

**SECOND AMENDED BY-LAWS OF
ORCHARD PARK HOMEOWNERS' ASSOCIATION**

Article One

DEFINITIONS

Section 1: "Association" shall mean and refer to the Orchard Park Homeowners' Association, its successors and assigns, a non-profit corporation organized and existing under the laws of the State of Texas.

Section 2: "The Properties" shall mean and refer to Lots 1 through 303, both inclusive, in the Orchard Park Subdivision, an Addition to the City of Lubbock, Lubbock County, Texas.

Section 3: "Common Properties" or "Common Area" shall mean and refer to that tract of land described by Metes and Bounds and shown in Exhibit "B" in the Restrictive Covenants applicable to the Orchard Park Subdivision, an Addition to the City of Lubbock, in Lubbock County, Texas, and includes all structures, landscaping, and any other properties or facilities owned and maintained by members of the Association.

Section 4: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple to any lot situated within The Properties, but notwithstanding and applicable theory of the mortgage, shall not mean or refer to the mortgagee or any of The Properties unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 5: "Member" or "Members" shall mean and refer to all those owners of lots in the Orchard Park Subdivision who are members of the Association.

Article Two

LOCATION AND PRINCIPAL OFFICE

Section 1: The principal office of the Association shall be P.O. Box 54326, Lubbock, Texas 79453 or such other place as the Board of Directors shall from time to time determine.

Article Three

MEMBERSHIP

Section 1: Each person or entity who is a record owner of a fee or undivided fee interest in any lot in the Orchard Park Subdivision shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No lot shall carry with it more than one membership. Memberships shall be appurtenant to and may not be separated from ownership of any lot. Ownership of a lot in the Orchard Park Subdivision shall be the sole qualification for membership.

Section 2: The rights of membership are subject to the payment of annual and special assessments levied by the Association. No member may participate in the affairs of the Association unless he be in "good standing," by which is meant the payment of the required assessments for the current year.

Section 3: The membership rights of any person who has an Interest in any lot which is subject to assessment under the foregoing Section 2, and/or the Restrictive Covenants applicable to the Orchard Park Subdivision, whether or not such person be personally obligated to pay such assessments, may be suspended by action of the Board of Directors during any period when any such assessment is due and unpaid, but, upon payment of any such assessment, the rights and privileges of such person shall be automatically restored. If the Board of Directors has adopted and

published rules and regulations governing the use of the Common Area and facilities and personal conduct of any person thereon is in violation of such rules and regulations, the Board of Directors may suspend all rights and privileges of such person for a period not to exceed thirty (30) days. This provision shall apply to any member, the family of any member, the guest of any member, and the tenant of any member.

Article Four

VOTING RIGHTS

Section 1: Members in good standing shall be voting Members. All voting Members shall be lot owners in the Orchard Park Subdivision and will be entitled to one (1) vote for each lot. When more than one person holds an interest in any lot, all such persons shall be members. The one vote for such lot shall be voted as they, among themselves, determine, but in no even shall more than one vote be cast with respect to any lot.

Article Five

PROPERTY RIGHTS IN COMMON PROPERTIES

Section 1: Each member shall be entitled to the use of the Common Property said Common Area and facilities thereon as provided in the Restrictive Covenants applicable to the Orchard Park Subdivision, and as may be determined from time to time by the Board of Directors of the Association.

Section 2: Any member may delegate his rights in the Common Property, Common Area and facilities to the members of his family who reside upon any lot in the Orchard Park Subdivision or to any of his tenants who reside thereon under a leasehold interest for a term on one (1) year or more. Such member shall notify the Secretary of the Association in writing of the name of any such person and of the relationship of the member to such person. The rights and privileges of such person are subject to suspension under Article 3 hereof, to the same extent as those of the members.

Article Six

ASSOCIATION PURPOSES AND POWERS

Section 1: The Board consists of not less than three (3) nor more than (7) directors. Within those limits, the Board may change the number of directors. No decrease in the number of Directors may shorten the term of a director. The terms of the directors shall be staggered. At least one-third (1/3) of the Board will be elected each year. Each director will have a term of two (2) years. Directors may serve consecutive terms.

Section 2: Vacancies in the Board of Directors shall be filled by appointment by the remaining Directors, any such appointed Director to hold office until his successor is elected by the members who may make such election at the next annual meeting of the members or at any special meeting duly called for that purpose.

Section 3: At the first annual meeting of the Members, the Voting Members will elect directors to succeed the initial directors. At subsequent annual Members meetings, successors for each director whose term is expiring will be elected. Cumulative voting is prohibited. The candidate or candidates receiving the most votes will be elected. The directors elected by the Voting Members will hold office until their respective successors have been elected.

Section 4: The Board of Directors have all powers necessary to administer the Association's affairs. The Board of Directors shall be the governing body of the organization with full rights and authority to determine policy, outline, plan, and carry into execution all business, activities, and policy, to enter into and execute all necessary agreements and instruments incident thereto in the name of the organization and shall constitute the representatives of the organization. In addition to the foregoing powers, the Board of Directors shall be authorized to institute, settle or

compromise, in the name of the organization or otherwise, any necessary legal proceedings to carry into effect the purpose and policies of the organization, or to enforce, or prevent violations of, the covenants or restrictions applicable to the Subdivision; and to employ legal counsel in connection with any of the foregoing, subject to the approval or ratification of the members.

Section 5: Written minutes and records of all proceedings of the Board of Directors shall be kept by the Secretary, all of which shall be opened to the inspection of the members in good standing at all reasonable times. Further, all action taken, plans and projects proposed or undertaken by the Board of Directors shall be reported to the membership at the next following meeting thereof, provided that at any such meeting the full minutes of the Board of Directors' proceedings shall be read if requested by any member in good standing.

Article Seven

QUALIFICATIONS FOR MEMBERSHIP

Section 1: Membership shall be appurtenant to any and may not be separated from ownership of any lot.

Article Eight

ELECTION OF DIRECTORS

Section 1: Election of the Board of Directors shall be by written ballot. At such elections, the members or their proxies may cast, in respect of each vacancy, as many votes as they are entitled to cast under the provisions of the Articles of Incorporation of the Association. Those persons receiving the largest number of votes shall be elected as Directors.

Section 2: Nominations for election to the Board of Directors shall be made from the floor at the meeting at which the election is held. Nominations may be made for each place to be filled on the Board of Directors. There shall be separate nominations made for each place to be filled.

Section 3: The newly elected directors, along with the remaining directors, shall elect a President, Vice-President, Secretary and a Treasurer at the first meeting.

Section 4: Any director may be removed, with or without cause, by the vote of a majority of the Members. Any director may be removed at a Board of Directors' meeting, if the director:

- A. Failed to attend three (3) consecutive Board of Directors' meetings;
- B. Failed to attend fifty percent (50%) of Board of Directors' meetings within one (1) year;
- C. Is delinquent in the payment of any Assessment for more than thirty (30) days; or
- D. Is the subject of an enforcement action by the Association for violation of the Governing Documents.

Section 5: A director's position becomes vacant if the director dies, becomes incapacitated, or resigns.

Section 6: If a director is removed or a vacancy exists, a successor will be elected by the remaining directors until the next annual meeting of the Members, at which meeting the Voting Members will elect a director for the vacated director position.

Section 7: Directors will not receive compensation. A director may be reimbursed for expenses approved by the Board.

Article Nine

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1: The Board of Directors shall have power:

- A. To call special meetings of the members whenever it deems necessary and it shall call a meeting at any time upon written request of five percent (5%) of the voting membership;
- B. To appoint and remove at its pleasure all officers, agents, and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bonds as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, officer or director of the Association in any capacity whatsoever;
- C. To determine policy, outline plans, and carry into execution all business, activities and policy;
- D. To enter into and execute all necessary agreements and instruments incident thereto in the name of the Association;
- E. To institute, settle or compromise, in the name of the Association or otherwise, any necessary legal proceedings to carry into effect the purpose and policies of the Association and to employ legal counsel in connection with any of the foregoing;
- F. To borrow money to maintain, repair, or restore the Common Area;
- G. To establish, levy and assess and collect the assessments as provided in the Restrictive Covenants applicable to the Orchard Park Subdivision;
- H. To adopt and publish rules and regulations governing the use of the Common Property, the Common Area, and facilities thereon and the person conduct of the members and their guests while on such premises;
- I. To exercise for the Association, all powers, duties and authority vested in or delegated to this Association, except those reserved to the members in the Restrictive Covenants applicable to the Orchard Park Subdivision;
- J. To exercise all powers necessary to administer the Association's affairs; and
- K. In the event that any member of the Board of Directors of this Association shall be absent from three (3) consecutive regular meetings of the Board of Directors without being excused from attendance by the Board of Directors, the Board may by action taken at the meeting during which said third absence occurs, or at any time thereafter while such absence continues, declare the office of said absent Director to be vacant.

Section 2: It shall be the duty of the Board of Directors:

- A. To cause to be kept written minutes and records of all proceedings of the Board of Directors, all of which shall be opened to the inspection of the members in good standing at all reasonable times.

- B. To report to the membership at the annual meeting of the members all actions taken, plans and projects proposed or undertaken by the Board of Directors;
- C. To cause to be read the full minutes of the Board of Directors' proceedings at the request of any member in good standing;
- D. To supervise all officers, agents, and employees of the Association and to see that their duties are properly performed;
- E. As more fully provided in the Restrictive Covenants applicable to the Orchard Park Subdivision:
 - i. To fix the amount of any special assessments against each lot with a majority vote by a quorum of Members to approve such special assessment; and
 - ii. To prepare a roster of the lots and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any member; and
- F. To perform any and all other duties and powers normally required of directors and which may be reasonably necessary for the proper conduct of the affairs of the Association.

Article Ten

DIRECTORS' MEETINGS

Section 1: A regular meeting of the Board of Directors will be held at such time and place as determined by the Board, but at least three (3) such meetings will be held during each fiscal year. Notice of the time and place of the meetings will be given to directors no less than ten (10) days before the meeting.

Section 2: A special meeting of the Board of Directors will be held when called by written notice signed by the president or any two (2) directors. The notice will specify time and place of the meeting and the matters to be covered at the meeting. Notice of the time and place of the meeting will be given to directors no less than three (3) day before the meeting.

Section 3: 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. 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: At all Board 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 no less than thirty (30) 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: Directors may vote by written proxy.

Section 6: Owners shall be notified of regular or special Board of Directors' meetings in the following manner:

- A. The notice shall contain the date, hour, place and general subject matter of a regular or special Board of Directors' meeting, including a general description of any matter to be brought up for deliberation in executive session;
- B. The notice shall be provided by mailing the notice to each of the property owners not later than the 10th day or earlier than the 60th day before the date of the meeting;
- C. At least 72 hours before the start of the meeting, the notice shall be e-mailed to each owner who has registered their e-mail address with the association;
- D. The notice shall be posted on the associations website; or
- E. The notice shall be posted at a conspicuous location within the subdivision.

Section 7: The president will preside at Board meetings. The secretary will keep minutes of the meetings and will record in a minute book the votes of the directors.

Section 8: The board may take action outside of a meeting, including voting by electronic or telephonic means without prior notice to Owners if each board member is given reasonable opportunity to express the board member's opinion to all other board members and to vote. Any action taken without notice to Owners must be summarized orally and documented in the minutes of the next regular or special board meeting. However, the board *may not*, without prior notice to Owners, take action on (1) fines, (2) damage assessments, (3) initiation of foreclosure actions; (4) initiation of enforcement actions (except temporary restraining orders or other actions required for the health and safety of the community), (5) increases in assessments, (6) levying of special assessments, (7) appeals from a denial of architectural control approval, (8) a suspension of a right of a particular owner before the owner has the opportunity to attend the board meeting and present the owner's position, (9) lending or borrowing money, (10) the adoption or amendment of a dedicatory instrument, (11) the approval of an annual budget or an amendment to the annual budget that increases the budget by more than 10%, (12) the sale or purchase of real property, (13) the filling of a vacancy on the board, (14) the construction of capital improvements other than the repair, replacement or enhancement of existing capital improvements, or (15) the election of an officer.

Article Eleven

OFFICERS

Section 1: The Officers of the Association shall consist of a President, Vice President, Secretary, and a Treasurer to be elected from the Members. The Board may appoint other officers having the authority and duties prescribed by the Board. Any two or more offices may be held by the same person, except the offices of president and secretary.

Section 2: Officers will be elected annually by the Board at the first meeting of the Board following each annual meeting of the Voting Members. A vacancy in any office may be filled by the board for the unexpired portion of the term.

Section 3: All Officers shall hold office at the pleasure of the Board of Directors. The Board may remove any officer whenever, in the Board's judgment, the interests of the Association will be served thereby. Any officer may resign at any time by giving notice to the Board, the president, or the secretary. Resignation takes effect on the date of the receipt of notice or at any later time specified in the notice.

Section 4: The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the board of Directors are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments pertaining to the business of the Association.

Section 5: The Vice President shall perform all the duties of the President in the absence of the President.

Section 6: The Secretary shall be ex-officio Secretary of the Board of Directors, shall record the votes and keep the minutes of all the proceedings in a book to be kept for that purpose, and shall maintain and record in a book kept for that purpose the names of all members of the Association, together with their addresses and e-mail addresses as registered by such members.

Section 7: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as provided by resolution of the board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of the budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association, but such checks and notes shall also be signed by the President or the Vice President. The Treasurer shall also keep proper books of account and cause such audits of the books to be made as the Board of Directors shall direct. The Treasurer shall prepare an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

Article Twelve

ACCOUNTS AND REPORTS

Section 1: Accounting and controls must conform to good accounting practices. Accounts will not be commingled with accounts of other persons. The following financial reports will be prepared at least annually:

- A. An income statement reflecting all income and expense activity for the preceding period;
- B. A statement reflecting all cash receipts and disbursements for the preceding period;
- C. A variance report reflecting the status of all accounts in “actual” versus “approved” budget format;
- D. A balance sheet as of the last day of the preceding period; and
- E. A delinquency report listing all Owners who are delinquent by more than sixty (60) days in paying any Assessment and describing the status of any action to collect those delinquent Assessments.

Article Thirteen

COMMITTEES

Section 1: There shall be such committees of the Association as the board of Directors shall determine. There shall be an architectural control committee and there may be other committees such as a recreation committee, maintenance committee, and the like. The Board may establish committees by resolution and authorize the committees to perform the duties described in the resolution.

Section 2: The Architectural Control Committee shall function as provided in the Restrictive Covenants for Orchard Park Subdivision. All other committees shall function as may be provided by the Board of Directors.

Article Fourteen

MEETINGS OF MEMBERS

Section 1: The regular meeting of the members shall be held in November of each calendar year at a place designated by the Board.

Section 2: Special meetings of the members for any purpose may be called at any time by the President or by any two (2) or more members of the Board of Directors or upon written request of five percent (5%) of the Voting Members.

Section 3: Written notice stating the place, day and hour of each Members' meeting must be given to each Member not less than seven (7) nor more than thirty (30) days before the meeting. The special Members' meeting notices must also state the meeting's purpose, and no business may be conducted except as stated in the notice. Notice to a Member is deemed given when hand delivered, mailed, or e-mailed. Members are responsible for keeping an updated e-mail address registered with the Association.

Section 4: Thirty percent (30%) of the Voting Members, by proxy or attendance, is a quorum. If a Members meeting cannot be held because a quorum is not present, a majority of the Voting Members who are present may adjourn the meeting. At the reconvened meeting, fifteen percent (15%) of the Voting Members is a quorum. If a quorum is not present, a majority of the Voting Members who are present may adjourn the meeting. At the second reconvened meeting, a majority of the Board is a quorum. Written notice of the place, date and hour of each reconvened meeting must be given to each Member not more than thirty (30) nor less than seven (7) days before the reconvened meeting-.

Section 5: Votes representing more than fifty percent (50%) of the Voting Members present at a meeting in which a quorum is present are a majority vote.

Article Fifteen

PROXIES

Section 1: At all Association meetings of the members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon the sale by the member executing said proxy of his lot or other interests in the Orchard Park Subdivision.

Article Sixteen

BOOKS AND PAPERS

Section 1: The books, records and papers of the Association shall at all times be kept at the office of the Association and shall during reasonable business hours be subject to the inspection by any member.

Section 2: Association Documents may be maintained in paper format or in an electronic format that can be readily transferred to paper.

Section 3: Association Documents shall be retained for the durations listed below:

- A. certificate of formation or articles of incorporation, bylaws, restrictive covenants, other dedicatory instruments and any amendments to same shall be retained permanently;

- B. financial books and records, including annual budgets, reserve studies, monthly financial statements and bank statements, shall be retained for seven (7) years (for example the July 2011 financial statements shall be retained until July 31, 2018);
- C. account records of current owners shall be retained for five (5) years (for example, invoice, payment and adjustment records on an owner's account with a transaction date of 08/15/2011 will be retained until 08/15/2016 subject to Section (d), below);
- D. account records of former owners shall be retained as a courtesy to that former owner for one (1) year after they no longer have an ownership interest in the property;
- E. contracts with a term of one (1) year or more shall be retained for four (4) years after the expiration of the contract term (for example, a contract expiring on 06/30/2011 and not extended by amendment must be retained until 06/30/2015);
- A. minutes of meetings of the owners and the Board of Directors shall be retained for seven (7) years after the date of the meeting (for example, minutes from a 07/20/2011 Board of Directors' meeting must be retained until 07/20/2018);
- G. tax returns and CPA audit records shall be retained for seven (7) years after the last date of the return or audit year (for example, a tax return for the calendar year 2011 shall be retained until 12/31/2018); and
- H. decisions of the Architectural Control Committee or Board of Directors regarding applications, variances, waivers or related matters associated with individual properties shall be retained for seven (7) years from the decision date (for example, an application for a swimming pool approved on 10/31/2011 must be retained until 10/31/2018).

Any Documents not described above may be retained for the duration deemed to be useful to the purpose of the Association, in the discretion of the Board of Directors, its attorney or its managing agent.

Section 4: Upon expiration of the retention period listed above, the Documents shall no longer be considered Association records and may be destroyed, discarded, deleted, purged or otherwise eliminated.

Section 5: The foregoing Policy shall be effective upon recordation in the Public Records of Lubbock County, Texas, and supersedes any policy regarding document retention which may have previously been in effect. Except as affected by Section 209.005 of the Texas Property Code and/or by this Policy, all other provisions contained in the Deed Restrictions or any other dedicatory instruments of the Association shall remain in full force and effect.

Article Seventeen

RECORDS PRODUCTION AND COPYING POLICY

Section 1: Association Records shall be reasonably available to every owner. An owner may also provide access to Records to any other person (such as an attorney, CPA or agent) they designate in writing as their proxy for this purpose. To ensure a written proxy is actually from the owner, the owner must include a copy of his/her photo ID or have the proxy notarized.

Section 2: An owner, or their proxy as described in Section 1, above, must submit a written request for access to or copies of Records. The letter must:

- (a) be sent by certified mail to the Association's address as reflected in its most recent Management Certificate filed in the County public records;
- (b) contain sufficient detail to identify the specific Records being requested; and
- (c) indicate whether the owner or proxy would like to inspect the Records before possibly obtaining copies or if the specified Records should be forwarded. If forwarded, the letter must indicate the format, delivery method and address from the below options, respectively:
 - (1) format: electronic files, compact disk or paper copies; and
 - (2) delivery method: email, certified mail or personally pick-up.

Section 3: Within ten (10) business days of receipt of the request specified in Section 17.2, above, the Association shall provide:

- (a) the requested Records, if copies were requested and any required advance payment had been made;
- (b) a written notice that the Records are available and offer dates and times when the Records may be inspected by the owner or their proxy during normal business hours at the office of the Association;
- (c) a written notice that the requested Records are available for delivery once a payment of the cost to produce the records is made and stating the cost thereof;
- (d) a written notice that a request for delivery does not contain sufficient information to specify the Records desired, the format, the delivery method and the delivery address;
- (e) a written notice that the requested Records cannot be produced within ten (10) business days but will be available within fifteen (15) additional business days from the date of the notice and payment of the cost to produce the records is made and stating the cost thereof.

Section 4: The following Association Records are not available for inspection by owners or their proxies:

- (a) the financial records associated with an individual owner;
- (b) deed restriction violation details for an individual owner;
- (c) personal information, including contact information other than an address for an individual owner;
- (d) attorney files and records in the possession of the attorney; and
- (e) attorney-client privileged information in the possession of the Association.

The information in (a), (b) and (c), above, will be released if the Association receives express written approval from the owner whose records are the subject of the request for inspection.

Section 5: Association Records may be maintained in paper format or in an electronic format. If a request is made to inspect Records and certain Records are maintained in electronic format, the owner or their proxy will be given access to equipment to view the electronic records. Association shall not be required to transfer such electronic records to paper format unless the owner or their proxy agrees to pay the cost of producing such copies.

Section 6: If an owner or their proxy inspecting Records requests copies of certain Records during the inspection, Association shall provide them promptly, if possible, but no later than ten (10) business days after the inspection or payment of costs, subject to Section 10.3(e), above.

Section 7: The owner is responsible for all costs associated with a request under this Policy, including but not limited to copies, postage, supplies, labor, overhead and third party fees (such as archive document retrieval fees from off-site storage locations) as listed below:

- (a) black and white 8½"x11" single sided copies ... \$0.10 each;
- (b) black and white 8½"x11" double sided copies ... \$0.20 each;
- (c) color 8½"x11" single sided copies ... \$0.50 each;
- (d) color 8½"x11" double sided copies ... \$1.00 each;
- (e) PDF images of documents ... \$0.10 per page (if compact disk ... \$1.00 per page);
- (f) labor and overhead ... \$18.00 per hour;
- (g) mailing supplies ... \$1.00 per mailing;
- (h) postage ... at cost;
- (i) other supplies ... at cost; and
- (j) third party fees ... at cost.

Section 8: Any costs associated with a Records request must be paid by the owner or their proxy in advance of delivery. An owner who makes a request for Records and subsequently declines to accept delivery will be liable for payment of all costs under this Policy.

Section 9: On a case-by-case basis, in the absolute discretion of the Association, and with concurrence of the owner, the Association may agree to invoice the cost of the Records request to the owner's account. Owner agrees to pay the total amount invoiced within thirty (30) days after the date a statement is mailed to the Owner. Any unpaid balance will accrue interest as an assessment as allowed under the Deed Restrictions.

Section 10: On a case-by-case basis where an owner request for Records is deemed to be minimal, the Board of Directors reserve the right to waive request under Section 10.2, above, and/or fees under Section 10.4, above.

Section 11: All costs associated with fulfilling the request under this Policy will be paid by the Association, subject to Section 8, above.

Section 12: The foregoing Policy is effective upon recordation in the Public Records of Lubbock County, Texas, and supersedes any policy regarding records production which may have previously been in effect. Except as affected by Section 209.005 of the Texas Property Code and/or by this Policy, all other provisions contained in the Deed Restrictions or any other dedicatory instruments of the Association shall remain in full force and effect.

Article Eighteen

GUIDELINES FOR DISPLAY OF CERTAIN ITEMS

Section 1: To the extent allowed by the Texas state constitution and the United States constitution, a property owner or resident may not display or attach any item that:

- (a) threatens public health or safety;
- (b) violates any law; or
- (c) contains language, graphics or any display that is patently offensive to a passerby.

Section 2: Approval from the Architectural Control Committee is not required for displaying items in compliance with these guidelines.

Section 3: As provided by Section 202.018 of the Texas Property Code, the Association may remove any items displayed in violation of these guidelines. In the event that there is any dispute under Section 18.1, above, the Board of Directors, shall determine whether the disputed item displayed or attached is in compliance with these guidelines.

Section 4: The foregoing guidelines are effective upon recordation in the Public Records of Lubbock County, Texas, and supersede any guidelines for certain items which may have previously been in effect. Except as affected by Section 202.018 of the Texas Property Code and/or by these guidelines, all other provisions contained in the Deed Restrictions or any other dedicatory instruments of the Association shall remain in full force and effect.

Article Nineteen

GUIDELINES FOR DISPLAY OF FLAGS

Section 1: The following guidelines apply to the display of ("**Permitted Flags**"):

- (a) the flag of the United States;
- (b) the flag of the State of Texas; and
- (c) the official flag of any branch of the United States armed forces.

Section 2: These Guidelines do not apply to any flags other than the Permitted Flags listed in Section 19.1, above, including, but not limited to:

- (a) flags for schools, sports teams, businesses or foreign countries;
- (b) flags with marketing, seasonal, historical, commemorative, nautical, political or religious themes; or
- (c) historical versions or flags permitted in Section 19.1, above.

Section 3: Permitted Flags may be displayed subject to these guidelines. Advance written approval of the Architectural Control Committee is required for any free-standing flagpole and any additional illumination associated with the display of Permitted Flags.

Section 4: Permitted Flags must be displayed in a respectful manner in accordance with the current relevant federal, state or military code.

Section 5: Permitted Flags must be displayed from a pole attached to a structure or to a free standing pole. Permitted Flags may not be draped over or directly attached to structures. For example, a Permitted Flag may not be laid across a fence or stapled to a garage door.

Section 6: Permitted Flags shall be no larger than three foot (3') by five foot (5') in size.

Section 7: Only one Permitted Flag may be displayed on a flagpole attached to a structure. Up to two Permitted Flags may be displayed on an approved free-standing flagpole that is at least fourteen feet (14') tall.

Section 8: Flagpoles must be constructed of permanent, long-lasting materials with an appropriate finish that is harmonious with the dwelling.

Section 9: A flagpole attached to a structure may be up to six feet (6') long and must be securely attached with a bracket with an angle of 30 to 45 degrees down from vertical. The flagpole must be attached in such a manner as to not damage the structure. One attached flagpole is allowed on any portion of a structure facing a street and one attached flagpole is allowed on the rear or backyard portion of a structure. Brackets which accommodate multiple flagpoles are not allowed.

Section 10: Free-standing flagpoles may be up to twenty feet (20') tall, including any ornamental caps. Free-standing flagpoles must be permanently installed in the ground according to manufacturer's instructions. One free-standing flagpole is allowed in the portion of the owner's property between the main residential dwelling and any street and one free-standing flagpole is allowed in the rear or backyard portion of a property.

Section 11: Free-standing flagpoles may not be installed in any location described below:

- (a) in any location other than the Owner's property;
- (b) within a ground utility easement or encroaching into an aerial easement;
- (c) beyond the side or rear setback lines (for example, on a lot with a 10' side setback line, a flagpole may not be installed closer than 10' from the side property line);
- (d) beyond half the distance of the front setback line (for example, on a lot with a 30' front setback line, a flagpole may not be installed closer than 15' from the front property line); or
- (e) closer to a dwelling on an adjacent lot than the height of the flagpole (for example, a 20' flagpole cannot be installed closer than 20' from an adjacent house).

Section 12: Lighting may be installed to illuminate Permitted Flags if they will be displayed at night and if existing ambient lighting does not provide proper illumination. Flag lighting must:

- (a) be ground mounted in the vicinity of the flag;

- (b) utilize a fixture that screens the bulb and directs light in the intended direction with minimal spillover;
- (c) point towards the flag and face the main structure on the property or to the center of the property if there is no structure; and
- (d) provide illumination not to exceed the equivalent of a 60 watt incandescent bulb.

Section 13: Flagpoles must not generate unreasonable noise levels which would disturb the quiet enjoyment of other residents. Each flagpole owner should take steps to reduce noise levels by using vinyl or plastic snap hooks, installing snap hook covers or securing a loose halyard (rope) around the flagpole with a flagpole clasp.

Section 14: Flagpoles are allowed solely for the purpose of displaying Permitted Flags. If a flagpole is no longer used on a daily basis, it must be removed.

Section 15: All flags and flagpoles must be maintained in good condition. Deteriorated flags must be removed and promptly replaced. Deteriorated or structurally unsafe flagpoles must be promptly repaired, replaced or removed.

Section 16: The foregoing guidelines are effective upon recordation in the Public Records of Lubbock County, Texas, and supersede any guidelines for display of flags which may have previously been in effect. Except as affected by Section 202.007(d) of the Texas Property Code and/or by these guidelines, all other provisions contained in the Deed Restrictions or any other dedicatory instruments of the Association shall remain in full force and effect.

Article Twenty

GUIDELINES FOR RAINWATER RECOVERY SYSTEMS

Section 1: Rainwater Recovery Systems may be installed with advance written approval of the Architectural Control Committee subject to these guidelines.

Section 2: All such Systems must be installed on land owned by the property owner. No portion of the Systems may encroach on adjacent properties or common areas.

Section 3: Other than gutters and downspouts conventionally attached to a dwelling or appurtenant structure, all components of the Systems, such as tanks, barrels, filters, pumps, motors, pressure tanks, pipes and hoses, must be substantially screened from public view from any street or common area. Screening may be accomplished by:

- (a) placement behind a solid fence, structure or vegetation;
- (b) by burying the tanks or barrels; or
- (c) by placing equipment in an outbuilding otherwise approved by the Architectural Control Committee.

Section 4: A rain barrel may be placed in a location visible from public view from any street or common area only if configuration of the guttering system on the structure precludes screening as described above with the following restrictions:

- (a) the barrel must not exceed fifty-five (55) gallons;
- (b) the barrel must be installed in close proximity to the structure on a level base with the guttering downspout leading directly to the barrel inlet at a substantially vertical angle;
- (c) the barrel must be fully painted in a single color to blend with the adjacent home or vegetation; and
- (d) any hose attached to the barrel discharge must be neatly coiled and stored behind or beside the rain barrel in the least visible position when not in use.

Section 5: Overflow lines from the Systems must not be directed onto or adversely affect adjacent properties or common areas.

Section 6: Inlets, ports, vents and other openings must be sealed or protected with mesh to prevent children, animals and debris from entering the barrels, tanks or other storage devices. Open-top storage containers are not allowed, however, where space allows and where appropriate, Architectural Control Committee approved ponds may be used for water storage.

Section 7: Harvested water must be used and not allowed to become stagnant or a threat to health.

Section 8: All Systems must be maintained in good repair. Unused Systems should be drained and disconnected from the gutters. Any unused Systems in public view must be removed from public view from any street or common area.

Section 9: The foregoing guidelines are effective upon recordation in the Public Records of Lubbock County, Texas, and supersede any guidelines for rainwater recovery systems which may have previously been in effect. Except as affected by Section 202.007 of the Texas Property Code and/or by these guidelines, all other provisions contained in the Deed Restrictions or any other dedicatory instruments of the Association shall remain in full force and effect.

Article Twenty-One

ENFORCEMENT PROCEDURES

Section 1: Before the Board may (a) suspend an Owner's right to use a Common Area, (b) file a suit against an Owner other than a suit to collect any Assessment, (c) charge the Owner for property damage, or (d) levy a fine for a violation of the Governing Documents, the Association or its agent must give written notice to the Owner by certified mail, return receipt requested. 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 to the Association from the Owner. The notice must also inform the Owner that the Owner is (a) 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 with in the preceding six (6) months and (b) may request a hearing on or before the thirtieth day after the date the Owner receives notice.

Section 2: 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 that the Board receives the Owner's request for a hearing and must notify the Owner of the date, time and place for 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 and proposed sanction if the violation is cured within a 30-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.

Section 3: Following hearing before a committee, if any, a 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 then (10) days after the hearing date.

Section 4: The Board may change or amend the enforcement procedure to comply with changes in the law.

Article Twenty-Two

MISCELLANEOUS PROVISIONS

Section 1: The Association shall be required to obtain and maintain, and to pay the premiums therefore as a common following:

- A. Loss or damage by fire and other perils normally covered by the standard extended coverage endorsements; and
- B. All other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available.

The policy or policies shall be in an amount equal to one hundred percent (100%) of current replacement costs of the Common Properties, exclusive of land, foundations, excavation and other items normally excluded from coverage. The name of the insured under such policies must be the Association or the authorized representative of the Association, for the use and benefit of the individual owners. Loss payable shall be in favor of the Association or its authorized representative, as trustee for each lot owner and each such owner's mortgagee in the percentage of common ownership. Such policies may not be cancelled or subsequently modified without at least ten (10) days prior written notice to the Association, Agreed Amount and Inflation Guard Endorsement is required, if available.

Section 2: The Association must maintain comprehensive general liability insurance coverage, covering all of the Common Properties in amounts generally required by institutional mortgage investors for projects similar in construction, location and use, but in any event for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insured's for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance and use of the common properties, and legal liability arising out of the law suits related to employment contracts of the Association. Such policies must provide that they may not be cancelled or substantially modified by any party without at least ten (10) days prior written notice to the Association. Existence of this policy and the face amount is proprietary information.

Section 3: The Association shall require Directors and Officers liability insurance for the protection and liability exposure of its Board of Directors in the amount of One Million Dollars (\$1,000,000) per occurrence.

Section 4: The Association retains reasonable rights, including easements over the Common Areas, for completion of improvements and marking repairs to improvements and to maintain facilities erected on Common Properties within the Orchard Park Subdivision.

Section 5: The Board may establish the Associations fiscal year by resolution. In the absence of a Board resolution determining otherwise, the Association's fiscal year is a calendar year.

Section 6: The Board may adopt rules for conduct of meetings of Members, Board and committees.

Article Twenty-Three

AMENDMENTS

Section 1: These By-Laws may be amended, at a regular or special meeting of the Board of Directors, by a vote of a majority of a quorum of the Board; provided however, that those provisions of these By-Laws which are governed by the Articles of Incorporation of the Association or the Restrictive Covenants for Orchard Park Subdivision may not be amended except as therein provided or as allowed by law.

Section 2: In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Restrictive Covenants for the Subdivision and these By-Laws, the Restrictive Covenants shall control.