

AMENDMENT TO THE BYLAWS
OF WESTFIELD VILLAGE HOMEOWNERS ASSOCIATION, INC.,
a Texas Nonprofit Corporation

WHEREAS, the Bylaws of Westfield Village Homeowners Association, Inc. ("Association") were adopted on June 18, 2007 ("Bylaws"); and

WHEREAS, the Association is charged with administering and enforcing those certain Declarations of Covenants and Restrictions of Westfield Village Subdivision recorded in Volume 4964, Page 127, Volume 6348, Page 39, Volume 6348, Page 51, Volume 7207, Page 54, Volume 7207, Page 67, and Volume 6348, Page 64 of the Official Records of Brazos County, Texas, and all amendments, modifications and supplements thereto (collectively the "Declaration"); and

WHEREAS, Chapter 209 of the Texas Property Code has been amended to add and revise numerous provisions regarding Association board of directors ("Board") meetings, elections, and directors (the "Provisions"), with effective dates of September 1, 2011 and January 1, 2012; and

WHEREAS, the Board has determined that it is in the best interest of the owners of lots within the Westfield Village Subdivision ("Owners") and the Association to set forth changes to the Bylaws in order to comply with the Provisions; and

WHEREAS, the Board intends that to the extent that the terms of this Amendment conflict with the Bylaws, the Declaration, or any other dedicatory instrument of the Association, the terms of this Amendment shall control;

NOW, THEREFORE, the Board has duly adopted the following revisions to the Bylaws:

1. **BOARD MEETINGS.**

- A. **OPEN BOARD MEETINGS.** Regular and special meetings of the Board shall be open to all Owners, subject to the right of the Board to adjourn a Board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual Owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.
- B. **MINUTES OF BOARD MEETINGS.** The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to an Owner for inspection and copying on the Owner's written request to the Association's managing agent at the address appearing on the

most recently filed management certificate or, if there is not a managing agent, to the Board.

- C. NOTICE OF BOARD MEETINGS. Owners shall be given notice of the date, hour, place, and general subject of a regular or special Board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:
- i. mailed to each Owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or
 - ii. provided at least 72 hours before the start of the meeting by:
 1. posting the notice in a conspicuous manner reasonably designed to provide notice to Owners:
 - a. in a place located on the Association's common property or, with the Owner's consent, on other conspicuously located privately owned property within the subdivision; or
 - b. on any Internet website maintained by the Association or other Internet media; and
 2. sending the notice by e-mail to each Owner who has registered an e-mail address with the Association.
- D. RECESS OF BOARD MEETINGS. If the Board recesses a regular or special Board meeting to continue the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner prescribed by Section C(ii)(1) above within two hours after adjourning the meeting being continued.
- E. BOARD MEETINGS WITHOUT NOTICE. The Board may meet by any method of communication, including electronic and telephonic, without prior notice to owners under Section C above, if each director may hear and be heard by every other director, or the Board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board action. Any action taken without notice to Owners under Section C above must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. The Board may NOT, without prior notice to Owners under Section C above, consider or vote on:
- i. fines;
 - ii. damage assessments;
 - iii. initiation of foreclosure actions;
 - iv. initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
 - v. increases in assessments;
 - vi. levying of special assessments;
 - vii. appeals from a denial of architectural control approval; or

viii. 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.

- F. This section applies to a meeting of the Board prior to Turnover (as that term is defined in the Bylaws) only if the meeting is conducted for the purpose of:
- i. adopting or amending the governing documents, including Declaration, Bylaws, rules, and regulations of the Association;
 - ii. increasing the amount of regular assessments of the Association or adopting or increasing a special assessment;
 - iii. electing non-developer Board members of the Association or establishing a process by which those members are elected; or
 - iv. changing the voting rights of Owners.

2. NOTICE OF ELECTION OR ASSOCIATION VOTE

A. Not later than the 10th day or earlier than the 60th day before the date of an election or vote, the Association shall give written notice of the election or vote to:

- i. each Owner of property in the Association, for purposes of an association-wide election or vote; or
- ii. each Owner of property in the Association entitled under the Declaration or Bylaws or other dedicatory instrument to vote in a particular representative election, for purposes of a vote that involves election of representatives of the Association who are vested under the dedicatory instruments of the Association with the authority to elect or appoint Board members of the Association.

3. RECOUNT OF VOTES

A. Any Owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

- i. by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the Association's mailing address as reflected on the latest management certificate filed under Section 209.004; or
- ii. in person to the Association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

B. The Association shall, at the expense of the Owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The Association shall enter into a contract for the services of a person who:

- i. is not a member of the Association or related to a member of the association Board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and
- ii. is:
 1. a current or former:
 - a. county judge;
 - b. county elections administrator;
 - c. justice of the peace; or
 - d. county voter registrar; or

2. a person agreed on by the Association and the persons requesting the recount.
 - C. Any recount under Subsection A must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with Subsections A and B. If the recount changes the results of the election, the Association shall reimburse the requesting Owner for the cost of the recount. The Association shall provide the results of the recount to each Owner who requested the recount. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.
4. BALLOTS
- A. Any vote cast in an election or vote by an Owner must be in writing and signed by the Owner.
 - B. Electronic votes cast under Section 209.00592 constitute written and signed ballots.
 - C. In an Association-wide election, written and signed ballots are not required for uncontested races
5. RIGHT TO VOTE
- A. Any provision in the Bylaws, the Declaration or any other dedicatory instrument of the Association that would disqualify an Owner from voting in an Association election of Board members or on any matter concerning the rights or responsibilities of the Owner is void.
6. BOARD MEMBERSHIP
- A. Except as provided by this section, any provision in the Bylaws, the Declaration or any other dedicatory instrument of the Association that restricts an Owner's right to run for a position on the Board of the Association is void.
 - B. If the Board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a Board member has been convicted of a felony or crime involving moral turpitude, the Board member is immediately ineligible to serve on the Board of the Association, automatically considered removed from the Board, and prohibited from future service on the Board.
7. VOTING AND QUORUM
- A. The voting rights of an Owner may be cast or given:
 - i. in person or by proxy at a meeting of the Association;
 - ii. by absentee ballot in accordance with this section;
 - iii. by electronic ballot in accordance with this section; or
 - iv. by any method of representative or delegated voting provided by the Bylaws or Declaration.
 - B. An absentee or electronic ballot:
 - i. may be counted as an Owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;
 - ii. may not be counted, even if properly delivered, if the Owner attends any meeting to vote in person, so that any vote cast at a meeting by an Owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

- iii. may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.
- C. A solicitation for votes by absentee ballot must include:
 - i. an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
 - ii. instructions for delivery of the completed absentee ballot, including the delivery location; and
 - iii. the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."
- D. For the purposes of this section, "electronic ballot" means a ballot:
 - i. given by:
 - 1. e-mail;
 - 2. facsimile; or
 - 3. posting on an Internet website;
 - ii. for which the identity of the Owner submitting the ballot can be confirmed; and
 - iii. for which the Owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.
- E. If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each Owner that contains instructions on obtaining access to the posting on the website.

8. ELECTION OF BOARD MEMBERS

- A. Notwithstanding any provision in the Bylaws or the Declaration, any Board member whose term has expired must be elected by Owners who are members of the Association. A Board member may be appointed by the Board only to fill a vacancy caused by a resignation, death, or disability. A Board member appointed to fill a vacant position shall serve the unexpired term of the predecessor Board member.
- B. This section does not apply to the appointment of a Board member prior to Turnover (as that term is defined in the Bylaws).

9. TABULATION OF AND ACCESS TO BALLOTS

- A. A person who is a candidate in an Association election or who is otherwise the subject of an Association vote, or a person related to that person within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, may not tabulate or otherwise be given access to the ballots cast in that election or vote except as provided by this section.
- B. A person other than a person described by Subsection A may tabulate votes in an Association election or vote but may not disclose to any other person how an individual voted.
- C. A person other than a person who tabulates votes under Subsection B, including a person described by Subsection A, may be given access to the

ballots cast in the election or vote only as part of a recount process authorized by law.

(SECRETARY'S CERTIFICATE ON FOLLOWING PAGE)

CERTIFICATE

I, Chastity Lamb do hereby certify that I am the duly elected and acting Secretary of Westfield Village Homeowners Association, Inc. and that the above and foregoing Amendment to the Bylaws of Westfield Village Homeowners Association, Inc., was adopted by the Board of Directors on June 15, 2012.

Chastity Lamb
Chastity Lamb, Secretary

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 15th day of June, 2012 by Chastity Lamb, Secretary of Westfield Village Homeowners Association, Inc., a Texas non-profit corporation.



Lorraine Rosales

AFTER RECORDING RETURN TO:

West, Webb, Allbritton & Gentry, P.C.
1515 Emerald Plaza
College Station, Texas 77845
(Michael H. Gentry)