Director may be reimbursed for actual expenses incurred in the performance of his duties upon the affirmative vote of a majority of the disinterested Directors. The President shall preside at all meetings of the Board. If the President is absent from the Board meeting, the Vice President shall perform the duties assigned the President. The minutes of all meetings and proceedings of the Board of Directors shall be taken and preserved by the Secretary of the Association. A regular meeting of the Board of Directors shall be held at least once during each quarter at a time and place selected by the Board at their previous meeting or at a time and

place selected by the President of the Board of the Association. Members shall be notified of time and place and meeting agenda. A special meeting of the Board of Directors may be called by the Association's President or by any three (3) Directors. All meetings of the Board of Directors shall be open to any member of the Association. At any meeting of the Board of Directors, a quorum shall be constituted when at least four (4) of the seven (7) Directors are in attendance. A quorum shall be required to transact business.

Section 5.06 Powers of the Board. The Board shall have all of the powers of a non-profit corporation as provided by the Texas Business Organizations Code, including, but limited to the following:

- (a) 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, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association;
- (c) 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 Declaration, or the other Dedicatory Instruments;
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (e) Employ an independent contractor, as they deem necessary, and to prescribe their duties; and, require each contractor to provide liability insurance and/or workmen compensation insurance for their employees;
- (f) Fix the amount of the annual and/or special assessment against each Homeowner; and
- (g) If, as and when the Board, in its sole discretion, deems necessary it may take action to protect or defend the Common Area from loss or damage by suit or otherwise, to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements.

Section 5.07 Duties of the Board. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at an Annual Meeting of the Members, or at any Special Meeting with such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- (b) Supervise all contractors of this Association, and to see that their duties are properly performed:

- (c) As more fully provided herein and in the Declaration, to:
- fix the amount of the Annual Assessment and Special Assessment against each Homeowner;
 - send written notice of each assessment to every Owner subject thereto prior to the commencement of each Annual Assessment period; and,
 - in the discretion of the Board, file a lien against any property for which Assessments are not paid or bring an action at law against the Owner personally obligated to pay the same. Homeowners accept responsibility for the payment of legal fees and court costs should prosecution be necessary.
- (d) 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 of Directors for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and hazard Insurance on property owned by the Association; also procure liability insurance and directors and officers insurance for the Association in the performance of its duties;
- (f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) Cause the Common Area to be maintained;
- (h) If, as and when the Board, in its sole discretion, deems necessary it may take action to enforce the provisions of these Bylaws and the Declaration and any rules made hereunder and to enjoin and/or to seek damages from any Owner for violation of such provisions or rules.

Section 5.08 By-Laws. The Association has adopted these By-Laws to govern the organization and operation of the Association and the use and enjoyment of the Lots and Common Property; provided that the same are not in conflict with the terms and provisions in the Declaration.

Section 5.09 Rules and Regulations. The Board may adopt Rules and Regulations that do not conflict with law or the other Governing Documents. On request, Owners will be provided a copy of any Rules and Regulations.

Section 5.10 Membership Voting. The Owner(s) of a Lot shall be entitled to cast only one (1) vote per lot, and the Owners must be in agreement in order to cast that vote. A Homeowner shall be eligible for active membership without regard to race, color, national heritage or religious affiliation. Membership in the Association will be appurtenant to and will pass with the title to

every Lot upon transfer. When said Homeowner becomes a member of the Association, the spouse, any dependents, or other persons residing in the household shall become entitled to participate in the activities of the Association as defined herein as long as the Homeowner remains a member in good standing. A list of members in good standing will be maintained by the Board of Directors and will be available at every meeting where voting may occur. Each Owner of one lot shall, automatically be entitled to one vote. All Owner(s) are required to be Member(s) of the Association. To become and/or remain a Member in good standing in the Association, each Owner shall be required to pay all amounts due and owing to the Association as provided herein. Upon payment of these amounts, the Owner(s), the Owner(s) spouse and dependents, or other persons residing in the Residence shall become eligible members in good standing and shall be entitled to all benefits of the Association.

Section 5.11 Transfer of Membership. Membership in the Association is not transferable or assignable except upon the sale of the property. When a Member sells a Lot and/or Residence, the new Owner automatically assumes membership responsibility. Upon sale of the Lot and/or Residence, the seller may charge the buyer a pro rata share of the current annual assessment. If the account with the Association is in arrears, and liens may be outstanding, the Association account must be paid in full upon closing before liens are released. Each new Owner shall provide the Association with written notice, of any transfer of the fee title to a Lot to such new Owner setting forth the name, address, Lot, and exact name in which title to the Lot in question is held. A copy of the deed(s) or other instrument(s) of conveyance shall also be provided to the Association. Upon receipt of such written notice, the Association will transfer the membership to the new Owner thereof upon the books and records of the Association.

Section 5.12 Rights of Members. Each Member of the Association is eligible to serve as an officer, director, or on any committee of the Association, to vote on matters but only as provided by these By-Laws, and to attend any business or social function of the Association.

Section 5.13 Restrictions on Members. No Member of the Association may use or permit the use of the name of the Association or any information obtained through membership in the Association for any commercial purpose or any other purpose inconsistent with these By-Laws or the purposes of the Association.

Section 5.14 Annual Meeting. An annual meeting of the Association shall be held during the month of September of each year or as designated by the Board. At each annual meeting the Members will be presented the annual report of the Association, elect the new Board of Directors, and any other agenda as determined by the Board. At least 10 days before the date the Association disseminates absentee ballots or other ballots to Association Members for purposes of voting in a Board Member election, the Association must provide notice to the Association Members soliciting candidates interested in running for a position on the Board. The notice must contain instructions for an eligible candidate, being a Member in good standing, to notify the Association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request. The Association shall notify a nominee who is not in good standing of his or her ineligibility. The deadline may not be earlier than the 10th day after the date the association provides the notice required by this subsection. The Association shall include on each absentee ballot or other ballot for a Board Member election the name of each eligible candidate from whom

the Association received a request to be placed on the ballot in accordance with this section. The names of the nominees so selected shall be published in the announcement for the Annual Meeting. The election of Board Members shall be held in September at the Annual Meeting of the Association. Additional candidates may be nominated by any member of the Association at the Annual Meeting. Voting shall be by written ballot, show of hands or voice vote as prescribed and announced by the President of the Board prior to each vote. Each Homeowner in good standing shall have a maximum of one (1) vote per lot. All matters voted upon, except the amendment of these By-Laws, shall be decided by a simple majority of those voting, whether in person or by written proxy filed with the Secretary.

Section 5.15 Special Meeting. A special meeting of the Members can be called at any time by the Board whenever such action is deemed necessary by the Board or upon the written request of twenty-five percent (25%) of the Members entitled to vote.

Section 5.16 Notice of Meetings. For an election or vote taken at a meeting of the Owners, not later than the 10th day or earlier than the 60th day before the date of the election or vote, the Association shall give written notice of the election or vote to each Owner, for purposes of an Association-wide election or vote or each Owner of property in the Association entitled to vote in a particular representative election, for purposes of a vote that involves election of representatives of the Association who are vested with the authority to elect or appoint board members of the Association. For an election or vote of Owners not taken at a meeting, the Association shall give notice of the election or vote to all Owners entitled to vote on any matter under consideration. The notice shall be given not later than the 20th day before the latest date on which a ballot may be submitted to be counted. Notice of a special or annual meeting of the membership along with the agenda shall be published and mailed at least two (2) weeks prior to the meeting. Such notice shall specify the place, day and hour of the meeting and shall be deemed delivered when deposited in the United States Mail addressed to the members last known address.

Section 5.17 Quorum. The presence of fifty percent (50%) of the Members entitled to vote shall constitute a quorum to transact any official business at an Annual Meeting or a Special Meeting.

Section 5.18 Proxies. At any meeting of the Members, a Member entitled to vote may vote by proxy or absentee ballot executed in writing by the Member.

Section 5.19 Permanent Committees. The Permanent Committees of the Association and the duties of each shall be as follows:

- (a) The Residential Committee. Committee members' duties are to serve as block representatives, monitor residents moving into and out of the area, prepare and distribute the Directory (if any) and Association Newsletter (when appropriate) to Members of the Association and aid Association Board Members and committees in disseminating information. The Residential Committee will obtain written permission from each Homeowner before publishing names and telephone numbers in a directory.
- (b) The Civic Interest Committee. Committee members' duties are to monitor and support or oppose zoning and other community issues which could affect the stability,

beauty or safety of the area.

(c) The Social Committee. Committee members' duties are to plan and manage special social functions for Association members and arts, crafts and sports activities. The social committee may work with the residential committee to welcome new homeowners or send condolences in the case of death.

(d) Architectural Review Committee. Committee members' duties are set forth in Article 7 of these By-Laws.

Section 5.20 Membership of Permanent Committees. Membership in any Permanent Committee enumerated herein shall be open to any Association Member. Committee members are appointed by the Board of Directors of the Association. A President for each of the Permanent Committees shall be appointed by the elected Officers to serve for one (1) year. Until the appointment of committee members is made, the Board of Directors functions as the committee and the Board President shall appoint a temporary chair.

Section 5.21 Meetings of Permanent Committees. Permanent Committees shall meet as often as necessary to effectively carry out their duties. Such meetings shall be called and chaired by the President of that Permanent Committee.

Section 5.22 Reports by Permanent Committees. It is desirable, but not required, that the President of each Permanent Committee shall be a regular member of the Board of Directors. The President shall report regularly to the Board concerning that Permanent Committee's activities.

Section 5.23 Temporary Committees. The Board of Directors may from time to time appoint such Temporary Committees as it deems necessary to perform specific activities. The Board may also select President for the Temporary Committee; however, the President does not become a member of the Board of Directors by virtue of such appointment.

ARTICLE 6 **DUTIES AND POWERS OF THE ASSOCIATION**

Section 6.01. General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members and the HOA. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has delegated such powers (and subject to the provisions of the By-Laws), will have the duties and powers hereinafter set forth, as set forth in the other Governing Documents, and, in general, the power to do anything that may be necessary or desirable to further the common interest of the Member(s), to maintain, improve and enhance the Common Property, and to improve and enhance the attractiveness, desirability, and safety of the Subdivision. The Association, acting through the Board of Directors, the ARC, and any committee established by the Board will have the right and power to enforce the covenants and restrictions contained in these By-Laws and all other Governing Documents. The Association will have the authority to act as the agent to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers, and obligations of the Association as set forth in these By-Laws and other Governing Documents.

Section 6.02. Duty to Manage and Care for the Common Property. The Association will manage, operate, care for, maintain, and repair all Common Property and keep the same in a safe, attractive, and desirable condition for the use and enjoyment of the Members. The duty to operate, manage, and maintain the Common Property will include, but not be limited to, the management, maintenance, repair, and upkeep of the Subdivision and Common Property, as provided in Section 11.05.

Section 6.03. Power to Levy and Collect Assessments. The Association will levy, collect, and enforce the Assessments as elsewhere provided in these By-Laws.

Section 6.04. Power to Acquire Additional Property and Construct Improvements. The Association may acquire additional property (including leases) for the common benefit of Owners including improvements and personal property. The Association may construct improvements on such property and may demolish existing improvements.

Section 6.05. Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal, and enforce Rules and Regulations, and levy fines, as may be deemed necessary or desirable with respect to the interpretation and implementation of these By-Laws, the operation of the Association, the use and enjoyment of the Common Property, and the use of any other property, facilities, or improvements owned or operated by the Association.

Section 6.06. Power to Borrow Money. The Association, with the consent of a majority of the Members voting at any meeting, whether in person or by proxy, may borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvements, equipping, and maintenance of Common Property, and in aid thereof to encumber by deed of trust, mortgage or other security interest any or all of the Association's property including Common Property and revenues from Assessments, user fees, and other sources.

Section 6.07. Power to Grant Easements. The Association may grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency, or to any utility company or cable television system as permitted by law.

ARTICLE 7 **ARCHITECTURAL CONTROL**

Section 7.01. Purpose, Powers, and Duties of the ARC. The purpose of the ARC is to assure that any installation, construction, or alteration of any Residence or Structure on any Lot will be submitted to the ARC for approval (i) as to whether the proposed installation, construction, or alteration is in conformity and harmony of external design and general quality with the existing standards of the Subdivision and the Design Standards, (ii) as to the location of Residences and Structures with respect to topography, finished ground elevation, and surrounding Residences and Structures, (iii) to oversee the maintenance of the Common Areas, and (iv) to assist in enforcing the rules and regulations regarding trash, repairs, cleanliness, and other covenants contained under Article 4. To the extent necessary to carry out such purpose, the ARC will have all of the powers and duties to do each and everything necessary, suitable, convenient, or proper for, in connection

with, or incidental to the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction, or alteration of any Residence or Structure on any Lot.

Section 7.02. Operations of the ARC.

(a) Meetings. The ARC will hold meetings as may be established by the ARC. Meetings of the ARC will be held at such time and at such place as the ARC will specify. At any meeting a quorum is required. The ARC will maintain both a record of votes and minutes for each of its meetings. The ARC will make such records and minutes available at the quarterly board meetings. Any action required to be taken at a meeting of the ARC, or any action that may be taken at a meeting of the ARC, may be taken without a meeting if written consent, setting forth the action so taken, will be signed by all the members of the ARC and be filed with the minutes of the proceedings of the ARC. Such consent will have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ARC. Consent shall be allowable by email.

(b) Activities.

(i) The ARC may adopt and promulgate the Design Standards described in Section 7.03 hereof and will, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications submitted for approval to the ARC pursuant to the provisions of these By-Laws. The ARC will, as required, issue permits, authorizations, or approvals that may include specific requirements or conditions, pursuant to the provisions of these By-Laws.

(ii) Any two (2) or more members of the ARC may be authorized by the ARC to exercise the full authority of the ARC with respect to all matters over which the ARC has authority as may be specified by resolution of the ARC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified will be final and binding upon the ARC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ARC on its own motion or by the applicant to the ARC as provided in this paragraph. Written notice of the decision of such two (2) or more members will, within five (5) working days thereof, be given to any applicant for an approval, permit, or authorization. The applicant may, within ten (10) days after receipt of notice of any decision that he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ARC. Upon the filing of any such request, the matter with respect to which such request was filed will be submitted to, and reviewed promptly by, the ARC, but in no event later than thirty (30) days after the filing of such request. The decision of a Majority

of the members of the ARC with respect to such matter will be final and binding.

Section 7.03. Design Standards.

(a) The ARC may from time to time adopt, promulgate, amend, revoke, and enforce guidelines (the "**Design Standards**") for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ARC for approval pursuant to the provisions of these By-Laws;

(ii) governing the procedure for such submission of plans and specifications;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of Residences and Structures and all other matters that require approval by the ARC pursuant to these By-Laws; and

(iv) assuring the conformity and harmony of external design and general quality of the Subdivision.

(b) The ARC will cause the Design Standards to be filed of record in the Official Public Records of Dallas County, Texas, and will make a copy of same readily available to Members and prospective Members of the Association and to all applicants seeking the ARC's approval.

Section 7.04. Submission of Plans and Specifications. No Residence or Structure will be commenced, erected, placed, moved onto, or permitted to remain on any Lot, nor will any existing Residence or Structure upon any Lot be altered in any way that materially changes the exterior appearance of the Residence, Structure, or Lot, unless plans and specifications therefor are in such form and contain such information as may be reasonably required by the ARC in the Design Standards, including, without being limited to:

(a) a site plan showing the location of proposed and existing Residence and Structures on the Lot including building setbacks, open space, driveways, walkways, and parking spaces, including the number thereof, and all siltation and erosion control measures;

(b) a foundation plan;

(c) a floor plan;

(d) exterior elevations of proposed Residence and/or Structures and alterations to existing Residence or Structures, as such Residence or Structures will appear after all back-filling and landscaping are completed;

(e) specifications of materials, color scheme, lighting scheme, and other details effecting the exterior appearance of proposed Residence and Structures and alterations to existing Residence or Structures; and

(f) plans for landscaping and grading.

Section 7.05. Approval of Plans and Specifications. Upon approval by the ARC of any plans and specifications submitted pursuant to these By-Laws, two (2) copies of such plans and specifications, as approved, will be deposited for permanent record with the ARC and a copy of such plans and specifications bearing such approval, in writing, will be returned to the applicant submitting the same. Approval of any plans and specifications will not be deemed a waiver of the ARC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features, or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications, however, will be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

Section 7.06. Disapproval of Plans and Specifications. The ARC will have the right to disapprove any plans and specifications submitted pursuant to these By-Laws because of any of the following:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with these By-Laws or the Design Standards;

(c) any other matter that, in the judgment of the ARC, would be likely to cause the proposed installation, construction, or alteration of a Residence or Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards for the Subdivision as set forth in the Design Standards, or (ii) as to location to be incompatible with topography, finished ground elevation and surrounding Residences and Structures. In any case in which the ARC disapproves any plans and specifications submitted hereunder, or approves the same only as modified or upon specified conditions, such disapproval or qualified approval will be accompanied by a statement of the grounds upon which such action was based. In any such case the ARC will, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval; or

(d) failure to comply with city, county, and/or state law or ordinance.

Section 7.07. Obligation to Act. The ARC will take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ARC, if granted, together with any conditions imposed by the ARC, will be placed in writing on the

plans and specifications and will be returned to the applicant. Failure by the ARC to take action within thirty (30) days of receipt of plans and specifications submitted for approval will be deemed approval of such plans and specifications.

Section 7.08. Inspection Rights. Any employee or agent of the Association or the ARC may, after reasonable notice, at any reasonable times or times, enter upon any Lot and Residence or Structure thereon for the purpose of ascertaining whether the installation, construction, alteration, or maintenance of any Residence or Structure or the use of any Lot, Residence, or Structure is in compliance with the provisions of these By-Laws, and neither the Association, nor the ARC, nor any such agent will be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

Section 7.09. Violations. If any Residence or Structure will be erected, placed, maintained, or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ARC pursuant to the provisions of this Article, such erection, placement, maintenance, or alteration will be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ARC such violation has occurred, the ARC will notify the Association and the Association will take appropriate measures to correct the violation, as allowed by these By-Laws.

Section 7.10. Certification of Compliance.

(a) Upon completion of the installation, construction, or alteration of any Residence or Structure in accordance with plans and specifications approved by the ARC, the ARC will, upon written request of the Owner thereof or upon the ARC's own initiative, issue a Certificate of Compliance, identifying such Residence or Structure and the Lot upon which such Residence or Structure is placed, and stating that the plans and specifications have been approved and that such Residence or Structure complies with such plans and specifications. A copy of said Certificate will be filed for permanent record with the plans and specifications on file with the ARC and the Board.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section will be *prima facie* evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such Certificate will be conclusive evidence that the Residence and all Structures on the Lot comply with all the requirements of this Article, provided, however, that the Certificate will in no way be construed to certify the acceptability, sufficiency, or approval by the ARC of the actual construction of the Residence or Structures or of the workmanship, or to represent or warrant to anyone the quality, function, or operation of the Residence or Structures or of any construction, workmanship, engineering, materials, or equipment. The issuance of the Certificate will in no way be construed to certify to any party that the Residence or Structures have been built in accordance with any applicable rule or regulation.

Section 7.11. Fees. The ARC may not impose and collect a fee to cover the cost of review of plans and of inspections performed pursuant to this Article.

Section 7.12. Nondiscrimination by ARC. The ARC will not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age, or national origin. Further, the ARC in the exercise of its powers granted pursuant to these By-Laws will not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age, or national origin.

Section 7.13. Disclaimer as to ARC Approval. Plans and specifications are not reviewed for all systems, mechanical, plumbing, electrical, engineering, or structural design or quality of materials, and by approving such plans and specifications neither the ARC, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any Residence or Structure constructed from such plans and specifications. Neither the Association, the ARC, the Board, nor the officers, directors, members, employees, and agents of any of them will be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions, by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner on whose behalf plans or specifications are submitted agrees that he will not bring any action or suit against the Association, the ARC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, quitclaims, and covenants not to sue for any claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance, and hereby waives the provisions of any law that provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

ARTICLE 8 **ASSESSMENTS**

Section 8.01. Authority. The Association may levy Assessments to be used to promote the recreation, health, safety, and welfare of the residents in the Subdivision, to fund operating expenses of the Association, and to improve, repair, maintain, and replace the Common Property. Such use may include, but is not limited to, security, the acquisition, construction, improvement, maintenance, insuring, and equipping of the Common Property, maintenance of improvements or landscaping that are designated by the HOA to be maintenance obligations of the Association, the enforcement of the restrictions contained in these By-Laws, the enforcement of the Design Standards of the ARC, the payment of operating costs and expenses of the Association including, without limitation, any ad valorem real and personal property taxes on any real and personal property owned by the Association, and the payment of all principal and interest when due on all debts owed by the Association.

Section 8.02. Assessment Obligation. An Assessment against any Lot is an obligation that runs with the land and will survive any sale or transfer of the Lot to a new Owner(s) if not paid in full at closing.

Section 8.03. Accumulation of Funds Permitted. The Association will not be obligated to spend in any fiscal year all sums collected in such fiscal year by way of regular Assessments, or otherwise, and may carry forward, as surplus, any balances remaining; nor will the Association be obligated to apply such surplus to the reduction of the amount of the regular Assessment in any succeeding fiscal year, but may carry forward from fiscal year to fiscal year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purpose.

Section 8.04. Regular Assessment.

(a) Rate. Regular Assessments are on a per Lot basis as determined levied by the Board, annually.

(b) Changes to Regular Assessments. The Association, shall have the right at any time, to adjust the regular Assessment from year to year as it deems proper to meet the reasonable operating expenses and Reserve Fund requirements of the Association in order for the Association to carry out its duties hereunder.

(c) Collections. Regular Assessments will be collected annually, in advance. The date the regular Assessment is due will be set by the Board. Written notice of the regular Assessment will be sent to every Owner at least thirty (30) days before its due date. The Board may establish reasonable payment procedures to allow or require payment of the regular Assessment in installments during the Fiscal year. The Board has the authority to negotiate bad debt and the associated fees, in the best interest of a speedy settlement.

Section 8.05. Special Assessments. In addition to the regular Assessments authorized by this Article 8, the Board may levy, with such frequency as the Board deems necessary, special Assessments on a per lot basis for the purpose of paying, in whole or in part, any operating expenses, as well as the cost of any construction, reconstruction, repair, or replacement of a capital improvement on the Common Property, on any property designated by the HOA to be a maintenance obligation of the Association, or for any other purpose benefiting the Subdivision but requiring funds exceeding those available from the regular Assessments. Written notice of the terms of the special Assessments will be sent to every Owner.

Section 8.06. Specific Assessments. The Board will have the power to specifically assess any Owner pursuant to this Section as it, in its discretion, deems appropriate. Failure of the Board to exercise its authority under this Section will not be grounds for any action against the Association or the Board and will not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items that are the maintenance responsibility of the Association as provided herein:

(a) expenses of the Association that benefit less than all of the Lots that may be specifically assessed equitably among all of the Lots that are benefitted according to the benefit received; and

(b) reasonable fines as may be imposed in accordance with the terms of these By-Laws.

Section 8.07. Fines. The Board may levy a fine against an Owner for a violation of the Governing Documents as permitted by law.

Section 8.08. Transfer Fees. A transfer fee or initiation fee may be charged by the Association to reflect changes of ownership, tenancy, or occupancy on the records of the Association.

Section 8.09. Delinquent Assessments. Any Assessment not paid within thirty (30) days after it is due is delinquent.

Section 8.10. Late Charges and Interest. A late charge is assessed for delinquent payments. Delinquent Assessments accrue interest at the lower of (i) the highest legal rate of interest allowable, or (ii) the rate of eighteen percent (18%) per annum.

Section 8.11. Uniform Rate of Assessment. Both regular and special Assessments must be fixed at a uniform rate for all Lots.

ARTICLE 9 **COLLECTION OF ASSESSMENTS**

Section 9.01. Creation of Lien. In order to secure the payment of the Assessments, each Owner of a Lot in the Subdivision, by such party's acceptance of a deed thereto, hereby grants to the Association a contractual lien on such Lot, which may be foreclosed judicially pursuant to the provisions of Section 209.0092 of the Texas Residential Property Owners Protection Act and each such Owner hereby expressly grants the Association a power of sale in connection therewith.

Section 9.02. Subordination of Lien. The lien herein granted and reserved to the Association has priority over any other lien except:

(a) a lien for real property taxes and other governmental assessments or charges against a Lot;

(b) a lien or encumbrance recorded before these By-Laws is recorded;

(c) a first vendor's lien or first Deed of Trust Lien recorded before the date on which the Assessment sought to be enforced becomes delinquent under these By-Laws or other Governing Documents; and

(d) a lien for construction of improvements to a Lot or an assignment of the right to insurance proceeds on the Lot if the lien or assignment is recorded or duly

perfected before the date on which the Assessment sought to be enforced becomes delinquent under these By-Laws or other Governing Documents.

Section 9.03. Prerequisites to Foreclosure. Prior to referring an Owner's account to a Collection Agent, the Association will provide to the Owner and any lienholders written notice, by certified mail, return receipt requested, that specifies each delinquent amount and the total amount of the payment required to make the account current, describes the options the Owner has to avoid the referral including payment plan options, and provides at least sixty-one (61) days from the date of mailing to cure the delinquency before further action is taken.

Section 9.04. Collection Fees. Owners are not liable for costs that are dependent or contingent on amounts recovered, or under an agreement that does not require the Association to pay all fees for the action taken by the Collection Agent.

Section 9.05. Costs, Attorneys' Fees, and Expenses. If the Association complies with all applicable notice requirements, an Owner is liable to the Association for all costs and reasonable attorneys' fees incurred by the Association in collecting delinquent Assessments, foreclosing the Association's lien, and enforcing the Governing Documents.

Section 9.06. Contact. An agreement between the Association and a Collection Agent may not prohibit an Owner from contacting the Association's Board of Directors or Managing Agent regarding their delinquency.

Section 9.07. Non-Transferability of Lien. The Association will not sell or transfer its interest in accounts receivable except for the purpose of collateral for a loan.

Section 9.08. Alternative Payment Schedule. Pursuant to Section 209.0062 of the Texas Residential Property Owners Protection Act, the Association hereby adopts the following guidelines with regard to alternative payment schedules for delinquent Assessments and other amounts owed by an Owner:

(a) Term. The minimum term for a payment agreement will be (3) three months and the maximum will be (18) eighteen months from the date of the Owner's request for a payment plan. Subject to such minimum and maximum terms, the Association will determine the appropriate term of the payment plan in its sole discretion.

(b) Form. Any and all alternative payment agreements will be in writing and signed by the Owner and a duly authorized member of the Board of the Association.

(c) Additional Monetary Expense. So long as an Owner is not in default under the terms of the payment agreement, the Owner will not incur additional monetary expenses; however, the Owner will be responsible for all interest accruing during the term of the payment plan as well as reasonable costs associated with administering the payment plan or interest. The Board, in its sole discretion, may waive interest accruing during the term of the payment plan as well as reasonable costs associated with administering the payment plan or interest

(d) Application of Payments. If at the time the Association receives a payment, the Owner is not in default under an alternative payment agreement, the Association will apply the payment to the Owner's debt in the following order of priority: (i) any delinquent Assessment; (ii) any current Assessment; (iii) any attorneys' fees or third party collection costs incurred by the Association associated solely with Assessments or any other charge that could provide the basis for foreclosure; (iv) any attorneys' fees incurred by the Association that are not subject to subsection (iii); (v) any fines assessed by the Association; and (vi) any other amounts owed to the Association.

(e) Default. If the Owner defaults under a payment plan agreement, the account may immediately be turned over to the Association's attorney for collection. The Association will not be required to enter into an alternative payment agreement with an Owner who failed to honor the terms of a previous payment agreement during the two (2) years following the Owner's default under the previous alternative payment agreement. The Association may reduce or waive some or all of the charges addressed by this policy on an *ad hoc* basis without waiving the right to charge such fees on future requests.

Section 9.09. Notice and Opportunity to Cure for Certain Other Lienholders. The Association may not foreclose its Assessment lien judicially unless it has: provided written notice by certified mail, return receipt requested, of the total amount of the delinquency to any other holder of a lien that is inferior or subordinate to the Association's lien and is evidenced by a deed of trust; and provided the recipient of the notice an opportunity to cure within sixty-one (61) days from the receipt of the notice.

Section 9.10. Foreclosure Sale Prohibited in Certain Circumstances. The Association may not foreclose its Assessment lien for debts consisting solely of fines or attorneys' fees associated with the fines assessed, or for copy charges under its Open Records Policy, pursuant to Section 209.005 of the Texas Residential Property Owners Protection Act.

Section 9.11. Assessment Lien Filing. In addition to the right of the Association to enforce the Assessments levied hereunder, the Association may file a claim of lien against the Lot of the delinquent Owner by recording a Notice of Lien setting forth (i) the amount of the claim of delinquency, (ii) the interest thereon, (iii) the costs of collection that have accrued thereon, (iv) the legal description and street address of the Lot against which the lien is claimed and (v) the name of the Owner. The Notice of Lien will be recorded in the Official Public Records of Dallas County, Texas, is a legal instrument affecting title to a Lot, and will be prepared by the Association's attorney. When all amounts claimed under the Notice of Lien and all other costs and Assessments that may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association will execute and record a notice of satisfaction of the delinquent Assessment upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such instrument.

Section 9.12. Attorneys' Fees. All attorneys' fees, costs, and other amounts collected from an Owner will be deposited into an account maintained at a financial institution in the name of the Association or its Managing Agent. Only Board members or the Association's Managing Agent or employees of its Managing Agent may be signatories on the account. On written request from the Owner, the Association will provide copies of invoices for attorneys' fees and other costs relating only to the matter for which the Association seeks reimbursement of fees and costs.

Section 9.13. Notice After Foreclosure Sale. After the Association conducts a foreclosure sale of an Owner's Lot, the Association must send to the Owner and to each lienholder of record, not later than the thirtieth (30th) day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing the Lot Owner and each lienholder of record of the right of the Lot Owner and lienholder to redeem the property. The notice must be sent by certified mail, return receipt requested, to the Lot Owner's last known mailing address, as reflected in the records of the Association, the address of each holder of a lien on the Lot subject to foreclosure evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located, and the address of each transferee or assignee of a deed of trust who has provided notice to the Association of such assignment or transfer. Notice provided by a transferee or assignee to the Association will be in writing, will contain the mailing address of the transferee or assignee, and will be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the Association according to the mailing address of the Association pursuant to the most recent Management Certificate filed of record. If a recorded instrument does not include an address for the lienholder, the Association does not have a duty to notify the lienholder as provided by this Section. For purposes of this Section, the Lot Owner is deemed to have given approval for the Association to notify the lienholder. Not later than the thirtieth (30th) day after the date the Association sends the notice, the Association must record an affidavit in the Official Public Records, stating the date on which the notice was sent and containing a legal description of the Lot. Any person is entitled to rely conclusively on the information contained in the recorded affidavit. The notice requirements of this section also apply to the sale of an Owner's Lot by a sheriff or constable conducted as provided by a judgment obtained by the Association.

Section 9.14. Right of Redemption After Foreclosure. The Owner of a Lot in the Subdivision or a lienholder of record may redeem the property from any purchaser at a sale foreclosing the Association's Assessment lien not later than the one hundred eightieth (180th) day after the date the Association mails written notice of the sale to the Owner and the lienholder under Sections 209.010 and 209.011 of the Texas Residential Property Owners Protection Act. A lienholder of record may not redeem the Lot as provided herein before ninety (90) days after the date the Association mails written notice of the sale to the Lot Owner and the lienholder under the Texas Residential Property Owners Protection Act, and only if the Lot Owner has not previously redeemed. A person who purchases a Lot at a sale foreclosing the Association's Assessment lien may not transfer ownership of the Lot to a person other than a redeeming Lot Owner during the redemption period.

Section 9.15. Removal of Foreclosure Authority. The right to foreclose the lien on real property for unpaid amounts due to the Association may be removed by a vote of at least sixty-seven percent (67%) of the total votes allocated in the Association. Owners holding at least ten percent

(10%) of all voting interests may petition the Association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section. This section is required pursuant to Section 209.0093 of the Texas Residential Property Owners Protection Act, and should this provision be amended or repealed in any form, this section will be deemed to be automatically amended or repealed in accordance therewith.

ARTICLE 10 **ENFORCEMENT OF RESTRICTIONS**

Section 10.01. Power to Enforce Restrictions Contained in Association Governing Documents. The Association or its designated agent will have the power to enforce the provisions of these, By-Laws, Design Standards, and the Rules and Regulations and will take such action as the Board of Directors deems necessary or desirable to cause such compliance by each Owner. Without limiting the generality of the foregoing, the Association will have the power to enforce the provisions of the Governing Documents, after notice and hearing as required by law, by any one or more of the following means: (i) by entry upon any Lot within the Subdivision (unless a bona fide emergency exists in which event this right of entry may be exercised without written or oral notice to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the improvements situated thereon by the Owner or any other person), without liability in trespass or otherwise by the Association to the Owner thereof, for the purpose of enforcement; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach; (iii) by exclusion of any Owner from use of any recreational facilities within the Common Property during and for up to sixty (60) days following any breach, unless the breach is a continuing breach in which case such suspension will continue for so long as such breach continues; (iv) by levying and collecting reimbursement to the Association for the costs incurred by the Association (including, but not limited to pre-litigation attorney's fees) in connection with the remedy of such breach; (v) by levying and collecting reasonable and uniformly applied fines and penalties established in advance in the Rules and Regulations of the Association, from any Member for breach of the Governing Documents; and/or (vi) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Owner, plus attorney's fees incurred by the Association with respect to exercising such remedy.

Section 10.02. Power of Owners to Enforce. An Owner may bring an action against another Owner to enforce, or enjoin a violation of, the Governing Documents.

Section 10.03. Duty to Provide Notice Before Enforcement Action. Before the Association may suspend an Owner's right to use a Common Property, file a suit against an Owner other than a suit to collect a regular or special assessment or foreclose under an Association's lien, charge an Owner for property damage, or levy a fine for a violation of the By-Laws, or Rules and Regulations of the Association, the Association or its agent must give written notice to the owner by certified mail. The notice must describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner, and if Owner has not been previously given notice under this section and the opportunity to exercise any rights available under this section in the preceding six (6) months, inform the Owner that the Owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension if the violation

is of a curable nature and does not pose a threat to public health or safety, may request a hearing under Section 209.007 of the Texas Residential Property Owners Protection Act on or before the 30th day after the date the notice was mailed to the owner, may have special rights or relief related to the enforcement action under federal law, including the Service members Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the Owner is serving on active military duty, specify the date by which the Owner must cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety, and be sent by certified mail, return receipt requested to the Owner at the Owner's last known address as shown on the association records. The date specified in the notice under Subsection must provide a reasonable period to cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety. If the owner cures the violation before the expiration of the period for cure described, a fine may not be assessed for the violation. For purposes of this section, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident. For purposes of this section, a violation is considered incurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For purposes of this subsection, the non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy. The following are examples of acts considered incurable for purposes of this section: (1) shooting fireworks; (2) an act constituting a threat to health or safety; (3) a noise violation that is not ongoing; (4) property damage, including the removal or alteration of landscape; and (5) holding a garage sale or other event prohibited by the Governing Documents. The following are examples of acts considered curable for purposes of this section: (1) a parking violation; (2) a maintenance violation; (3) the failure to construct improvements or modifications in accordance with approved plans and specifications; and (4) an ongoing noise violation such as a barking dog.

Section 10.04. Hearing Before Board; Alternative Dispute Resolution. If the Owner is entitled to an opportunity to cure the violation, the Owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the Board or before the Board of Directors if a committee is not appointed. If a hearing is to be held before a committee, the notice prescribed by Section 209.006 of the Texas Residential Property Owners Protection Act must state that the Owner has the right to appeal the committee's decision to the Board by written notice. The Association will hold a hearing under this section not later than the thirtieth (30th) day after the date the Board receives the Owner's request for a hearing and will notify the Owner of the date, time, and place of the hearing not later than the tenth (10th) day before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement will be granted for a period of not more than ten (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. The Owner's presence is not required to hold a hearing. The parties may agree to use alternative dispute resolution services.

Section 10.05. Attorneys' Fees. The Association may collect reimbursement of reasonable attorneys' fees and other reasonable costs incurred by the Association relating to collecting amounts, including damages, due the Association for enforcing restrictions contained in its Governing Documents only if the Owner is provided a written notice that attorney's fees and costs will be charged to the Owner if the delinquency or violation continues after a certain date. An Owner is not liable for attorney's fees incurred by the Association relating to a matter described

by the notice under this Section if the attorney's fees are incurred before the conclusion of the hearing; or, if the Owner does not request a hearing, before the date by which the Owner must request a hearing. All attorneys' fees, costs, and other amounts collected from an Owner will be deposited into an account maintained at a financial institution in the name of the Association or its Managing Agent. Only Board members or the Association's Managing Agent or employees of its Managing Agent may be signatories on the account. On written request from the Owner, the Association will provide copies of invoices for attorney's fees and other costs relating only to the matter for which the Association seeks reimbursement of fees and costs.

Section 10.06. No Waiver. The failure of the Association, or the Owner of any Lot, his or its respective legal representatives, heirs, successors, and assigns, to enforce any restrictions herein contained will in no event be considered a waiver of the right to do so thereafter as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE 11 **COMMON PROPERTY**

Section 11.01. Conveyance of Common Property. Common Property will also include all real and personal property acquired by the Association for the common use and enjoyment of the Owners, and to the extent set forth in these By-Laws, the general public.

Section 11.02. Right of Enjoyment. Every Owner will have a right and easement to use the Common Property, which right will be appurtenant to and will pass with the title to every Lot upon transfer; provided, however, that no Owner will do any act that interferes with the free use and enjoyment of the Common Property by all other Owners.

Section 11.03. Association's Maintenance Obligations of Common Property:

(a) To the extent not kept and maintained by the City of Desoto, the Association will maintain and keep in good repair the Common Property including, without limitation, all landscaping and improvements situated on the Common Property. In addition to the maintenance of the Common Property, the Association will have the obligation to maintain, repair, and replace all grass, trees, shrubbery or other plantings, sidewalks, fences, walls, street lights, benches, trash receptacles, sprinkler systems, informational and directional street signage installed by the HOA, and any other property the HOA or the City of Desoto designates as a maintenance obligation of the Association.

(b) The Association will maintain and keep in good repair the Perimeter Wall and the Perimeter Wall Landscaping. The Association will maintain and replace all grass, trees, shrubbery, ground cover or other plantings, and repair and replace any sprinkling system or systems that are part of the Perimeter Wall Landscaping. The Association will pay all utility charges incurred because of the sprinkling system or systems that are part of the Perimeter Wall Landscaping, if any.

(c) The Common Property is private, and is owned and maintained by the Association. The City of Desoto has no obligation to maintain or reconstruct the Common Property; however, the City of Desoto may assume the duty of performing the maintenance of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping if the Association dissolves or in any way fails or refuses to perform its obligations in which case the City of Desoto may use the outstanding balance of the Common Property Maintenance Reserve Fund for maintenance of the Common Property, the Perimeter Wall and the Perimeter Wall Landscaping or to make the Common Property suitable for public use. In the event the outstanding balance of the Common Property Maintenance Reserve Fund is insufficient to cover this cost, the City of Desoto may levy an assessment upon each Lot on a pro rata basis for the cost of performing the maintenance obligations.

ARTICLE 12 **SUBDIVISION INFORMATION**

Section 12.01. Delivery of Subdivision Information to Owner. Not later than the tenth (10th) business day after the date a written request for Subdivision information is received from an Owner or the Owner's agent, a purchaser of a Lot or Lots in the Subdivision or the purchaser's agent, or a title insurance company or its agent acting on behalf of the Owner or purchaser, and the evidence of the requestor's authority to order a resale certificate is received and verified, the Association will deliver to the Owner or the Owner's agent, the purchaser or the purchaser's agent, or the title insurance company or its agent a current copy of the By-Laws, and Rules and Regulations of the Association and a resale certificate prepared not earlier than the sixtieth (60th) day before the date of delivery that complies with Texas Property Code Section 207.003, as the same may be amended in whole or in part, and any successor statutes. For a request from a purchaser of property in the Subdivision or the purchaser's agent, the Association may require the purchaser or purchaser's agent to provide to the Association, before the Association begins the process of preparing or delivers the items listed, reasonable evidence that the purchaser has a contractual or other right to acquire property in the Subdivision. A resale certificate must contain a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any other restraint contained in the Governing Documents that restricts the Owner's right to transfer the Owner's Lot, the frequency and amount of regular Assessments and Reserve Fund fees, the amount and purpose of any special Assessment that has been approved before and is due after the resale certificate is delivered, the total of all amounts due and unpaid to the Association that are attributable to the Owner's Lot, capital expenditures, if any, approved by the Association for the current Fiscal year, the amount of reserves, if any, for capital expenditures, the Association's current operating budget and balance sheet, the total of any unsatisfied judgments against the Association, the style and cause number of any pending lawsuit in which the Association is a party, other than a lawsuit relating to unpaid *ad valorem* taxes of an individual member of the Association, a copy of a certificate of insurance showing the Association's property and liability insurance relating to the Common Property, a description of any conditions on the Owner's Lot that the Board has actual knowledge are in violation of the By-Laws or Rules, a summary or copy of notices received by the Association from any governmental authority regarding health or housing code violations existing on the preparation date of the resale certificate relating to the Owner's Lot or any Common Property the amount of any administrative or transfer fee charged by the Association or its Managing Agent

for a change of ownership of Lots in the Subdivision, the name, mailing address, and telephone number of the Association's Managing Agent, a statement indicating whether the restrictions allow foreclosure of the Association's lien on the Owner's Lot for failure to pay Assessments, and a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee. The Association may charge a reasonable fee to assemble, copy, and deliver the information required by this Section and may charge a reasonable fee to prepare and deliver an update of a resale certificate. The Association may require payment before beginning the process of providing a resale certificate but may not process a payment until the resale certificate is available for delivery. The Association may not charge a fee if the resale certificate is not provided in the time prescribed. The Association will deliver the information required to the person specified in the written request. A written request that does not specify the name and location to which the information is to be sent is not effective. The Association may deliver the information required and any update to the resale certificate by mail, hand delivery, or alternative delivery means specified in the written request. Neither the Association nor its Managing Agent is required to inspect a Lot before issuing a resale certificate or an update. Not later than the seventh (7th) business day after the date a written request for an update of a resale certificate is received from an Owner, Owner's agent, or title insurance company, the Association will deliver to the Owner, Owner's agent, or title insurance company or its agent an updated resale certificate that contains the following information: if a right of first refusal or other restraint on sale is contained in the Governing Documents, a statement of whether the Association waives the restraint on sale; the status of any unpaid regular or special Assessments, Reserve Fund fees, dues, or other payments attributable to the Owner's Lot(s); and any changes to the information provided in the resale certificate issued previously. Requests for an updated resale certificate must be made within one hundred eighty (180) days of the date the original resale certificate was issued. The updated request may be made only by the party requesting the original resale certificate.

Section 12.02. Online Subdivision Information Required. The Association will make the Governing Documents relating to the Subdivision and filed in Official Public Records of Dallas County, Texas, available on its website if the Association has, or its Managing Agent on behalf of the Association maintains, a publicly accessible website.

ARTICLE 13 **DURATION AND AMENDMENT**

Section 13.01. Duration. The provisions hereof will run with and bind the Property and be binding upon all Owners and persons claiming under them for perpetuity. The provisions of this Section 13.01. will not be subject to amendment.

Section 13.02. Amendments by Owners. Amendments to these By-Laws may be proposed by any Member or group of Members in good standing. To accomplish amendment, the procedures detailed below must be rigidly followed:

- (a) Proposed amendments shall be presented in basic form as a written motion at an Annual Meeting or Special Meeting of the Members.

(b) If the motion is seconded and passed by a simple majority vote of the Association Members in good standing attending the meeting, a copy of the basic form of the proposed amendment shall be submitted to the Board of Directors and filed with the Secretary.

(c) Upon receipt of the proposed amendment, the Board of Directors shall review, analyze and, if necessary, modify it so as to eliminate any ambiguities or inconsistencies with other provisions in these By-Laws.

(d) After Board's review above, these By-Laws may be amended by the written agreement or by signed ballots voting for such of not less than sixty-seven percent (67%) of the Owners in the Subdivision entitled to vote on the amendment of these By-Laws. There will be one (1) vote per Lot. Anyone owning more than one Lot will have one (1) vote for each Lot owned. The date an Owner's signature is acknowledged will constitute *prima facie* evidence of the date of execution and adoption of said amendment by such Owner. Any such amendment will become effective when an instrument is filed for record in the Official Public Records of Dallas County, Texas, accompanied by a certificate, signed by a majority of the Board of Directors, stating that the required number of Members voted in favor of the instrument amending these By-Laws or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose.

Section 13.03. Amendments by Association. The Board of Directors has the right in its sole judgment, from time to time, and at any time, to amend these By-Laws without joinder of any Owner or Member for the following purposes:

(a) to resolve or clarify any ambiguity or conflicts herein, or to correct any inadvertent misstatements, errors, or omissions herein;

(b) to conform these By-Laws to the requirements of any lending institution; provided, the Board has no obligation whatsoever to amend these By-Laws in accordance with any such lending institution requirements, and the Board may not so amend these By-Laws if, in the sole opinion of the Board, any substantive and substantial rights of Owners would be adversely affected thereby;

(c) to conform these By-Laws to the requirements of any governmental agency, and in this respect, the Board will so amend these By-Laws to the extent required by law upon receipt of written notice of such requirements and request for compliance;

(d) to amend the Rules and Regulations of the Association, if the Board deems appropriate to comply with the scheme of the By-Laws and the Subdivision; and

(e) to amend the alternative payment schedule for certain Assessments, open records policy, records retention policy, and/or other policies to comply with the Texas Residential Property Owners Protection Act.

ARTICLE 14
MISCELLANEOUS

Section 14.01. No Reverter. No restriction herein is intended to be, or will be construed as, a condition subsequent or as creating a possibility of reverter.

Section 14.02. Severability. A determination by a court that any provision hereof is invalid for any reason will not affect the validity of any other provision hereof.

Section 14.03. Headings. The headings of the Articles and Sections hereof are for convenience only and will not affect the meaning or interpretation of the contents of these By-Laws.

Section 14.04. Gender. Throughout these By-Laws, the masculine gender will be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

Section 14.05. Notices. Any notice required or permitted by the Governing Documents must be in writing. To the extent required by law, notices regarding remedial rights must be given by certified mail, return receipt requested. All other notices may be given by regular mail. Notice is deemed delivered (whether actually received or not) when properly deposited with the United States Postal Service, addressed to a Member, at the Member's last known address according to the Association's records, and the Association, the Board, the ARC, or Managing Agent at the Association's principal office or another address designated in a notice to the Members. Unless otherwise required by law or the Governing Documents, actual notice, however delivered, is sufficient.

Section 14.06. No Liability. The HOA has, using best efforts and all due diligence, prepared and recorded these By-Laws so that each and every Owner will have the right and the power to enforce the terms and provisions of these By-Laws against every other Owner. However, in the event that these By-Laws is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, the HOA will have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that the HOA will have no such liability.

Section 14.07. Insurance.

(a) At all times during the term of these By-Laws, the Association, its successors and assigns, will be required to keep all improvements located on the Common Property fully insured by a reputable insurance company authorized to transact business in the State of Texas with (i) fire, vandalism, malicious mischief and extended coverage insurance in an amount adequate to cover the cost or replacement of such improvements in the event of loss of any and/or all of such improvements, fixtures and contents thereof; and (ii) public liability insurance in such amounts as will be determined by the Board of Directors as appropriate for the Common Property.

(b) Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the costs of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction will be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the total Members entitled to vote thereon, and the HOA, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period will be extended until such information will be made available; provided, however, such extension will not exceed one hundred twenty (120) days. No mortgagee will have right to participate in the determination of whether damage or destruction will be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board may, without the necessity of a vote of the Members, levy a special Assessment. Additional Assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess will be deposited for the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or destruction will not be repaired or reconstructed and no alternative improvements are authorized, then in that event the property will be restored to its natural state and maintained as an undeveloped portion of the Subdivision in a neat and attractive condition.

Section 14.08. Indemnification and Hold Harmless.

(a) The Association will indemnify every officer and Director against any and all expenses, including attorney's fees reasonably incurred by or imposed upon any officer or Director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being, or having been, an officer or Director. The officers and Directors will not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and Directors will have no personal liability with respect to any contract or other commitment made

by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association will indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein will not be exclusive of any other rights to which any officer or Director, or former officer or director, may be entitled. The Association will, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

(b) Each Owner will be liable to the Association for any damage to the Common Property of any type or to any equipment thereon that may be sustained by reason of the negligence of said Owner, his tenants, employees, agents, customers, guests, or invitees, to the extent that any such damage will not be covered by insurance. Each Owner does further, by the acceptance of a deed, agree to indemnify each and every other Owner, and to hold harmless each and every other Owner, from any claim of any person for personal injuries or property damage occurring within or upon his Lot.

(c) THE ASSOCIATION AGREES TO FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF DESOTO, ITS OFFICERS, AGENTS, AND EMPLOYEES, FROM ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS, OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY INCLUDING DEATH, RESULTING FROM OR IN ANYWAY CONNECTED WITH THE CONSTRUCTION, MAINTENANCE OR OPERATION OF THE COMMON PROPERTY.

ARTICLE 15 **CONDEMNATION**

Section 15.01. Condemnation or Other Governmental Taking. If all or any part of the Common Property is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Association with the approval of at least sixty-seven percent (67%) of the Members entitled to vote, the award or proceeds made or collected for such taking or sale in lieu thereof are payable to the Association. The Association will disburse or hold such award or proceeds as follows:

(a) If the taking or sale in lieu thereof involves a portion of the Common Property on which improvements have been construed, then, unless within sixty (60) days after such taking, the HOA, together with at least sixty-seven percent (67%) of the Members entitled to vote, decide otherwise, the Association will restore or replace the improvements to the extent practicable, on other existing Common Property, in accordance with the plans approved by the Association and the ARC. If the awards or proceeds are not sufficient to defray the cost of repair and replacement of the

improvements and such deficiency cannot be appropriated from a reserve fund established for such purpose, the Association may levy one or more Special Assessments, in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. If such improvements are not repaired or restored, the Association will retain the award or proceeds for the benefit of the Association;

(b) If the taking or sale in lieu thereof does not involve any improvements to the Common Property, or if there are excess funds remaining after any restoration or replacement of the improvements, then the Association will retain the award, proceeds, or excess funds for the benefit of the Association; and

(c) If the taking or sale in lieu thereof includes all or any part of the Common Property, then a court of competent jurisdiction will apportion such award or proceeds between the Association and the Owners of the other property taken so as to give just compensation to each. In lieu of seeking judicial apportionment, (i) the Association, (ii) the Owners and their lenders of all Lots wholly or partially taken, and (iii) the HOA, may mutually agree on the method of apportionment.

Section 15.02. Condemnation of Lots.

(a) If all or any part of a Lot is taken by an authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects not to restore the remainder of the Lot, then the Owner will promptly remove any remaining improvements damaged or destroyed by such taking or conveyance and will leave the Lot in a clean, orderly, safe, and slightly condition. In addition, if the size or configuration of the Lot remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein to their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of these By-Laws and all applicable zoning, subdivision, building, and other governmental regulations, then the Owner, after removing all remaining improvements and placing the Lot in a clean, orderly, safe, and slightly condition, may deed the remaining portion of the Lot to the Association as a part of the Common Property. Upon the conveyance by an Owner of his remaining portion of a Lot, the Owner will not be a Member.

(b) If any part of a Lot is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects to restore the remainder of the Lot, then the Owner will restore the remainder of the Lot in nearly as practicable to the same condition it was in prior to such taking or conveyance and in accordance with all applicable standard, restrictions, and provisions of these By-Laws and all applicable zoning, subdivision, building, and other governmental regulations. The Owner will commence the restoration within sixty (60) days after the taking or conveyance and will proceed diligently in a good and workmanlike manner to completion.

The HOA has caused these By-Laws to be duly executed as provided in the acknowledgment set forth hereinafter, but to be effective as of the date that these By-Laws is filed of record in the Official Public Records of Dallas County, Texas.

Frost Farms Homeowners' Association, Inc.,
a Texas nonprofit corporation

By: Evalynn Williams
As Its: President, Board of Directors

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Before me the undersigned authority, on this day personally appeared Eve Williams, President of the Board of Directors of Frost Farms Homeowners' Association, Inc., a Texas nonprofit corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

Given under my hand and seal on _____, 2016.

[Seal]

Notary Public, in and for the State of Texas
Notary Name (Printed): _____
My commission expires: _____