

**AMENDED BYLAWS**  
**LAKEWAY OWNERS ASSOCIATION, INC.**  
 Adopted **FEB**, 20**19**

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## ARTICLE I - BASIC INFORMATION

**Section 1. Property Owners Association.** The Property Owners Association is LAKEWAY OWNERS ASSOCIATION, INC. ("the Association"), established by the Certificate of Formation filed with the Texas Secretary of State on February 2, 1976, under File Number 0037463901.

**Section 2. Purposes.** The specific purposes for which the Association is formed are:

- a. To provide for the acquisition, construction, management, maintenance and care of the Association property, including common areas;
- b. To provide for and assist in maintenance, preservation and architectural control of the Subdivision and to promote the health, safety and welfare of the Owners and residents;
- c. To borrow money (if necessary) and to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, encumber, dedicate for public use or otherwise of real or personal property in connection with the affairs of the Association, subject to the terms and provisions of, and limitations and prohibitions within the laws governing non-profit corporations organized in the State of Texas.
- d. To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as may be set forth in the Restrictions or the Certificate of Formation, or as may be otherwise prescribed by the Association;
- e. To fix, levy, collect and enforce payment by any lawful means, all obligations owed to the Association, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including any licenses, taxes or governmental charges which may be levied or imposed against the common areas or any other property owned by the Association; and
- f. Insofar as permitted by law, to do any other thing that, in the opinion of the Board, will promote the common benefit and enjoyment of the Owners and residents of the Subdivision.

**Section 3. Principal Office.** The Association's Principal Office shall be at 22477 Lakeway Harbor Dr, Flint, Texas 75762, or another location designated by the Board with proper notification to the Secretary of State. The Board may designate other offices for the Association.

**Section 4. Registered Office and Agent.** The Association shall maintain a Registered Agent who can be trusted to deliver legal notices and documents to the Association, promptly after receiving them. The Association shall designate a registered office. The

registered office or the registered agent may be changed by resolution of the Board of Directors, upon making the appropriate filing with the Secretary of State.

**Section 5. Compliance with Laws.** The Association shall at all times comply with such State and Federal laws and regulations so as to obtain and maintain, insofar as is possible, nonprofit status and exemption from taxation.

**Section 6. Prohibited Activities.** The Association is organized as and intended to function at all times as a property owners' association under Section 528 of the Internal Revenue Code of 1954. The Board and officers shall at all times ensure that the Association complies with the lawful requirements to maintain such status, and the Association shall elect such status each year unless its accountant or attorney specifically advises otherwise. The Association is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property. No part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private member, shareholder, or individual.

**Section 7. Right to Use of Common Areas.** The Association maintains nominal ownership to the Common Areas, but such property is held for the use, benefit, and enjoyment of all Owners equally. Each member of the organization owns a license representing a nonrevokable right to the use and enjoyment on an equal basis of all property held by the organization. Each Owner's right to the use and enjoyment of the property is appurtenant to and an integral part of the taxable real property in the Subdivision (the Lots) owned by the member. This right shall be subject to any restrictions imposed by the Association's dedicatory instruments, and to any policies, rules, or regulations adopted by the Board. ~~Tex. C. § 23.18~~.

## ARTICLE II - DEFINITIONS

In these Bylaws, the following definitions shall apply:

1. **Architectural Control Committee** - the Committee formed for the purpose of overseeing architectural standards in the Subdivision and exercising the other powers assigned to it in the Covenants. Also referred to as "ACC."
2. **Assessments** - the contributions assessed against each owner or lot, payable to the Association, as authorized by Paragraph 12 of the Restrictions.
3. **Association** - LAKEWAY OWNERS ASSOCIATION, INC., a Texas Non-Profit Corporation.
4. **Board** - the Board of Directors of the Association.



5. **Common areas** - the entire Subdivision except the Lots, subject to all easements and rights described in the Restrictions, including but not limited to all areas of land within the Subdivision which are known, described or designated as roads, private streets, medians, common green, common areas, recreational easements, green belts, open spaces, jogging and bicycle trails, parks, gardens, swimming pools, tennis courts, boat ramps, clubhouses, recreational centers, Association's offices, or bodies of water on any recorded subdivision plat of the Subdivision or intended for or devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or may hereafter be constructed thereon. The term shall not include any residential Lots owned by the Association as a result of a foreclosure, or other real property designated by the Board as not intended for the use and enjoyment of the Members.
6. **Covenants** - synonymous with "Restrictions."
7. **Declaration** - synonymous with "Restrictions."
8. **Developer** - Lakeway Development Company, a Texas Corporation, any of their successors or assigns acting in the capacity of Developer of the Subdivision, and any other person who now holds or who once held the powers of an owner or developer over the Subdivision or who acted in that capacity.
9. **Dedictory Instruments** - All documents governing the establishment, maintenance, or operation of the Lakeway Harbor Subdivision, including but not limited to the Restrictions; the Articles of Incorporation and Bylaws of the Association; any policies, procedures, rules, and regulations adopted by the Board and/or the Members; and all lawful amendments to those documents.
10. **Dues** - synonymous with "Assessments."
11. **Lot** - any plot or tract of land shown upon any recorded subdivision map(s) or plat(s) of the Subdivision, as amended from time to time, which is designated as a lot thereon. The term does not refer to the Common Areas.
12. **Member** - any person or entity who is a record owner of an interest in any Lot, or who is a purchaser pursuant to a contract for deed; however, the word "Owner" shall not include any person or entity who hold a bona fide lien or interest in a Lot merely as security for the performance of an obligation. Membership in the Association shall be appurtenant to and may not be separated from ownership of one or more Lots. In other words, a person or entity who owns one or more Lots. Synonymous with "Owner."
13. **Obligation** - any amount of money owed to the Association, including but not limited to dues, cleanup costs, rental fees, late fees, fines, collection costs, attorney's fees, or other charges of any kind whatsoever.

**14. Owner** - synonymous with "Member."

**15. Regular Assessment** - a recurring annual contribution assessed against each owner or lot, payable to the Association, as defined in the Restrictions.

**16. Restrictions** - The following documents, as they now stand and as they may be amended in the future:

- a. The "Subdivision Restrictions, Section A and B, Lakeway Harbor Subdivision," filed at Volume 1562, Page 71 of the real property records of Smith County, Texas;
- b. The "Subdivision Restrictions, Section C, Lakeway Harbor Subdivision," filed at Volume 1571, Page 701 of the real property records of Smith County, Texas;
- c. The "Subdivision Restrictions, Section D, Lakeway Harbor Subdivision," filed at Volume 1618, Page 97 of the real property records of Smith County, Texas;
- d. The "Subdivision Restrictions, Section E, Lakeway Harbor Subdivision," filed at Volume 1697, Page 38 of the real property records of Smith County, Texas;
- e. The "Subdivision Restrictions, Section F, Lakeway Harbor Subdivision," filed at Volume 9, Page 12c of the real property records of Smith County, Texas; and
- f. Any other covenants that run with the land, equitable servitudes, or other obligations that impose requirements relating to architectural standards, use of the property, conduct of the residents, or similar matters collectively on the persons who own property in the Subdivision, whether filed of record or not, but excluding laws, regulations, and similar obligations imposed by a governmental entity. The term shall include any further or subsequent supplements, amendments, additions or modifications to the foregoing instruments, all of which are incorporated herein by reference for all purposes. Synonymous with the terms "Covenants," "Declaration," "Restrictions," and "Restrictive Covenants."

**17. Restrictive Covenants** - synonymous with "Restrictions."

**18. Subdivision** - the real property in Smith County, Texas known as the Lakeway Harbor Subdivision, Sections A, B, C, D, E, and F and which is governed by the Declaration and administered by the Association.

### ARTICLE III - MEMBERS

**Section 1. Membership.** Every Owner of an interest in one or more Lots in the Lakeway

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Harbor Subdivision in Smith Count, Texas is a Member of the Association. A person or entity holding a lien or interest in a lot solely to secure performance of an obligation shall not be considered an Owner or Member. Membership is appurtenant to and may not be separated from ownership of a Lot. Each Member shall have the right to the use and enjoyment of the Common Areas, subject to the rules, regulations, policies, and procedures established by the Board, and subject to the power of the Board to temporarily suspend those rights for violation of the dedicatory instruments.

**Section 2. Votes.** A person who owns one lot shall be entitled to one vote. A person who owns more than one lot shall be entitled to one vote, regardless of the number of lot's owned. When more than one person shares ownership of a lot, all such persons shall be members, but only one vote shall be cast. The vote for such Lot shall be exercised as its Owners, among themselves, may determine. In the event of any dispute regarding voting among multiple owners of a lot, the first person listed as owner of record in the Smith County tax rolls shall have the right to cast the vote.

**Section 3. Termination of Membership.** Members may not resign or be removed as Members. The only way to terminate membership in the Association is for the Member to cease to be the record owner of one or more lots in the Subdivision. A member who ceases to be a Member automatically becomes a Member again if he or she subsequently becomes a record owner of one or more lots in the Subdivision. Members may not be suspended or expelled. The only way to transfer membership is to transfer ownership of a Lot. For good cause shown, the Board may suspend some of a Member's rights and privileges pursuant to the procedures set forth herein.

**Section 4. Rights of Membership.** The right to the use and enjoyment of the Common Areas, and other rights of Membership (except for the right to vote and the right to run for a position as an officer or director) shall be subject to the following limitations.

- a. All members, their immediate families and authorized guests shall have the right to use all of the Association's facilities to the extent permitted by and in accordance with the rules and regulations established by the Board
- b. Members must have paid all obligations to the Association in full in order to use the Common Areas.
- c. The right of any Member and his or her guest, family members, and tenants to the use and enjoyment of the Common Areas will be automatically suspended without the necessity for any action of the Board during the period when any obligation owed to the Association is unpaid. Upon payment of all obligations in full, the rights and privileges shall be automatically restored.
- d. The Board is specifically authorized to adopt any such policies, rules, and regulations which it finds reasonable, including but not limited to hours of operation, restrictions on specific activities and /or uses of each common area, and procedures

For suspending the right of an Owner, his family members and guests, and Tenants from using the common areas as a result of past violations of the Dedicatory Instruments. In the absence of such guidance by the Board, Members shall generally be restricted to using each of the Common Areas for the activities commonly carried out on such property, and during the times when such activities are commonly conducted. For example, parks are generally restricted to recreational use during daylight hours. Clubhouses are generally restricted to meetings and other events scheduled in advance with the Association's management.

- e. The Board may issue membership cards, certificates, keycards, or other credentials allowing Members, their family members, guests, and Tenants access to the Common Areas.
- f. If a lot is occupied by its owner and his or her family and other authorized guests, then all those persons occupying the lot shall have the right to the use and enjoyment of the Common Areas. If a lot is leased to a Tenant or other person, then his or her family and other authorized guests who occupy the lot shall have the right to the use and enjoyment of the Common areas, although the Owner may reserve these rights to himself or herself. For each lot owned by an entity or by multiple persons, the owners may designate one person who shall exercise these rights, along with his family and authorized guests (and in the absence of such a designation, that person shall be the first person listed as an owner in the records of the Smith County Appraisal District).

**Section 5. Place of Meeting.** Members' meetings will be held at the Association's Principle Office or at another place designated by the Board. Member's meetings should generally be held in Smith County, Texas except for good cause.

**Section 6. Annual and Semiannual Meetings.** The Annual Meeting of the Members shall be held on the third Saturday of May beginning at 4:00 p.m., at the office of the Association in the Subdivision, unless another date and time is designated by the Board. The Board may schedule a semiannual meeting of the members and notice of such meeting may be given at the annual meeting or as provided for special meetings. If the Board does not schedule and conduct an annual meeting of the Members, the Members may form a committee and schedule and conduct that meeting using the procedures set forth in Texas Property Code 209.014.

**Section 7. Special Meetings.** Special meetings of the Members shall be held when call by the President, three or more Directors, or by written request of sufficient Members who hold at least 25 percent of the votes to be cast. The purpose(s) of any special meeting of the Members shall be specified in the notice, and only business within the purpose or purposes described in the notice may be conducted at a special meeting of the members.

**Section 8. Notice of Meetings and Elections.** Written notice stating the place, day, and hour of each Member's meeting, other than a reconvened meeting, must be given to each



Member not less than ten nor more than sixty days before the meeting. For voting not at a meeting, notice must be given not later than the twentieth day before the latest day on which a ballot may be submitted to be counted. ~~Prop. C § 209.0056~~ No business may be conducted at any Special Meeting of the Members except as stated in the notice. Notice to a Member must state the purpose of an association-wide election or vote and is deemed given when hand delivered or mailed. If mailed, notice is deemed given (whether actually received or not) when deposited with the United States Postal Service, postage prepaid. The Association may use electronic mail or any other method of communication to provide required notices to an owner, if the owner affirmatively opts to allow the Association to use such method, and the Association retains a copy of the document or other communication in its written or electronic records. ~~Prop. C § 209.0042~~

**Section 9. Voting List.** Before giving notice for each meeting of the Members, the Secretary or a designee shall compile an alphabetical list of voting members and their addresses, also stating the number of votes each Member may cast at the meeting. Not later than the 2<sup>nd</sup> business day after notice is given for a meeting of the Members, and continuing through the meeting, the Secretary or a designee shall make the list available to all Members for inspection and/or copying at its principal office or another location in the municipality where the meeting will be held. ~~Bus. Op. C § 227.58~~

**Section 10. Notice Soliciting Candidates.** ~~[Prop. C § 209.00593]~~ At least ten days before sending absentee ballots to the members for any election of directors, the Association must send a notice to the members soliciting candidates interested in running for that position. The notice must contain instructions for eligible candidates to notify the Association of his or her request to be placed on the ballot, and the deadline to submit such a request, which shall be at least ten days after the notice is sent. The notice shall be sent by mail, by posting it in a conspicuous manner reasonably designed to provide notice to members on the Common Areas in the Subdivision or on conspicuously located private property in the subdivision, with the owner's permission, by posting it on any Internet website maintained by the association or other Internet media, or by sending the notice by email to each owner who has registered an e-mail address with the Association. The Association shall include on each absentee or other ballot for the election the name of each eligible candidate from whom it received a request to be placed on the ballot.

**Section 11. Absentee Ballots.** Before each election or other vote of the members, the Association shall send a solicitation for absentee ballots to each owner which includes the absentee ballot containing each proposed action and a method of voting for or against each proposed action, instructions for completing the absentee ballot and the location to deliver it, and the following exact language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail." ~~PC § 209.00592~~



**Section 12. Ballots.** All ballots used for elections or for any vote of the Members (except for secret ballots or uncontested races) must be written. To be counted, each ballot must be signed by the member. The Board may authorize use of electronic ballots for one or more elections and/or votes, and such ballots are considered to be in writing and signed by the member. The Board may adopt rules for secret ballots, if it takes measures to reasonably ensure that no member can cast more votes than he or she is eligible to cast, and that the Association counts every vote that is cast by a member eligible to cast that vote. ~~PC § 209.0058~~ Each candidate in an election for a position on the Board may designate one person to observe the counting of the ballots. Observers may not see the name of any person who cast any ballot. Disruptive observers may be removed. No candidate or other person subject to a vote, and no relative of such a person within the third degree of consanguinity or affinity, shall be allowed to tabulate or have any access to ballots cast in that election. No person who tabulates votes in an election or other vote of the Members, or in a recount, shall disclose to any other person how any individual voted. ~~Prop. C § 209.00594~~ The Association shall retain all ballots for at least thirty days after each election or vote of the Members, then shall destroy all such ballots unless a recount has been properly requested or there is another specific reason to retain them.

**Section 13. Waiver of Notice.** A Member may, in writing, waive notice of a meeting. Attendance at a meeting is a waiver of notice of the meeting, unless the Member objects to lack of notice when the meeting is called to order.

**Section 14. Quorum.** At any meeting of the Members, the following Members shall be considered "present" for purposes of determining a quorum:

- a. Members present in person;
- b. Members represented in person by a person holding a valid proxy; and
- c. Members who cast a valid vote by absentee ballot, electronic ballot, or any other method authorized by dedicatory instruments or the Board, but only for items which appear on the ballot and are not amended at the meeting to be different from the exact language on the ballot. Nominations from the floor are not considered to be amendments for that purpose, and therefore do not prevent absentee or electronic ballots from being counted. ~~PC § 209.00592~~

If an owner attends a meeting in person after casting a ballot by any other method, the other ballot shall be disregarded entirely. At any annual meeting of the Members, a quorum shall constitute those Members present. At any special meeting of the Members, a quorum shall constitute those Members holding at least ten percent of the votes entitled to be cast at the meeting.

## **Section 15. Votes and Elections.**

- a. **Voting Methods.** Members may cast their votes in person or by written proxy if a meeting is held, by absentee ballot, by electronic ballot if authorized by the Board, or by any other method authorized by dedicatory instruments or the Board. ~~PC §~~



1. Each owner must be allowed to vote by absentee ballot or written proxy.
  2. During any election by the Members, candidates not whose names were not placed on the ballots in advance may be nominated from the floor. Candidates nominated from the floor must meet all qualifications established by the Bylaws. Any person nominated from the floor will be a write-in candidate.
  3. The Board may authorize electronic voting (by email, facsimile, or posting on an Internet website) only if it sends notice to each owner with instructions to obtain access and submit the ballot, the identity of each member submitting the ballot can be confirmed, each member casting a vote receives a receipt of the electronic transmission and ballot.
- a. **Right to Vote.** No member may be disqualified from voting in any election of board members or in a vote on any matter concerning the rights or responsibilities of the owner.
  - b. **Majority Required.** In any election for a position on the Board, the eligible candidate receiving the most votes shall be declared the winner, with no runoffs. In any other vote of the members, the measure shall be adopted if more than 50 percent of the votes entitled to be cast by members participating in the vote (including any abstentions) are cast in favor of the measure.

**Section 16. Proxies.** Voting members may vote by written proxy. Unless Absentee voting has been provided. A proxy is revocable and expires 11 months after the date of its execution. A proxy may not be irrevocable for longer than 11 months.

**Section 17. Conduct of Members' Meetings.** The president will preside over Members meetings. If the President is not in attendance, the vice president, treasurer, or a director, in that order of precedence, shall preside over Members' meetings. The secretary will keep minutes of the meetings and will record in a minute's book the votes of the members.

**Section 18. Recounts.** If an owner properly requests a recount of an election or other vote

of the members within fifteen days of the meeting or the announcement of the results of the election or vote, the Association shall conduct a recount in the manner specified by Texas Property Code § 209.0057.

#### **ARTICLE IV - BOARD OF DIRECTORS**

**Section 1. Governing Body; Composition.** The affairs of the Association are governed by the Board. The Directors shall act only as a Board, and an individual Director shall have no power as such. Each director has one vote. Each director must be a Member.

**Section 2. Number of Directors.** The Board shall consist of seven directors, provided that the number may be increased or decreased from time to time by an amendment to these Bylaws or resolution adopted by the Board of Directors, and further provided that the number of directors may not be decreased to fewer than three (3). No decrease in the number of directors may shorten the term of a director.

**Section 3. Term of Office.** The terms of directors will be staggered. The term of office for all Directors shall be two years, except in the case of a vacancy. During even years, four Director positions shall be up for election, and during odd years, the remaining three Director positions shall be up for election. Directors may serve consecutive terms.

**Section 4. Election.** The Directors shall be elected in a single vote, held at the Annual Meeting of the Members. Each member shall have the right to cast one vote in that election for each Director position to be filled. Cumulative voting is prohibited, and no Member may cast more than one vote for any one candidate. The candidates receiving the most votes, up to the number of Director positions to be filled, shall be elected as Directors. The results of the election of Directors shall be announced as soon as the votes are tabulated.

The directors elected by the Voting Members will hold office until their respective successors have been elected.

**Section 5. Eligibility.** No member may be prevented from running for a position on the Board unless he or she has been deemed ineligible. The Board shall declare a member permanently ineligible as a candidate or director if it is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member or candidate was convicted of a felony or crime involving moral turpitude not more than 20 years before the date the board is presented with the evidence. A member declared ineligible in that manner shall be immediately ineligible to serve on the Board, shall be automatically removed from the Board once such a finding is made, and shall be permanently prohibited from ever serving on the board. **PC § 209.00591**

#### **Section 6. Resignation and Removal of Directors; Filling Vacancies.**

a. **Resignation.** Any Director may resign at any time by giving written notice to the



Board, the president, or the secretary. Resignation takes effect on the date of the receipt of the notice or at any later time specified in the notice.

- b. **Removal by Members.** Any director may be removed, with cause, by a majority of the Voting Members. The Board must notify the members in the notice of the meeting, that removal of the director will be considered. The director whose removal is to be considered shall be given at least seven days' prior notice of the proposed removal and shall be given the opportunity to be heard.
- c. **Removal by Board.** Any director may be removed at a Board meeting if the director-
  - i. failed to attend three consecutive Board meetings;
  - ii. failed to attend forty percent of Board meetings within one year; or
  - iii. is determined by the Board or the ACC to have materially violated the Dedicatory Instruments (other than failure to pay assessments).
- d. **Filling Vacancies.** A director's position becomes vacant if the director dies, becomes incapacitated, resigns, is deemed ineligible, is removed, or ceases to be a Member. The remaining Directors (even if less than a quorum) may appoint an eligible Member to fill a vacancy for the remainder of the unexpired term. Any vacancy to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting, or at a special meeting of members called for that purpose.

**Section 7. Board Powers.** Subject to the limitations imposed by the Dedicatory Instruments, the Board may exercise all powers ordinarily exercised by a Property Owners' Association and/or nonprofit corporation, including but not limited to the following:

- a. To provide for the care, preservation and maintenance of the common areas and the furnishing and upkeep of any desired personal property for use in or on the Common area;
- b. To make arrangements for security;
- c. To pay taxes, insurance and utilities (including without limitation, electricity, gas, water and sewer charges) which pertain to the common areas only;
- d. To obtain the services of a person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager;
- e. To obtain legal and accounting services;

- f. To obtain any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or special assessments which the Board is required to obtain or pay for pursuant to the terms of the Restrictions or which, in its option, shall be necessary or proper for the operation or protection of the Association or for the enforcement of the Restrictions.
- g. To execute all declarations of ownership for tax assessment purposes with regard to any of the common areas owned by it as an incorporated entity;
- h. To call for a special meeting or an annual meeting of the members;
- i. To amend or modify the time and method of collection any and all matters and aspects of any kind or character whatsoever arising out of or related to the dues, except that only the Members shall have the right to change the amount;
- j. To enter into contracts, maintain one or more bank accounts and to have all the powers necessary or incidental to the operation and management of the Association;
- k. To protect or defend the common areas from loss or damage by suit or otherwise, to sue or defend in any court of law in behalf of the Association and to provide adequate reserves for repairs and replacements;
- l. To prepare an annual report each year, and to make a copy of same available to each Owner;
- m. To enforce the provisions of the Restrictions, Bylaws, and rules and regulations and to enjoin and seek damages and/or fines from any Owner for violation of such provisions and rules;
- n. To impose a fine or a suspension for up to sixty days of the right to use the Common Areas on any owner, family member, guest, or tenant who violates the dedicatory instruments;
- o. To temporarily or permanently suspend the right or privilege of an owner, family member, guest, or tenant from using any of the Common Areas; and
- p. To exercise all other powers provided in the laws governing non-profit corporations organized in the State of Texas, and all other implied powers necessary and proper to carry out its express powers.

**Section 8. Duties.** In addition to the fiduciary duties owed to the Association, each Officer and Director shall have the following duties:

- a. **Recruitment and Training.** Ensure that members are recruited and trained to serve



on future Boards, especially for the person's position.

- b. **Planning.** Help the Board in creating a plan of action with specific goals for the year, especially in the person's area of responsibility, with input from the Members.
- c. **Communications.** Keep the Members and the Board informed about Association activities, especially in the person's area of responsibility, by making announcements at meetings and submitting information to the newsletter. Provide information to members regarding Association programs and affairs.
- d. **Information.** Actively participate in the decisionmaking process of the Association. Gather information about all issues before the Board, share that information with the Board, and engage in constructive discussion and debate at meetings. Provide recommendations to the President and Board on courses of action, reflecting the best interests of the Association and its members.
- e. **Governing Documents.** Gain a working knowledge of the Bylaws, Restrictive Covenants, Articles of Incorporation, Rules and Regulations, and Robert's Rules of Order as they apply to the Association, comply with them, and help ensure that other Directors, Officers, and committee members comply. Advise the President and/or Board of inappropriate activity or violations.
- f. **Meetings.** Attend all meetings of the Members, Board, and any committees on which the Officer or Director serves whenever possible.

**Section 9. Management.** The Board may employ a managing agent.

**Section 10. Accounts and Reports.** Accounting and controls must conform to good accounting practices. The Treasurer shall ensure that Association funds and accounts are not commingled with funds or accounts of other persons or entities. The Board shall prepare (or cause to be prepared) the following financial reports, at least annually:

- a. An annual budget showing anticipated income from major sources, and anticipated expenditures in generally accepted categories.
- b. An income statement reflecting all income and expense activity for the preceding period.
- c. A statement reflecting all cash receipts and disbursements for the preceding period.
- d. A variance report reflecting the status of all accounts in an "actual" versus "approved" budget format.
- e. A balance sheet as of the last day of the preceding period.

- f. A delinquency report listing all Owners who are delinquent by more than thirty days in paying any Assessment and describing the status of any action to collect those delinquent Assessments.
- g. A report from the Association's outside Certified Public Accountant (CPA), using (at a minimum) agreed-upon procedures as governed by the Statements on Standards for Attestation Engagements (as it may be revised in the future) adopted by the American Institute of Certified Public Accountants (AICPA), to investigate and report findings on subject matter(s) mutually agreed between the Board and the outside CPA. The Board may, but is not required to, obtain an audit.

**Section 11. Loans.** The Board may borrow money to maintain, repair, or restore the Common Areas, without the approval of the Members. If approved in advance by the Members, the Board may borrow money for any other purpose within the scope of the Association's responsibilities. The Association may not loan money to any person for any purpose.

**Section 12. Contracts.** The Association will have the right to contract with any person or entity for the performance of various duties and functions, including but not limited to maintenance and improvement of the Common Areas, and other goods and/or services to fulfill the Association's purposes. All such agreements require the approval of the Board.

**Section 13. Transactions with Insiders.** The Association may enter into any of the transactions described below, as long as the transaction does not endanger the legal or tax status of the Association as a nonprofit corporation or property owners' association:

- a. **Compensation of Officers, Directors, and Committee Members.** Directors, officers, and committee members may not receive compensation for their services in those capacities, but the Association may contract with them to obtain goods and/or services at a cost to the Association which is equal to or less than the fair market value of the goods or services, as long as the requirements in this section are met.
- b. **Reimbursement of Expenses.** Officers, directors, committee members, and other persons may be reimbursed for expenses incurred for the Benefit of the Association and approved by the Board. A person who incurs an expense without prior approval of the Board may apply to the Board for reimbursement of that expense, but the Board is under no obligation to provide such reimbursement.
- c. **Contracts with Insiders.** Prop. C.I.S. 209-0052 For purposes of this subsection, an "insider" is defined as a current officer or director, a relative of a current officer or director within the third degree of consanguinity or affinity, or a company in which a current officer or director or such relative is entitled to at least 51% of profits. The Association may only enter into an enforceable contract with an insider if:



- 1) The insider submits a bid and the Association has received at least two other bids;
- 2) The officer or director and the insider do not have access to the other bids;
- 3) The officer or director does not deliberate or vote on the contract;
- 4) The officer or director and the insider disclose all material facts regarding their relationship or interest, and the proposed transaction;
- 5) The Board, in good faith and exercising at least ordinary care, authorizes the contract by an affirmative vote of the majority of the board members who do not have an interest in the contract; and
- 6) The Board certifies by a resolution approved by an affirmative vote of the majority of the disinterested board members that the above requirements have been satisfied.

**Section 14. Enforcement Procedures.** The following procedures shall govern the Association's efforts to enforce its dedicatory instruments when there has been an alleged violation by an Owner, a family member or guest of an Owner, or a Tenant, other than a failure to pay sums of money owed to the Association:

- a. **Notice and Right to Cure.** Before the Board may (i) suspend an Owner's right to use a Common Area, (ii) file a suit against an Owner other than a suit to collect any Assessment, (iii) foreclose the Association's lien, (iv) charge an Owner for property damage, or (v) levy a fine for a violation of the Dedicatory Instruments, the Association or its agent must give written notice to the Owner as required or permitted by law. 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. The notice must also (i) inform the Owner that if the violation is curable and does not pose a threat to public health or safety, the Owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; (ii) indicate that the Owner may request a hearing in accordance with Texas Property Code Section 209.007 on or before the thirtieth day after the date the notice was mailed to the Owner, (iii) state that the Owner may have special rights if the Owner is serving on active military duty, and (iv) state the date by which the Owner must cure a curable violation that does not pose a threat to public health and safety. Prop. C, § 209.006
- b. **Incurable or Dangerous Violations.** Prop. C, § 209.007. The Association is not required to provide the notice described above, or to give the owner an opportunity to cure the violation before taking action to prevent or stop the violation, if:

- i. The violation is incurable, or poses a threat to public health or safety;
- ii. The Association temporarily suspends a person's right to use Common Areas as a result of a violation that occurred in a Common Area and involved a significant and immediate risk of harm to others in the subdivision;
- iii. The Association files a lawsuit seeking a temporary restraining order and/or temporary injunction; or
- iv. The Association files a lawsuit that includes foreclosure as a cause of action.
- v. For purposes of these Bylaws:
  - 1) **"Curable"**: A violation is considered incurable if it has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. Examples of curable violations include but are not limited to a parking violation; a maintenance violation; the failure to construct improvements or modifications in accordance with approved plans and specifications; and an ongoing noise violation such as a barking dog. Examples of incurable violations include but are not limited to shooting fireworks; an act constituting a threat to health or safety; a noise violation that is not ongoing; property damage, including the removal or alteration of landscape; and holding a garage sale or other event prohibited by a dedicatory instrument.
  - 2) **"Threat to Public Health or Safety"**: A violation poses a threat to public health or safety if it could materially affect the health or safety of an ordinary resident.

- c. **Hearing.** 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 if the Board does not appoint a committee. If a hearing is to be held before a committee, the notice must state that the Owner has the right to appeal the committee's decision to the Board by written notice to the Board.

The Association must hold a hearing under this section not later than the thirtieth day after the date the Board receives the Owner's request for a hearing and must notify the Owner of the date, time, and place of the hearing not later than the tenth 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 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 hearing will be held in executive session affording the alleged violator a



reasonable opportunity to be heard. Before any sanction hereunder becomes effective, proof of proper notice will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered the notice. The notice requirement will be satisfied if the alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board may, but will not be obligated to, suspend any proposed sanction if the violation is cured within a thirty-day period. Such suspension will not constitute a waiver of the right to sanction violations of the same or other provisions and rules by any person.

- d. **Appeal.** Following hearing before a committee, if any, the violator will have the right to appeal the decision to the Board. To perfect this right, a written notice of appeal must be received by the managing agent, if any, president, or secretary within seven days after the hearing date.

**Section 15. Dues and Other Obligations; Lien.** Each owner is personally liable for payment of all Assessments and other obligations on his or her lots. Each owner is also personally responsible for ensuring that his or her family members, authorized guests, and Tenants comply with the Restrictions, these Bylaws, and the other Dedicatory Instruments. Annual assessments are due in the Lakeway Owners Association office no later than August 31 of each calendar year. The Board can assess a late fee for accounts that remain unpaid after October 31. All obligations to the Association are secured by a lien upon each lot as set forth in the Restrictions.

**Section 16. Leases and Tenants.** The following requirements shall apply whenever a Tenant or other person (other than the owner) occupies a lot.

**Additional Restrictions.** The Association may adopt and enforce other provisions in its dedicatory instruments establishing restrictions relating to occupancy or leasing Prop. C. 209.016

Owner or tenant to submit a copy of the lease or rental agreement, but the Owner or tenant may redact the tenant's social security number, driver's license number, government-issued identification number, and all account, credit card, and debit card numbers from the lease or rental agreement before it is submitted to the Association. The Association may not require a lease, rental applicant, or tenant to be submitted to and approved before property in the Subdivision may be leased. The Association may not require a rental applicant or current tenant to provide a consumer or credit report or an application for tenancy to be submitted to the Association.

- d. **Additional Restrictions.** The Association may adopt and enforce other provisions in its dedicatory instruments establishing restrictions relating to occupancy or leasing. Prop C § 209.016

**Section 17. Collection Procedures.** The following procedures shall govern the Association's efforts to collect sums of money owed to it by an Owner, including but not limited to assessments and other charges:

- a. **Internal Collection Efforts.** The Association, through the officers, directors, and employees, may use any lawful collection methods to collect assessments and other sums owed by Owners or other persons.
- b. **Application of Payments.** Prop C § 209.0063. The Association shall apply any payment received from an Owner who is not in default under an alternative payment plan to the following items, in this order:
- (1) any delinquent assessment;
  - (2) any current assessment;
  - (3) any attorney's fees or third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;
  - (4) any attorney's fees incurred by the association that are not subject to Subdivision (3);
  - (5) any fines assessed by the association (which may never be prioritized over any of the above items regardless of the Owner's payment status); then
  - (6) any other amount owed to the association.
- c. **Alternative Payment Schedules.** The Association shall adopt and file with the real property records of Smith County, Texas a policy with reasonable guidelines by which an owner may make partial payments for assessments or other amounts owed to the Association, without incurring additional monetary penalties. Prop C § 209.0062
- d. **Lien Affidavit.** The Association may file an affidavit evidencing the nonpayment of assessments or other charges owed to the Association by the Owner(s) of one or



more specific Lots, and asserting the Association's lien. Any such affidavit is considered to be a "legal instrument affecting title to real property" under Texas Property Code § 209.0094, and therefore must be prepared by an attorney.

- e. **Attorneys and/or Collection Agencies:** The Board may hire attorneys and/or collection agencies to assist in collecting assessments and other sums owed by Owners or other persons. Any contract with an attorney or collection agency must require the Association to pay all fees charged by that person. The Association may not enter into a contract with an attorney or collection agency that makes the Association's obligation to pay that person contingent or dependent on amounts recovered from the Owner. ~~Prop. C § 209.0064~~ The Association shall not sell, assign, or otherwise transfer any interest in its accounts receivable for any purpose other than as collateral for a loan. If the Association prosecutes a lawsuit, expedited foreclosure action, or other process against an Owner to collect delinquent assessments or other amounts owed to the Association, and if that process allows recovery of attorney's fees and/or costs, then the Association shall provide any notice required to authorize recovery of attorney's fees. Before filing suit to collect sums owed to the Association, the Association or its attorney shall notify the owner that of each delinquent amount and of the total amount required to make the account current, of the option of a payment plan, and that the owner has at least 30 days to cure the delinquency before further collection action is taken, as required by Texas Property Code § 209.0064. Before filing suit to enforce its restrictions, bylaws, or rules, the Association or its attorney shall notify the owner in writing that attorney's fees and costs shall be charged to the owner if the delinquency or violation continues after a date certain, as required by Texas Property Code § 209.008(a). An owner is not liable for attorney's fees incurred by the Association before the conclusion of the hearing, or if no hearing is requested, before the deadline for the owner to request a hearing. The Association should generally seek to recover fees and costs when permissible, except for good cause

- f. **Expedited Foreclosure.** At any meeting for which proper notice was given to the Members that this issue will be considered, the Board may elect to exercise the Association's right to foreclose its lien on any or all of the Lot(s) for which the assessments are not timely paid. The Association may not foreclose its lien if the debt consists solely of fines, attorney's fees incurred solely in collecting fines, charges for production and copying of records under Texas Property Code § 209.005(i), and the costs of a recount under § 209.0057(b)(4). ~~Prop. C § 209.0091~~ The Board shall have the authority to prioritize claims and to delay or decline asserting a claim based on practical considerations, including but not limited to the amounts owed; the market value of the property; the presence or absence of improvements; and the amount of delinquent property taxes or other liens, if any, on a Lot. The Board shall have the authority to compromise or reduce amounts owed to it, for good cause. Before filing a foreclosure action, the Association or its attorneys shall send all notification to the Owner(s) and lienholder(s), as required by Texas Property Code § 209.0064, 209.0091, and other applicable law. If the Board



elects to foreclose on one or more Lot(s), its attorney shall use the expedited foreclosure procedure as required by Texas Property Code § 209.0092(a) and (b) and Texas Rules of Civil Procedure, Rule 736, judicial foreclosure as authorized by Texas Property Code § 209.0092(d) and Texas Rules of Civil Procedure, Rules 309 and 646a, or another procedure authorized by law, unless the owner waives some or all of those procedures or conveys the Lot(s) to the Association using a deed in lieu of foreclosure. Prop. C. § 209.0092. The Association may not authorize its attorney or collection agency to prevent the owner from contacting the Board or managing agent regarding the delinquency. After a foreclosure sale, the Association or its attorney shall send the notice required and shall prepare and file the affidavit required by Texas Property Code § 209.010.

- g. **Right of Redemption.** Any owner or lienholder of one or more Lots sold at a foreclosure sale under authority of the Association's lien shall have the right to redeem the property not later than 180 days after the Association notifies the Owner and any lienholder of the sale under Texas Property Code § 209.010, if the Owner has not previously redeemed. The process shall be governed by § 209.011.

**Section 18. Policies, Procedures, Rules, and Regulations.** Subject to the limitations imposed by the Dedicatory Instruments, the Board may establish policies, procedures, rules, and regulations.

**Section 19. Special Power to Amend Restrictions.** The Board shall have the power to amend the Restrictions for the limited purpose of complying with the requirements for subdivision property to qualify for insured or guaranteed mortgage loans, as promulgated by the United States Department of Housing and Urban Development ("HUD") or Department of Veterans Affairs ("VA"). Any such amendment must cite Texas Property Code Section 205.004, must be signed by a majority of the Directors, and must be filed in the county real property records. Prop. C. § 205.004.

## ARTICLE V - BOARD MEETINGS

**Section 1. Meetings.** Except as permitted by law, all annual, regular, and special meetings of the Board must be open to the Owners. Except for a meeting held by electronic or telephonic means, a Board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county. The annual meeting of the Directors shall be held immediately following the annual meeting of the Members.

**Section 2. Notice.** Owners and Board Members must be given notice of the date, hour, place, and general subject of a regular or special Board meeting, including a general description of any matter to be brought up for deliberation in executive session. Notice must be given as required by law. Proper methods of notifying Owners of meetings of the Members and Board are as follows Prop. C. § 209.0051:



- a. **Mail.** Notice sent by U.S. mail, which must be given not less than ten nor more than sixty days prior to the start of the meeting.
- b. **Posting.** Notice given by posting in a conspicuous manner reasonably designed to provide notice to the members, in the Subdivision on a Common Area or on private property with consent of the owner, which must be given at least 72 hours before the start of the meeting.
- c. **Website and/or Email.** Posting on any Internet website maintained by the Association or other Internet media, or by electronic mail with each owner who has registered an e-mail address with the Association, which must be given at least 72 hours before the start of the meeting. Owners are responsible for ensuring that the Association has a current e-mail address.

**Section 3. Waiver of Notice.** The actions of the Board at any meeting are valid if (a) a quorum is present and (b) either proper notice of the meeting was given to each director or a written waiver of notice is given by any director who did not receive proper notice of the meeting. Proper notice of a meeting will be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of proper notice.

**Section 4. Quorum of Board.** At all meetings, a majority of the Board will constitute a quorum, and the votes of a majority of the directors present at a meeting at which a quorum is present constitutes the decision of the Board. If the Board cannot act because a quorum is not present, a majority of the directors who are present may adjourn the meeting to a date not less than three nor more than thirty days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business that may have been transacted at the meeting originally called may be transacted without further notice.

**Section 5. Conduct of Board Meetings.** The president will preside at Board meetings. If the President is not in attendance, the vice president, treasurer, or a director, in that order of precedence, shall preside over Board meetings. The secretary will keep minutes of the meetings and will record in a minute book the votes of the directors. The Board meeting will be conducted as required by law.

**Section 6. Electronic Meetings.** A board meeting may be held by electronic or telephonic means, provided all Owners and Board Members have access to the communication at the meeting as required by law, except that the Board may only consider or vote on the following matters in an open meeting for which prior notice was given to the Owners **Prop.**

- a. fines;
- b. damage assessments;
- c. initiation of foreclosure actions;
- d. initiation of enforcement actions, excluding temporary restraining orders or violations

- e. involving a threat to health or safety;
- f. increases in assessments;
- g. levying of special assessments;
- h. appeals from a denial of architectural control approval;
- i. a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue;
- j. lending or borrowing money;
- k. the adoption or amendment of a dedicatory instrument;
- l. the approval of an annual budget or the approval of an amendment of an annual budget that increases the budget by more than 10 percent;
- m. the sale or purchase of real property;
- n. the filling of a vacancy on the board;
- o. the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or
- p. the election of an officer.

**Section 7. Proxies.** Directors may vote by written proxy.

**Section 8. Executive Session.** The Board may adjourn a board meeting and reconvene in closed executive session, if proper notice was given, to consider any of the specific matters set forth below. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session. The following specific matters may be considered in executive session:

- a. Actions involving personnel;
- b. Pending or threatened litigation;
- c. Contract negotiations;
- d. Enforcement actions;
- e. Confidential communications with the property owners' association's attorney;
- f. Matters involving the invasion of privacy of individual owners, and
- g. Matters that are to remain confidential by request of the affected parties and agreement of the board.

## ARTICLE VI - OFFICERS

**Section 1. Officers.** The officers of the Association are a president, vice president, secretary, and treasurer, to be elected by the Board. Each officer must be a Member. The Board may appoint other subordinate officers having the authority and duties prescribed by the Board, but not inconsistent with these Bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary.



**Section 2. Election and Term of Office.** The Board, at its first meeting after each Annual Meeting of the Members, shall elect a President, Vice President, Treasurer, and a Secretary. The Board may appoint such other officers of the Association and agents, as may be deemed necessary. Each Officer will be elected to a two-year term, or until his or her successor is elected.

**Section 3. Resignation and Removal of Officers; Filling Vacancies.**

- a. **Resignation.** Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Resignation takes effect on the date of the receipt of the notice or at any later time specified in the notice.
- b. **Removal by Members.** Any Officer may be removed, with cause, by a majority of the Voting Members at a duly-called Members meeting.
- c. **Removal by the Board.** Any Officer may be removed by a unanimous vote of the other Directors at a duly-called Board meeting if:
  - 1. The Member failed to attend three consecutive Board Meetings;
  - 2. The Member failed to attend forty percent of Board meetings, comprising at least two meetings, within one year; or
  - 3. The Member is determined by the Board of the ACC to have materially violated the Dedicatory Instruments (other than failure to pay assessments); or
  - 4. Good cause exists to remove the Officer
- d. **Filling Vacancies.** An Officer's position becomes vacant if the Officer dies, becomes incapacitated, resigns, is deemed ineligible, is removed, or ceases to be a Member. The remaining Directors (even if less than a quorum) may appoint an eligible Member to fill a vacancy for the remainder of the unexpired term.
- e. **Meeting.** The Officer whose removal is to be considered shall be given at least seven days' prior notice of the proposed removal, and shall be given the opportunity to be heard. The Board must notify the Members and Directors in the notice of the meeting, that removal of the Officer will be considered.

**Section 4. Powers and Duties.** The Officers shall have such powers and duties as are generally associated with their respective offices and as may be specifically conferred by the Board, subject to the Dedicatory Instruments, and the following specific duties and powers:

- a. **President.** The President shall be the chief executive officer. The chief executive officer shall preside at all meetings of the Members and the Board, and shall have such other powers and duties as usually pertain to such office or as may be

delegated by the Board. The President shall see that all policies, orders, and resolutions of the Board are carried into effect. The President shall execute bonds, mortgages, deeds, contracts, and other documents on behalf of the Association, except where required or permitted by law to be otherwise signed and executed, and except where the signing and execution thereof shall be expressly delegated by the Board to some other officer or agent of the Association.

- b. **Vice President.** The Vice President, unless otherwise determined by the Board, shall, in the absence or disability of the President, perform the duties and exercise the powers of the President. The Vice President shall assist the President and shall perform such other duties and have such other powers as the Board shall prescribe.
- c. **Secretary.** The Secretary shall send notice of all meetings of the Board and/or Members, attend all meetings of the Board and all meetings of the Members, and record all the minutes of the meetings of the Members and of the Board (if the Secretary will not be present, the Board and/or President shall designate a person to record the minutes). The Secretary shall be responsible for maintaining all other business records of the Association, including those which the Association is required to maintain by law, except for those under control of the Treasurer. The Secretary shall perform such other duties as may be assigned by the Board. The Secretary shall keep in safe custody the seal of the Association, and when authorized by the Board, affix the same to any instrument requiring it, and when so affixed, his or her signature shall attest it. If the secretary is not a director, he/she will not have voting rights as a Director.
- d. **Treasurer.** The Treasurer shall have the custody of the corporate funds and other financial assets of the Association, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association. The Treasurer shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board. The Treasurer shall prepare financial statements, cooperate with the Board and Officers to prepare an annual budget, and ensure that the Association complies with all legal requirements regarding financial records and taxes. The Treasurer shall disburse the funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and the Board at its regular meetings, or when the Board so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Association. The Treasurer will be responsible to give a report to the members at the Annual Meeting of the Members the status of the Association.

**Section 5. Bond.** If required by the Board, the Treasurer shall give the Association a bond in such sum and with such surety or sureties as shall be satisfactory to the Board for the faithful performance of the duties of his or her office and for the restoration to the Association, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her



possession or under his or her control belonging to the Association.

**Section 6. Association Documents and Other Property.** Within fourteen days after a person ceases to serve as an officer or director for any reason (or sooner, if requested by the President), he or she shall return all books, papers, vouchers, money, electronic records or files, and other property of whatever kind in his or her possession or under his or her control, which belongs to the Association.

## ARTICLE VII - COMMITTEES

**Section 1. Appointment of Committees.** The President may appoint committees at any time, designate their duties, and appoint persons to chair such committees, with the approval of the Board. The President and Vice President shall automatically be ex-officio (nonvoting) members of all committees.

**Section 2. Minutes.** All committees shall keep regular minutes of their proceedings, and shall promptly deliver those minutes to the Secretary. Each Committee shall report to the Board as needed or when required by the Board. The designation of such committees shall not operate to relieve the Board, or any member, thereof, of any responsibility imposed upon them by law.

**Section 3. Appointment of Committees.** The Architectural Control Committee (ACC) shall be a standing committee, with its members appointed by the Board. If the Board has not appointed an Architectural Control Committee, then the Board shall serve that role. The ACC shall perform those duties which are set forth in the Restrictions, and shall periodically report to the Board. The chair of the ACC shall see to it that minutes are kept for all meetings, and shall deliver those minutes to the Secretary.

**Section 4. Dispute Resolution Committee.** The Board may form a Dispute Resolution committee. The Committee shall be composed of no less than three members nor more than five. It shall be the duty of the Committee to receive complaints from members on any matter involving the Association functions, duties and activities within its field of responsibility, to receive information regarding those matters, and to make findings and issue recommendations for their resolution. The Committee shall report its decisions back to the Board for resolution if further action is required. All Members are required to present any complaints to the dispute resolution committee or to the Board before initiating any legal action against the Association.

## ARTICLE VIII - MISCELLANEOUS

**Section 1. Limited Liability.** No Member, Director, or Officer shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort committed by another Member, Director, or Officer, whether such other member was acting on behalf of the Association or otherwise.

**Section 2. Indemnification.** The Association shall provide indemnification for any judgment and reasonable expenses actually incurred to current or former officers, directors, and committee members (hereinafter referred to as "governing persons"), as follows:

- a. **Person Targeted As Officer, Director, or Committee Member.** The Association shall indemnify a governing person against reasonable expenses actually incurred by the person in connection with a proceeding in which the person is a respondent because the person is or was a governing person, if the person is wholly successful, on the merits or otherwise, in the defense of the proceeding.
- b. **Civil Proceedings.** The Association shall indemnify a governing person who was, is, or is threatened to be made a respondent in a civil proceeding if the Board determines that the person acted in good faith and reasonably believed his or her conduct in an official capacity was in the Association's best interest, reasonably believed his or her conduct in any other capacity was not opposed to the Association's best interest, and if the expenses (other than a judgment) are reasonable.
- c. **Criminal Proceedings.** The Association may indemnify a governing person who was, is, or is threatened to be made a respondent in a criminal proceeding if the Board determines that he or she acted in good faith and did not have a reasonable cause to believe his or her conduct was unlawful.
- d. **Advancing Expenses.** The Association shall advance expenses before a final determination is made in such proceedings, whenever such advancement of expenses is permitted by law and whenever doing so will not prevent it from meeting its other financial obligations. The Board shall require the governing person who seeks advancement of expenses to deliver to the Board 1) A written affirmation of his or her good faith belief that he has met the standard of conduct necessary for indemnification, and 2) A written undertaking by or on behalf of the governing person to repay the amount paid or reimbursed by the Corporation if it is ultimately determined that he has not met that standard or if indemnification is otherwise prohibited. The written undertaking must be an unlimited general obligation of the Director, but need not be secured. It may be accepted without reference to the Director's financial ability to make repayment.
- e. **Limitations.** The Association may not indemnify any governing person who:
  - 1) is found liable to the Association for the acts and/or omissions in question, in any proceeding;
  - 2) is found liable because the person improperly received a personal benefit;
  - 3) is found liable for wilful or intentional misconduct in the performance of the person's duty to the Association;



- 4) is found liable for any breach of the person's duty of loyalty owed to the enterprise; or
  - 5) is found liable for an act or omission not committed in good faith that constitutes a breach of a duty owed by the person to the Association.
- e. **Insurance.** The Association may purchase and maintain insurance to cover the Association, the officers and directors, the members, and/or the Association's assets, as deemed necessary or advisable by the Board, without regard to whether or not the Association would have the power to provide indemnification under the circumstances covered by the policy.
- f. **Procedures.** The Association shall comply with the procedures in Texas Business Organizations Code Chapter 8, as it may be amended, in considering any claim for indemnification.

**Section 3. Association Property.** The Association owns all real and personal property, including the Common Areas and all improvements located thereon, and all other real or personal property subsequently acquired by the Association. A Member has no interest in specific property of the Association. Each member waives the right to require partition of all or part of the Association's property.

**Section 4. Conflicts Among Documents.** The Restrictions control over these Bylaws, in the event of a conflict.

**Section 5. Fiscal Year.** The Board may establish the Association's fiscal year by resolution. In the absence of a Board resolution determining otherwise, the Association's fiscal year shall run from January 1 to December 31 of each year.

**Section 6. Signatures for Release of Funds.** The signatures of at least two Board members shall be required on all checks, and shall be required for all other authorizations for release of Association funds except for specific expenditures which have been budgeted and approved by the Board. The Board may authorize up to three Board members to be listed on the signature card.

**Section 7. Rules for Meeting.** The Board may adopt rules for the conduct of meetings of Members, Board, and committees. Except where inconsistent with these Bylaws, all meetings shall be governed by the most recently revised edition of Robert's Rules of Order.

**Section 8. Inspection and Copying of Books and Records.** The Association shall adopt and file with the real property records of Smith County, Texas a records production and copying policy governing access to books and records as required by Texas Property Code § 209.005.

- a. **Inspection by Member.** Within ten days after receiving a written request to the

Association requesting inspection or copying of its books and records, describing with sufficient detail the books and records requested, and stating whether the Member wishes to inspect them or have copies sent, the Association shall either allow the Member or agent to examine the any records reasonably relevant to the request, or shall forward copies of the records to the Member.. The Board may establish rules concerning the (i) written request; (ii) hours, days of the week, and place; and (iii) payment of costs related to a Member's inspection and copying of books and records. The Association is not required to allow a Member to examine or copy files and records in the possession of its attorney; information protected by the attorney-client privilege; records that identify the history of an Owner's history of alleged violations of the Dedicatory Instruments; any Owner's personal financial information; any Owner's records of payment or nonpayment of amounts due the Association; any Owner's contact information except for his or her address; any personnel files or other information related to the Association's employees; or any other books and records made confidential by law. The Association may release information in an aggregate or summary manner that would not identify an individual property owner. Information regarding an individual owner may be released with the express written approval of the Owner, or pursuant to a court order authorizing their release. The Association may require advanced payment of the costs, which shall not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3.

- b. **Inspection by Director.** A director has the right, at any reasonable time, and at the Association's expense, to (i) examine and copy the Association's books and records at the Association's Principal Office and (ii) inspect the Association's properties.

**Section 9. Document Retention Policy.** The Association shall adopt and file with the real property records of Smith County, Texas a policy establishing the time periods for retaining various categories of documents, as required by Texas Property Code § 209.005(m).

**Section 10. Filing and Posting of Dedicatory Instruments.** The Secretary or a designee shall file all of the Association's Dedicatory Instruments with the real property records of Smith County, Texas as soon as practicable after their adoption. Prop. C § 202.006 If the Association or its management company maintains a publicly accessible website, the Secretary or a designee shall post all of the Association's Dedicatory Instruments, or any amendments thereto, on the website so they are available for download by the Members, as soon as practicable after their adoption. Prop. C § 207.006

**Section 11. Architectural Restrictions.** The Association, whether acting through its Board or the Architectural Control Committee or otherwise, shall not restrict or prohibit a property owner from any of the following, if the restriction or prohibition would violate the applicable sections in Texas Property Code Chapter 202:

- a. Installing or implementing solid-waste composting, rain barrels or rainwater harvesting systems, efficient irrigation systems, drought-resistant landscaping or water-conserving natural turf Prop. C § 202.006, solar energy devices Prop. C



- ~~§ 202.010~~, or standby electric generators ~~Prop. C § 202.019~~;
- b. Installing shingles that are designed to be wind and hail resistant, heating or cooling efficient, or solar generation, if they resemble shingles authorized by the dedicatory instruments, are as durable or more durable than the authorized shingles, and match the aesthetics of the surrounding neighborhood ~~Prop. C § 202.011~~;
  - c. Displaying religious items ~~Prop. C § 202.018~~; displaying the flags of the United States, State of Texas, or branches of the armed forces ~~Prop. C § 202.012~~; or displaying political signs between ten and ninety days preceding any local, state, or federal election ~~Prop. C § 202.009~~.

**Section 12. Resale Certificates.** If properly requested by a person authorized by law to make such a request, the Secretary or a designee shall prepare and provide a Resale Certificate as required by Texas Property Code § 207.003. The person requesting the Resale Certificate shall pay all costs authorized by that section.

**Section 13. Management Certificate.** The Secretary or a designee shall prepare and file a Management Certificate with the real property records of Smith County, Texas whenever same is required by Texas Property Code § 209.004.

**Section 14. Changes in Law.** It shall be the duty of the Board to monitor any changes in the law and to propose amendments to these Bylaws to comply with any such changes. The Board may obtain assistance of counsel if the Board deems it necessary or advisable. "Changes in the law" shall include amendments to the United States Code or the Texas Statutes; changes to the Code of Federal Regulations or the Texas Administrative Code; judgments of courts with jurisdiction over the Association; and holdings of state and federal appellate courts that are binding on the Association.

**Section 15. Interpretation of Dedicatory Instruments.** The Board shall have the discretion to determine the interpretation or meaning of the Dedicatory Instruments (including but not limited to these Bylaws, the Restrictions, the Articles of Incorporation), in the event of a dispute or question. The Board should consult the opinions of the General Counsel regarding any such question, and may consider the opinions of the Members. Any decision of the Board interpreting the Dedicatory Instruments shall be final, unless it is arbitrary, capricious, or discriminatory.

**Section 16. Notices.** Any notice required or permitted by the Dedicatory Instruments must be in writing. Notices regarding enforcement actions must be given as required or as permitted by law. All other notices may be given by regular mail. Notice by mail is deemed delivered (whether actually received or not) when properly deposited with the United States Postal Service, addressed to (a) a Member at the Member's last known address according to the Association's records; and (b) the Association, the Board, or a 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 Dedicatory Instruments, actual notice, however

## AUTHENTICATION

On Sept 9, 2019 at a meeting that was properly called and for which notice was given to Members and Directors, the Board of Directors of Lakeway Owners Association amended the Association's Bylaws. The Members passed the amendments. The Directors voted unanimously in favor of the amendments.

Yolima P Bell Director of LAKEWAY OWNERS ASSOCIATION appeared before me today and stated under oath.

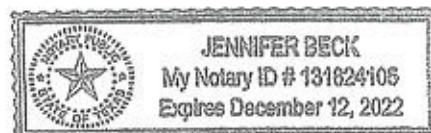
My Name is Yolima P Bell. I am a Directors of the Board of Lakeway Owners Association. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

"Futher Affiant sayeth not"

Yolima P Bell  
Director of Lakeway Owners Association

On this, the 9th day of Sept, 2019 befor me a notary public, personally appeared, known to me (or satisfactorily proven) to be the whose name is subscribed within instrument.  
In witness hereof, I hereunto set my hand and official seal.

Jennifer Beck  
Notary Public/State of Texas





# Smith County



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**DO NOT REMOVE**

**THIS PAGE IS PART OF THE INSTRUMENT**

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Filed for Record in  
Smith County, Texas  
6/9/2019 11:01:21 AM  
Fee: \$162.00  
20190100029871

BY LAWS

Deputy -Suni Whittaker

I hereby certify that this  
instrument was filed and duly  
recorded in the Official Public  
Records of Smith County, Texas

  
Karen Phillips  
County Clerk

