

**AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
ON AND FOR
WINDSOR AT PRESTON MANOR**

STATE OF TEXAS	§	Reference Recording No: 2020058016
	§	
COUNTY OF LUBBOCK	§	

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ON AND FOR WINDSOR AT PRESTON MANOR ("Amendment") is made as of the date set forth below by WOLFFORTH LAND COMPANY, LLC, a Texas limited liability company ("**Declarant**").

RECITALS

WHEREAS, Declarant previously executed that certain instrument entitled "Declaration of Covenants, Conditions, and Restrictions on and for Windsor at Preston Manor," dated December 21, 2020, recorded under Lubbock County Clerk's File No. 2020058016 in the Official Public Records of Lubbock County, Texas (as may be amended and supplemented from time to time, the "**Declaration**"); and

WHEREAS, pursuant to Article VII, Section 3.b. of the Declaration, for so long as Declarant owns a majority of the Lots subject to the Declaration, Declarant may amend the Declaration by a recorded written instrument for the purposes of clarifying or resolving any ambiguities or conflict therein, or correcting any inadvertent misstatements, errors, or omissions therein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by the Declaration; and

WHEREAS, pursuant to Article I, Section 3 of the Declaration, reserved for itself during the Development Period (as such term is defined in the Declaration) each and every right, reservation, privilege, and exception available or permissible under applicable law including the right to create a property owners association to assist in the management, use and care of the common areas and to assist in the administration and enforcement of the covenants, conditions and restrictions contained in the Declaration against real property subject to it and which may be subject to it, including the right to levy assessments for such efforts; and

WHEREAS, as of the date of this Amendment, Declarant owns a majority of the Lots subject to the Declaration; and

WHEREAS, the Development Period has not terminated; and

WHEREAS, the purpose of this Amendment is to further the general plan and scheme of development by effectuating the intent to establish an association of owners and for the purposes clarifying the undertakings and obligations of such association as set forth in the Declaration;

NOW, THEREFORE, pursuant to the powers retained by the Declarant under the Declaration, the Declarant hereby amends the Declaration as follows:

1.

Except as otherwise defined in this Amendment, all capitalized terms shall have the same meaning as set forth in the Declaration.

2.

Article I, Section 1 of the Declaration, **Definitions**, is hereby amended by inserting the following as subsections to said Section:

- p. "Association" shall mean the Windsor at Preston Manor Owners Association, Inc., a nonprofit corporation.
- q. "Certificate of Formation" shall mean the Certificate of Formation of the Association, as it may be amended, which establish the Association as a nonprofit corporation under Texas law. A copy of the Certificate of Formation is attached as Exhibit "B" to the Declaration.
- r. "By-Laws" shall mean the By-Laws of the Association, adopted by its Board, as they may be amended, which govern the Association's internal affairs, such as voting, elections, and meetings. A copy of the By-Laws is attached as Exhibit "C" to the Declaration.
- s. "Board" shall mean the board of directors of the Association which administer the Association.
- t. "Rules" shall mean the rules of the Association adopted pursuant to Article I, Section 6, which regulate use of property, activities, and conduct within the Property.

3.

Article I of the Declaration is amended by inserting the following as Section 5, **Association Membership and Voting Rights**:

SECTION 5. Association Membership and Voting Rights

- a. **Membership.** The Association has two classes of membership: the Owner membership, which is comprised of all Owners, including Homebuilders;

and the Declarant membership, which consists solely of the Declarant. If a Lot has more than one Owner, all co-Owners of the Lot shall share the privileges of the applicable membership category, subject to reasonable Board regulation and the restrictions in this Declaration and in the By-Laws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only individuals residing in a Lot shall be entitled to use any Windsor Amenities available for use by Owners.

(1) Owner Membership. Every Owner is automatically an "Owner Member" of the Association. However, there shall be only one Owner Membership for each Lot owned by an Owner Member.

(2) Declarant Membership. The Declarant holds the sole Declarant membership. The Declarant membership shall terminate two years after expiration of the Development Period, or on such earlier date as the Declarant determines and declares in a recorded instrument.

- b. Voting. Each Lot owned by an Owner Member is assigned one equal vote, subject to the limitations on voting set forth in this Declaration and the other Governing Documents. During such time as there is a Declarant Membership, the Declarant shall hold one vote for each Lot it owns equal to a vote assigned to a Lot owned by an Owner Member. Furthermore, the Declarant's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

In any situation in which an Owner Member is entitled personally to exercise the vote for his or her Lot, or grant or withhold consent or approval to any action, if there is more than one Owner of a Lot, the right to vote, consent, or grant approval for such Lot shall be exercised as the co-Owners holding a majority of the ownership interest in the Lot determine among themselves. Any co-Owner may cast the vote for the Lot or grant consent or approval as the Owner of the Lot and majority agreement shall be conclusively presumed unless another co-Owner of the Lot protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken, or consent or approval granted, outside of a meeting. In the absence of majority agreement, the Lot's vote, and the right to grant consent or approval of a proposed action, shall be suspended if two or more co-Owners seek to exercise it independently.

Article I of the Declaration is amended by inserting the following as Section 6, **Rules**:

SECTION 6. Rules.

a. Rulemaking Authority and Procedures. Since it is impossible to foresee all potential situations and problems that may arise within the Property, the Board has the authority to adopt and modify rules as needed to address new or changing circumstances. The Board is authorized to make and change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 6.b.

(1) Declarant Authority. During the Development Period, Declarant has the right unilaterally to add new Rules or to modify or rescind existing Rules.

(2) Board Authority. Subject to the notice requirements in Section 6.a.(3) and the Board's duty to exercise sound judgment and reasonableness on behalf of the Association and its members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting; provided, for so long as the Declarant Membership exists, the Declarant's approval is required for any such action by the Board.

(3) Notice. The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board at which such action is to be considered. At any such meeting, Owners shall have a reasonable opportunity to be heard before the proposed action is put to a vote. This notice requirement does not apply to administrative and operating policies that the Board may adopt relating to the Windsor Amenities, such as hours of operation of a recreational facility, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules.

(4) Effective Date. A Rules change adopted under this section shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners.

(5) Conflicts. No action taken under this section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Declaration other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules and any provision of this Declaration (exclusive of the Rules), the Declaration shall control.

b. Protection of Owners and Others. Except as may be set forth in this Declaration (either initially or by amendment), all Rules shall comply with the following provisions:

(1) Similar Treatment. Similarly situated Lots shall be treated similarly; however, the Rules may vary by housing type.

(2) Flags and Other Displays. No Rule shall abridge the right of the Owner or occupant of a Lot to display the official flag of the United States of America in accordance with 4 U.S.C. Sections 5-10, the flag of the State of Texas in accordance with Chapter 3100 of the Texas Government Code, or an official or replica flag of any branch of the United States armed forces, on the Lot owned or occupied by such Owner, except that Rules may regulate the location, size, use and manner of display of such flags and flagpoles and associated lighting to the extent permitted by *Tex. Prop. Code, Chapter 202*, as it may be amended or any successor Texas statute thereof.

No Rule shall abridge the right of an Owner or occupant to display other political, religious, or holiday symbols and decorations on his or her Lot of the kinds normally displayed in single-family residential neighborhoods, nor shall any Rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible or otherwise apparent from outside structures on the Lot, including reasonable limitations on size, number, and duration or time period within which they may be displayed, consistent with *Tex. Prop. Code, Chapter 202*, as it may be amended or any successor Texas statute thereof, and any other applicable provisions of Texas law. One or more religious items, the display of which is motivated by the Owner's or occupant's sincere religious belief, provided that such display does not threaten the public health or safety, violate a law other than a law prohibiting the display of religious speech, or violate any applicable building line, setback requirement, or easement, is not attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole or fixture, and is not, in the Board's determination, patently offensive to a passerby for reasons other than its religious content, may be displayed.

(3) Household Composition. No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Lot size and facilities and its fair share use of the Windsor Amenities.

(4) Activities Within Dwellings. No Rule shall interfere with the activities carried on within a dwelling, except that the Association may

prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance to persons outside the dwelling, as the Board may determine.

(5) Allocation of Burdens and Benefits. No Rule shall alter the allocation of financial burdens among the various Lots or rights to use the Windsor Amenities as established by the Governing Documents to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Windsor Amenities available, from adopting generally applicable rules for use of Windsor Amenities, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents; provided, any such changes to the Windsor Amenities shall require the written consent of the Declarant during the Development Period. This provision does not affect the right to increase the amount of assessments as provided in Article IV.

(6) Abridging Existing Rights. No Rule shall require that an Owner dispose of personal property kept in or on a Lot in compliance with the Rules in effect at the time such personal property was brought onto the Lot. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the Rule.

(7) Rights to Develop. No Rule may interfere with the Declarant's ability to develop, market, and sell the Property.

(8) Interference with Easements. No Rule may interfere with the exercise of any easement created by or reserved to the Declarant.

(9) Leasing and Transfer of Lots. No Rule shall prohibit leasing or transfer of any Lot or require approval prior to leasing or transferring a Lot; however, the Rules may require a minimum lease term of up to 12 months. Minimum lease terms may vary by housing type; provided, the minimum lease term shall not apply to the seller of a Lot leasing the property from the buyer for a period of up to 30 days after the transfer of title to the Lot. The Rules may also require that Owners use Board-approved lease forms, and may impose a reasonable review or administrative fee in connection with the Board's review of a lease. Within 10 days of a lease being signed, the Owner of a leased Lot shall notify the Board or the Association's managing agent of the lease and provide (i) the commencement date and term of the lease; (ii) contact

information, including the name, mailing address, phone number, and e-mail address of each person who will reside in the Lot under the lease; and (iii) any additional information the Board may reasonably require consistent with *Tex. Prop. Code §209.016*. The Owner must give the tenant copies of the Governing Documents.

(10) No Person shall list, advertise, or operate any Lot or portion of a Lot as a hotel, inn, "bed and break-fast," vacation rental, or other "short-term lodging" (defined as rental or occupancy for a period shorter than the minimum lease term described in Section 6.b.(9) above). No Lot shall be used for lodging of persons other than the Owner or a tenant who resides in the Lot pursuant to a lease complying with Section 6.b.(9), members of their respective households, and their occasional, non-paying overnight guests visiting while a permanent resident of the Lot is present in the Lot, except that if a Lot is owned by a legal entity, such entity may permit the Lot to be occupied on a short-term basis by any director, officer, partner, or employee of such entity which the Owner identifies in advance by written notice to the Association, so long as no more than one such person is permitted to occupy the Lot in any 30-day period. No Lot shall be used for operation of any type of timesharing, fraction-sharing, residence club, vacation club, destination club, or similar program whereby the right to exclusive use of the Lot rotates among owners, participants, or members of the program on a fixed or floating time schedule, on a reservation basis, or on such other basis as may be set forth in the terms of the program, unless such program is established with the Declarant's prior written approval.

5.

Article II, Section 4 of the Declaration, **Fences**, is hereby amended by striking the sentence "No fence shall be constructed in front of the front building line of the Main Dwelling on a Lot." in Section 4.a. and by striking the first sentence of Section 4.b. in its entirety and replacing it with the following:

All fences constructed on a Lot shall be constructed only of brick, stone, masonry, painted or stained wood with a cap, flat-topped or dog-eared cedar pickets with a cap.

6.

Article II, Section 5.e. of the Declaration, **GARAGES**, is hereby amended by inserting the following after the last sentence of such section:

As used in this Declaration, the term "Corner Lot" shall mean any Lot located at the intersection of two or more streets.

7.

Article II, Section 5.j. of the Declaration, SWIMMING POOLS, is hereby amended by striking the last sentence of such section and replacing it with the following:

An enclosed in-ground pool may be constructed at the rear of the Main Dwelling (either attached to the Main Dwelling or as a separate structure), provided that the enclosure for such pool shall be of the same materials used on and in the same architectural style as the Main Dwelling provided that the a swimming pool enclosure that is black in color and consists of transparent mesh set in metal frames shall be permitted.

8.

Article II, Section 6 of the Declaration, **Landscaping of Lots**, is hereby amended by inserting the following before the last sentence of such section:

In addition to the requirements set forth herein, the Lots may also be landscaped utilizing xeriscaping principles that include quality landscaping that conserves water and protects the environment. Previously approved plans for Lots may be modified to incorporate xeriscaping principles.

9.

Article III of the Declaration is amended by inserting the following as Section 2, **Property Management**:

SECTION 2. **Property Management**.

a. Acceptance and Control of Association Property.

(1) Transfers and Conveyances by the Declarant. As set forth in the defined term "Windsor Amenities" in Article I, Section 1.1., Declarant may transfer or convey to the Association the Windsor Amenities. Furthermore, Declarant may transfer and convey to the Association other interests in real or personal property within or for the benefit of the Property. The Association shall accept all such transfers and conveyances "as is" without any representation or warranty, express or implied, in fact or by law, with respect thereto, or with respect to the improvements thereon or thereto, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequacy of the size or capacity in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials which has been or will be used in such property or repairs. Such property may be improved or unimproved and

may consist of fee simple title, easements, leases, licenses, or other real or personal property interests, and may be conveyed subject to other covenants, conditions, restrictions and easements, including, without limitation, easements permitting persons who are not members of the Association to use and enjoy such property upon payment to the Association of reasonable use fees. The Windsor Amenities and any other real or personal property transferred or conveyed to the Association are collectively referred to as the "Area of Common Responsibility." Upon the Declarant's written request, the Association shall reconvey to the Declarant or any third party designated by the Declarant any real property that the Declarant originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make adjustments in property lines, or to accommodate changes in the Plat.

(2) Management and Control. The Association is responsible for management, operation, and control of the Area of Common Responsibility, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Area of Common Responsibility, for payment or no payment, as the Board deems appropriate.

The Association may permit use of Area of Common Responsibility facilities by persons other than Owners and occupants of Lots and may charge use fees, in such amount as the Board may establish, for such use. Any such use of Area of Common Responsibility facilities shall require the Declarant's consent during the Development Period.

- b. Maintenance of Area of Common Responsibility. The Association shall maintain the Area of Common Responsibility in accordance with the "Community-Wide Standard." Such standard shall be the highest of the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Property, or the minimum standards described in this Declaration, the Design Guidelines, the Rules, and Board resolutions, as they may be amended from time to time. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the discretion of the Architectural Reviewer. The Community-Wide Standard may or may not be set out in writing. The Declarant initially shall establish such standard. The Community-Wide Standard may evolve as development progresses and as the Property matures.

The Area of Common Responsibility includes, but is not limited to:

- (1) the Windsor Amenities, including all improvements thereon;

(2) landscaping, lighting, and sidewalks within public rights-of-way within or abutting the Property to the extent that Lot Owners or responsible governmental authorities do not maintain them; provided, such maintenance shall not constitute a waiver of the Association's right to levy Individual Assessments or impose other sanctions against an Owner failing to perform his or her maintenance responsibilities;

(3) such portions of any additional property as may be designated by the Declarant, this Declaration, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association; and

(4) any property and facilities that the Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Declarant shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property it does not own, including, without limitation, Lots, or property dedicated to the public if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

c. Insurance. The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(1) blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on

(i) the Windsor Amenities; and

(ii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of the Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under any current applicable building ordinances and codes.

- (2) commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association, or any of its Members, employees, agents, or contractors while acting on their behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$2,000,000 in the aggregate with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverage or limits;
- (3) workers compensation insurance and employers liability insurance, if and to the extent required by law;
- (4) directors and officers liability coverage;
- (5) commercial crime insurance, including fidelity insurance covering all persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-fourth of the Annual Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation;
- (6) dram shop liability and product liability insurance, to the extent the Board deems it necessary or advisable;
- (7) flood insurance, to the extent the Board deems necessary or advisable; and
- (8) business automobile insurance, to the extent the Board deems necessary or advisable.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified persons, at least one of whom must be familiar with insurable replacement costs in the Lubbock County, Texas area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this section requires.

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of this Section 2.c. In the event of an insured loss, the deductible shall be treated as an expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and

an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as an Individual Assessment.

10.

Article IV, Section 6.a.1.(ii) of the Declaration, Eligibility for Payment Plan, is hereby amended by striking any and all references to "thirty (30) days" and "30-day" and replacing them with "forty five (45) days" and "45-day," respectively.

11.

Article IV, Section 6.c. of the Declaration, Account Sent to an Attorney/Agent for Formal Collection, is hereby amended by striking any and all references to "30-day" and replacing them with "45-day".

12.

Article IV of the Declaration is amended by inserting the following at the end of Section 6.e., Legal Compliance:

The Association shall not report any delinquency to a credit reporting service except in compliance with the requirements of *Tex. Prop. Code §§ 209.006(a) and 209.0065*.

13.

Article V of the Declaration is amended by striking Section 3, **Architectural Reviewer Control Following Development Period**, in its entirety and replacing it with the following:

SECTION 3. Architectural Reviewer Control Following Development Period. Upon expiration or termination of the Development Period, the Board shall appoint a "Design Review Committee" ("DRC") to serve as the Architectural Reviewer under the Governing Documents. The DRC shall consist of at least three, but not more than nine, persons, who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The members of the DRC may not be then current members of the Board, their spouse or a person residing in the same household of a Board member.

The Board shall use reasonable efforts to include on the DRC an architect who is authorized to practice under Texas law or to otherwise engage an architect to review DRC decisions and provide recommendations to the DRC. The

Association may compensate DRC members and consultants to the DRC in such manner and amount, if any, as the Board may determine appropriate.

Decisions of the DRC denying an application may be appealed to the Board. A written notice of the denial must be provided to the Owner by certified mail, hand delivery, or electronic delivery and shall:

- (a) describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and
- (b) inform the Owner that the Owner may request a hearing before the Board on or before the 30th day after the date the notice was mailed to the Owner.

The Board shall hold a hearing not later than the 30th day after the date the Board receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required on any application. During a hearing, the Board or the Association's designated representative and the Owner or the Owner's designated representative shall each have the opportunity to discuss, verify facts, and attempt to resolve the denial of the Owner's application, and the changes, if any, requested by the DRC in the notice of denial provided to the Owner. Either the Board or the Owner may request a postponement of the hearing for up to 10 days and such request shall be granted. Additional or longer postponements may be granted by agreement of the parties. The Association or the Owner may make an audio recording of the meeting. On appeal, the Board may affirm, modify, or reverse, in whole or in part, any decision of the DRC.

14.

Article VII of the Declaration is amended by inserting the following at the end of Section 4, **Enforcement**:

The Association and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents subject to the terms of this Declaration and Article 8 of the By-Laws. In addition, the Board may impose sanctions for violation of the Governing Documents, including those sanctions listed below and any others described elsewhere in the Governing Documents. The decision to pursue enforcement action in any particular case shall be left to the Association's discretion, except that the Association shall not be arbitrary or capricious in taking enforcement action.

- a. Sanctions Requiring Compliance with Enforcement Provisions of the By-Laws. Subject to compliance with the enforcement provisions set forth in Article 8 of the By-Laws, the Association may:

- (1) impose reasonable monetary fines, which shall constitute a lien upon the violator's Lot. In the event that any occupant, tenant, guest, or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Association, the Owner shall pay the fine upon notice from the Board;
- (2) except as limited by Texas law, suspend an Owner's right to vote;
- (3) suspend any person's right to use any of the Area of Common Responsibility facilities (i) for any period during which any charge against such Owner's Lot remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (4) suspend services the Association provides to the Lots or occupants thereof;
- (5) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);
- (6) without liability to any person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article V, including the Design Guidelines, from continuing or performing any further activities in the Property;
- (7) levy Individual Assessments to cover costs the Association incurs in bringing a Lot into compliance with the Community-Wide Standard or other requirements under the Governing Documents or to reimburse the Association for property loss or damage arising from the conduct of the Owner or occupants of the Owner's Lot or their guests;
- (8) record or otherwise publish a notice of violation with respect to any Lot on which a violation exists (including any violation relating to non-compliance with the Design Guidelines or the process or approval requirements under Article V);
- (9) subject to *Tex. Prop. Code §§ 209.006(a) and 209.0065*, as applicable, report any delinquency in paying amounts due to the Association to a credit reporting agency; and
- (10) file a suit at law or in equity against an Owner for any action which, by the terms of Article 8 of the By-Laws, is subject to the procedures set forth therein.

Notwithstanding the above, if within six months after the Owner has been given notice and the opportunity to exercise any rights to which the Owner was entitled under Article 8 of the By-Laws, the violation continues, is repeated, or recurs, the Board may impose any of the above sanctions without further compliance with Article 8 of the By-Laws.

b. Other Sanctions. To the extent permitted by Texas law, the Association may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing, and the enforcement procedures in Article 8 of the By-Laws shall not apply to these actions:

(1) exercise self-help or take action to abate a violation on a Lot in any situation that requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, the towing of vehicles that are in violation of parking rules and regulations) and levy an Individual Assessment against the Lot and the Owner thereof for all costs reasonably incurred in so doing, except that any action to collect such Individual Assessment shall be subject to compliance with the procedures set forth Article 8 of the By-Laws;

(2) exercise self-help or take action to abate a violation on the Area of Common Responsibility under any circumstances;

(3) require an Owner, at Owner's own expense, to perform maintenance or to remove any structure or improvement on such Owner's Lot that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

(4) enter the property and exercise self-help to remove or cure a violating condition if an Owner fails to take action as required pursuant to subsection (3) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass;

(5) bringing suit (i) in equity for a temporary restraining order or temporary injunctive relief to stop or prevent any violation or (ii) which includes foreclosure as a cause of action; or

(6) any other action for which notice and an opportunity for a hearing is not required under the Texas Property Code, including *Tex. Prop. Code* §209.007, as it may be amended or any successor Texas statute thereof.

15.

Article VII of the Declaration is amended by striking Section 5, **Use of Amenities within Preston Manor and Windsor at Preston Manor**, in its entirety and replacing it with the following:

SECTION 5. **Use of Amenities within Preston Manor**. The Preston Manor Amenities are part of a public improvement district approved by the Wolfroth City Council. Use of the Preston Manor Amenities is subject to the rules and procedures established by the public improvement district.

16.

Exhibit "B," **Certificate of Formation of Windsor at Preston Manor Property Owners Association, Inc.**, attached to this Amendment shall be inserted as Exhibit "B" to the Declaration.

17.

Exhibit "C," **By-Laws of Windsor at Preston Manor Property Owners Association, Inc.**, attached to this Amendment shall be inserted as Exhibit "C" to the Declaration.

18.

This Amendment shall become effective upon recording.

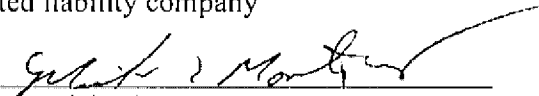
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IN WITNESS WHEREOF, the undersigned, on behalf of the Declarant, has executed this Amendment, this 26 day of JULY, 2022.

DECLARANT:


WOLFFORTH LAND COMPANY, LLC, a Texas limited liability company

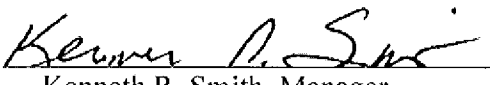
By: 
Michael Montgomery, its Manager

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on this 26 day of JULY, 2022 by Michael Montgomery, the Manager of WOLFFORTH LAND COMPANY, LLC, a Texas limited liability company, on behalf of said entity.

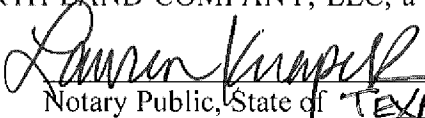



Notary Public, State of TEXAS

By: 
Kenneth R. Smith, Manager

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on this 26 day of JULY, 2022 by Kenneth R. Smith, a Manager of WOLFFORTH LAND COMPANY, LLC, a Texas limited liability company, on behalf of said entity.


Notary Public, State of TEXAS

AFTER RECORDING, RETURN TO:
WOLFFORTH LAND COMPANY, LLC
1020 E. Levee Street, Suite 130
Dallas, Texas 75207-7202
Attn: Michael Montgomery



EXHIBIT "B"

Certificate of Formation of Windsor at Preston Manor Owners Association, Inc.

[see attached]



Office of the Secretary of State

CERTIFICATE OF FILING OF

Windsor at Preston Manor Owners Association, Inc.
File Number: 804641336

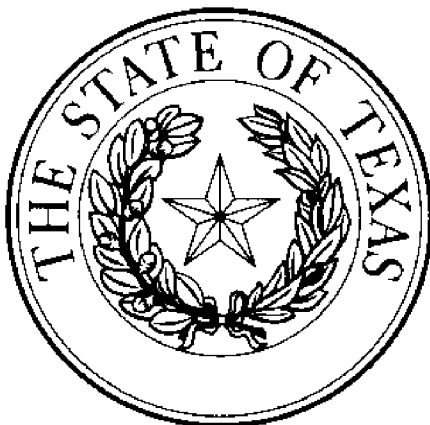
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 06/27/2022

Effective: 06/27/2022



A handwritten signature in black ink, appearing to read "John B. Scott".

John B. Scott
Secretary of State

**CERTIFICATE OF FORMATION
OF
WINDSOR AT PRESTON MANOR OWNERS ASSOCIATION, INC.**

I, the undersigned, being of the age of eighteen years or more, acting as organizer of a corporation under the Texas Nonprofit Corporation Law, do hereby adopt the following Certificate of Formation for such corporation.

Article 1. Name. The name of the corporation is Windsor at Preston Manor Owners Association, Inc. (the "**Association**").

Article 2. Initial Mailing Address. The initial mailing address of the Association is 922 Canterbury Ave., Wolfforth, TX 79382.

Article 3. Duration. The Association shall have perpetual duration.

Article 4. Applicable Statute. The corporation is organized pursuant to the provisions of the Texas Nonprofit Corporation Law, as set forth in Chapters 20 and 22, and the provisions of Title 1 applicable to nonprofit corporations, of the Texas Business Organizations Code, as it may be amended (the "**Act**").

Article 5. Defined Terms. Capitalized terms used in this Certificate of Formation and not otherwise defined in this Certificate shall have the meanings set forth in the Declaration of Covenants, Conditions, and Restrictions on and for Windsor at Preston Manor, recorded by Wolfforth Land Company, LLC, a Texas limited liability company ("**Declarant**"), in the Real Property Records of Lubbock, Texas, as may be amended and supplemented from time to time, as Document Number 2020058016 (the "**Declaration**").

Article 6. Purposes and Powers. The Association does not contemplate pecuniary gain or profit, direct or indirect, to its members.

(a) By way of explanation and not limitation, the purposes for which the Association is formed are:

(i) to be and constitute the "**Association**" designated by the Declarant to which reference is made in the Declaration, to assist in the management, use and care of the Property (as defined below) other than Lots unless as specified by the Declaration, to assist in the administration and enforcement of the covenants, conditions and restrictions set forth in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as specified therein, in the By-Laws of the Windsor at Preston Manor Owners Association, Inc. ("**By-Laws**"), and as provided by law; and

(ii) to provide an entity for the furtherance of the interests of the owners of that real property that is subject to the terms of the Declaration (the "Property").

(b) In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or By-Laws, may be exercised by its board of directors ("Board"):

(i) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Texas in effect from time to time; and

(ii) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in this Certificate of Formation, the By-Laws, or the Declaration, including, without limitation, the following:

(1) to fix and to collect assessments and other charges to be levied pursuant to the Declaration;

(2) to manage, control, operate, maintain, repair, and improve property subject to the Declaration or any other property as to which the Association has a right or duty to provide such services pursuant to the Declaration, By-Laws, or any covenant, easement, contract, or other legal instrument;

(3) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration, By-Laws, or other recorded covenant;

(4) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property subject to the Declaration;

(5) to buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(6) to borrow money for any purpose subject to such limitations as may be imposed in the Declaration or the By-Laws;

(7) to enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(8) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests of such corporations, firms, or individuals;

(9) to adopt, alter, and amend or repeal such By-Laws as may be necessary or desirable for the proper management of the affairs of the Association; provided, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration; and

(10) to provide any and all services to Property and adjacent properties as the Board may determine to be necessary or desirable to supplement the services provided by local government.

(c) The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 6 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article 6. None of the objects or purposes set out above shall be construed to authorize the Association to do any act in violation of the Act, and all such objects or purposes are subject to the Act.

Article 7. Membership. The Association shall be a membership corporation without certificates or shares of stock. The Declarant, for such period as is specified in the Declaration, and each individual or entity who is the Owner of a Lot within the Property, including any Homebuilder (as such capitalized terms are defined in the Declaration), shall be a member of the Association and shall be entitled to such voting rights and membership privileges as are set forth in the Declaration and the By-Laws.

Article 8. Board of Directors. The business and affairs of the Association shall be conducted, managed, and controlled by the Board. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

The Board shall consist of not less than three nor more than five directors, as determined in accordance with the Declaration and the By-Laws. The initial Board shall consist of three directors. The names and addresses of the members of the initial Board, who shall hold office until their successors are elected and have qualified, or until their resignation or removal, are as follows:

Michael E. Montgomery	922 Canterbury Ave., Wolfforth, TX 79382
Briggs Montgomery	922 Canterbury Ave., Wolfforth, TX 79382
Patrick Bernard	922 Canterbury Ave., Wolfforth, TX 79382

The number, the method of selection, removal, and filling of vacancies on the Board, and the term of office of members of the Board, shall be as set forth in the By-Laws.

Article 9. Liability and Indemnification of Directors. The liability of directors to the Association or its members for monetary damages for breach of duty of care or other duty as a director shall be eliminated or limited to the fullest extent allowed under the Texas Nonprofit Corporation Law. Such limitation of liability shall not limit the personal liability of a director of the Association:

(a) for any acts or omissions not in good faith or which involve intentional misconduct or knowing violations of the law; or

(b) for any transaction from which the director received an improper personal benefit.

Any repeal or modification of this Article 8 by the members of the Association shall not adversely affect any right or protection of a director or the Association existing at the time of such repeal or modification.

Article 10. Dissolution. The Association may be dissolved only upon a resolution duly adopted by the Board and approved by not less than 67% of the votes that Owner Members (as defined in the Declaration) present in person or by proxy are entitled to cast at the meeting at which the issue of dissolution is submitted for a vote. Dissolution also shall require the consent of Declarant during the Development Period (as defined in the Declaration). The Association is authorized, upon its winding up, to distribute its assets in a manner other than as provided by Section 22.304 of the Texas Business Organizations Code, in accordance with a plan of distribution adopted pursuant to Chapter 22 of the Texas Business Organizations Code, which plan may but shall not require distribution of the remaining property of the Association for tax-exempt purposes to an organization exempt under Section 501(c)(3), Internal Revenue Code, or described by Section 170(c)(1) or (2), Internal Revenue Code.

Article 11. Merger and Consolidation. The Association may merge or consolidate only upon a resolution duly adopted by the Board and approved by not less than 67% of the votes that Owner Members present in person or by proxy are entitled to cast at the meeting at which the issue of merger or consolidation is submitted for a vote. Merger or consolidation also shall require the consent of Declarant during the Development Period.

Article 12. Amendments. This Certificate of Formation may be amended only upon a resolution duly adopted by the Board and approved by not less than 67% of the votes that Owner Members present in person or by proxy are entitled to cast at the meeting at which such amendment is submitted for a vote; provided, to the extent permitted under Texas law, members shall not be entitled to vote on any amendment to this Certificate of Formation adopted for the sole purpose of complying with the requirements of any governmental or quasi-governmental entity or institutional lender authorized to fund, insure or guarantee mortgages on individual Lots, which amendments may be adopted by the Board. In addition, so long as the Declarant owns any property subject to the Declaration or which it may unilaterally make subject to the Declaration, the consent of the Declarant shall be required for any amendment.

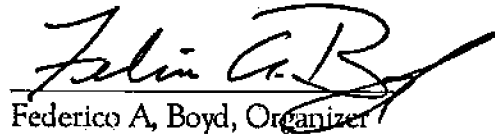
Article 13. Registered Agent and Office. The initial registered office of the Association is 1020 East Levee Street, Suite 130, Dallas, TX 75207, and the initial registered agent at such address is Michael E. Montgomery.

Article 14. Effective Date. This Certificate of Formation shall become effective when filed by the Secretary of State for the State of Texas.

Article 15. Organizer. The name and address of the organizer are as follows:

Federico A, Boyd
Hyatt & Stubblefield, P.C.
1979 Lakeside Parkway, Suite 250
Atlanta, Georgia 30084

IN WITNESS WHEREOF, the undersigned organizer has executed this Certificate of Formation subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.


Federico A, Boyd, Organizer

Hyatt & Stubblefield, P.C.
1979 Lakeside Parkway
Suite 250
Atlanta, Georgia 30084

EXHIBIT "C"

By-Laws of Windsor at Preston Manor Owners Association, Inc.

[see attached]

BY-LAWS
OF
WINDSOR AT PRESTON MANOR OWNERS ASSOCIATION, INC.

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**BY-LAWS
OF
WINDSOR AT PRESTON MANOR OWNERS ASSOCIATION, INC.**

**Article 1
Name, Principal Office, and Definitions**

1.1. Name.

The name of the corporation is Windsor at Preston Manor Owners Association, Inc. (the "**Association**").

1.2. Principal Office.

The Association's principal office shall be located in Lubbock County, Texas. The Association may have such other offices as the Board may determine or as the Association's affairs require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Declaration of Covenants, Conditions, and Restrictions on and for Windsor at Preston Manor recorded by WOLFFORTH LAND COMPANY, LLC, a Texas limited liability Company (the "**Declarant**"), in the Official Public Records of Real Property of Lubbock County, Texas, as it may be amended and supplemented from time to time, as Document Number 2020058016 (the "**Declaration**"). The term "**majority**," as used in these By-Laws, means those votes, Owners, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

**Article 2
Membership: Meetings, Quorum, Voting, Proxies**

2.1. Membership.

The Association shall have two classes of membership, Owner Membership and Declarant Membership, as more fully set forth in the Declaration. Each Owner of a Lot automatically becomes a member of the Association ("**Member**") upon accepting title to a Lot. Provisions of the Declaration pertaining to membership are incorporated by this reference.

2.2. Place of Meetings.

The Association shall hold meetings at the Association's principal office or at such other suitable place the Board may designate.

2.3. Association Meetings.

(a) *General.* Association meetings shall be of the Members unless the Board otherwise specifies or Texas law otherwise requires. The first Association meeting, whether an annual or special meeting, shall be held within one year after the Association's incorporation.

(b) *Annual Meetings.* The Board shall schedule regular annual meetings to occur within 90 days before or after the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine.

(c) *Special Meetings.* The President may call special meetings. In addition, the President or the Secretary shall call a special meeting if so directed: (i) by Board resolution, (ii) upon the request of the Declarant during the Development Period, or (iii) within 30 days of a written petition of Owner Members representing at least 10% of the total votes in the Association stating the purpose for which they request a meeting to be called.

2.4. Notice of Meetings.

(a) At least 10 but not more than 60 days before any meeting of the membership, the President, the Secretary, or the officers or other persons calling the meeting shall deliver or cause to be delivered to each Member a written notice stating the place, day, and hour of the meeting and the items on the agenda for such meeting, including the general nature of any proposed amendment to the Declaration or By-Laws, any proposed budget changes, any proposal to remove a director, and any other matter required by *Tex. Business Organizations Code* §§ 22.253 and 22.303, as same may be amended or any successor Texas statute thereof. If proxies are permitted, the notice shall also state the procedures for appointing proxies. If the meeting is to be held solely by electronic communications or if participation in the meeting is permitted by electronic communications, as described in Section 2.5 below, the notice shall state the form of communications system to be used for the meeting and the means of accessing the communications system. No business shall be transacted at a special meeting except as stated in the notice. Such notice shall be delivered by such means as permitted under Section 9.5 except as otherwise specified in the Declaration, these By-Laws, or by Texas law.

(b) The Board shall set a record date for determining who is entitled to receive notice of a meeting, which shall not be earlier than the 60th day before the meeting date, and shall prepare an alphabetical list of the names of all persons entitled to vote, indicating (i) the address of each person, and (ii) the number of votes each person is entitled to cast at the meeting. Not later than the second business day after the date notice of the meeting is given, and continuing through the meeting, the list shall be made available at the Association's principal office or at a reasonable place in the municipality in which the meeting will be held, as identified in the notice of the meeting, for inspection and copying by Members entitled to vote at the meeting, or their agents, for the purpose of communication with other Members concerning the meeting. The Association shall also make the list available at the meeting for inspection at any time during the meeting or any adjournment of the meeting.

2.5. Electronic Participation in Meetings.

The Association may allow Members to participate in any Association meeting by conference telephone or similar communications equipment or another suitable electronic communications system, including vid-

eoconferencing technology or the Internet, if the telephone or other equipment or system permits each person participating in the meeting to communicate with all other persons participating in the meeting. If voting is to take place at the meeting, the Association must implement measures to verify that every Member voting at the meeting by means of remote communication is sufficiently identified.

2.6. Waiver of Notice.

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any Association meeting, either before or after such meeting. A Member's attendance at a meeting shall be deemed a waiver by such Member of notice of the time, date, and place thereof. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting.

2.7. Voting.

(a) **Voting Rights.** Members shall have such voting rights as are set forth in the Declaration, which provisions are specifically incorporated by this reference. Members entitled to vote shall be entitled personally to cast the votes attributable to their respective Lots on any issue.

(b) **Voting Procedures.** Not later than the tenth (10th) day or earlier than the sixtieth (60th) day before the date of any election or vote, the Association shall give written notice of the election or vote to each Owner entitled to vote.

A membership vote on any matter shall be conducted by written ballot signed by the Member entitled to vote, which ballot may be cast in person at a meeting, by mail or electronic transmission (including facsimile transmission, electronic mail, or posting on an Internet website), or by any combination of those methods; provided, any ballot submitted by electronically must be submitted in a manner that permits confirmation of the identity of the Member casting the vote and allows the Member to receive a receipt evidencing the transmission and receipt of the ballot. A ballot cast at a meeting shall revoke and supersede any ballot casting the same vote submitted by other means. A ballot cast prior to a meeting may not be counted if the motion was amended at the meeting so as to deviate from the exact language on the ballot previously cast.

A ballot to be submitted by mail or electronic transmission (an "**Absentee Ballot**") shall:

(i) describe each proposed action and providing an opportunity to vote for or against each proposed action; and

(ii) include the following language or such other language as may be authorized in lieu of the following language by future amendment of *Tex. Prop. Code, Chapter 209*, as it may be amended or any successor Texas statute thereof:

"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."

Any solicitation of votes to be cast by Absentee Ballot shall include instructions for delivery of the completed ballot, including the delivery location. If the Absentee Ballot is posted on an Internet website, a notice of posting shall be sent to each Member entitled to vote on the matter with instructions for obtaining access to the website and casting such ballot.

The person who tabulates votes on any matter shall not disclose to any other person how any particular Member's votes were cast. No person who is a candidate for election or is the subject of any other Association vote, nor any person related to such person within the third degree of consanguinity or affinity, as determined under *Texas Government Code Chapter 573*, as it may be amended or any successor Texas statute thereof, may tabulate ballots cast in any election or vote hereunder. No person other than a person designated to tabulate the votes shall be given access to the ballots cast except as part of a recount process authorized by law.

Within 15 days after the date of any election, any Owner may demand a recount of the votes in accordance with *Tex. Prop. Code §209.0057*, as it may be amended or any successor Texas statute thereof.

2.8. Proxies.

Owner Members may vote in person or by proxy, subject to the limitations of Texas law and subject to any specific provision to the contrary in the Declaration or these By-Laws.

Every proxy shall be in writing, shall identify the Lot for which it is given, shall be signed by the Owner Member or the Owner Member's duly authorized attorney-in-fact, and shall be dated and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless the proxy specifically provided otherwise, a proxy shall be presumed to cover all votes which the Owner Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

A proxy is effective only for the specific meeting for which it was originally given, as such meeting lawfully may be adjourned and reconvened, and automatically expires 90 days after the date of the meeting for which it was originally given. Every proxy is revocable at any time prior to such proxy being voted at the pleasure of the Owner Member who executes the proxy by giving written notice of revocation to the Association's Secretary. A proxy shall automatically be revoked: (a) if the Member who executed the proxy attends the meeting and votes in person; (b) upon conveyance of any Lot for which it was given; (c) 11 months from the date of the proxy or such shorter period as specified in the proxy; or (d) upon the death or judicially-declared incompetence of the Member who signed it.

2.9. Quorum.

Except as these By-Laws or the Declaration otherwise provide, the presence of Owner Members representing 10% of the total votes in the Association shall constitute a quorum at an initial Association meeting ("**Initial Meeting**") and the vote of Owner Members representing a majority of the total eligible votes cast shall constitute the action of the Members. The Owner Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owner Members to leave less than a quorum. If the required quorum is not present or represented at the Initial Meeting, a subsequent meeting of the Owner Members ("**Second Meeting**") shall be called and noticed as set forth in Section 2.4. The presence at the Second Meeting of Owner Members entitled to cast, or of proxies entitled to cast, five percent (5%) of the total votes in the Association shall

constitute a quorum. If the required quorum is not present or represented at the Second Meeting, subsequent meetings shall be automatically called and held every 15 days (written notice mailed to the Owner Members of such subsequent meeting(s) after the Second Meeting shall not be required), and the required quorum at each subsequent meeting(s) shall be one-half of the required quorum at the preceding meeting.

2.10. Conduct of Meetings.

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are kept with the Association's books.

2.11. Action Without a Meeting.

In accordance with the Certificate of Formation, any action that is required or that may be taken at a meeting of the Members may be taken without a meeting if:

- (a) the Association mails or delivers to every person entitled to vote on the action:
 - (i) an Absentee Ballot meeting the requirements of Section 2.7(b), or
 - (ii) notice of the posting of such a ballot on an Internet website, with instructions for obtaining access to such website and casting the ballot; and
- (b) the number of votes cast equals or exceeds the quorum required for a meeting to consider such action; and
- (c) the number of votes cast in favor of the proposed action equals or exceeds the number of votes required to approve such action if the vote were conducted at a meeting.

Voting instructions or solicitations for any vote conducted in a manner other than at a meeting must indicate the deadline for casting the ballot in order to be counted. The period for submitting ballots to the Association shall not be more than 60 days. Each ballot cast must be signed and dated by the Owner Member. A signed ballot may not be revoked once submitted to the Association, except as provided in Section 2.7(b). The Board shall notify the Members of the results of the vote within 30 days after the expiration of the voting period.

Article 3 Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Qualifications.

The Board shall govern the Association's affairs. Each director shall have one vote.

Each director shall be at least 21 years old and no less than a majority of the directors shall be an Owner of a Lot or a member of the record Owner's family who occupies the Owner's Lot; provided, those directors whom the Declarant appoints need not be Owners or occupants of a Lot. In the case of any person who is

eligible to serve on the Board who is not an individual, any officer, director, partner, or trust officer of such person shall be eligible to serve as a director; provided, no more than one such representative of any person, nor more than one occupant of a particular Lot, may serve on the Board at any one time, except in the case of directors the Declarant appoints.

3.2. Number of Directors.

The Board shall consist of three to five directors, as provided in Section 3.3.

3.3. Selection of Directors; Term of Office.

(a) *Initial Board.* The initial Board shall consist of the three directors identified in the Certificate of Formation, who shall serve until their successors are appointed or elected as provided in this section.

(b) *Directors During the Development Period.* Except as otherwise provided in this section, the Declarant Member may appoint, remove, and replace Board members until termination of the Development Period. During such period, the Owner Members shall be entitled to elect a minority of the total number of directors (directors elected by the Owner Members are referred to as "**Owner Directors**") as follows: within 120 days after the earlier of (A) the time that 75% of the maximum number of Lots anticipated by the Declarant for development and sale as a part of Property is owned by persons other than the Declarant, affiliates of the Declarant, or Homebuilders, (B) the 10th anniversary of the date the Declaration was recorded, or (C) whenever the Declarant earlier determines, the Board shall be increased to five directors and the President shall call for an election by which the Owner Members, as a group, shall be entitled to elect two of the five directors, who shall be elected at large. The Declarant shall appoint the remaining three directors. The Owner Directors shall be elected for a term of two years or until the happening of the event described in Section 3.3(c)(i), whichever is shorter. If such directors' terms expire prior to the happening of the event described in Section 3.3(c)(i) below, successors shall be elected for a like term.

(c) Directors After the Development Period.

(i) Upon termination of the Development Period, the President shall call for an election by which the Owner Members shall be entitled to elect five directors. The three directors receiving the greatest number of votes in the election shall be elected to serve until the first annual meeting following their election. The other two directors shall be elected to serve until the second annual meeting following their election. All five of the directors shall be Owner Directors.

(ii) Upon expiration of the term of office of each Owner Director, the Members shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Notwithstanding anything to the contrary, no person may serve as an elected Owner Director more than two consecutive terms (regardless of length) and thereafter may not be nominated for or elected as an Owner Director until at least two years after their second elected term has expired; provided, however, an Owner Director who has served two consecutive elected terms may be nominated and elected for subsequent elected terms if no other eligible person is nominated for such Owner Director's position.

The diagram below illustrates the concept of transition of control of the Board during and after the Development Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS		
Initial Board	75% of Lots Conveyed	Termination of the Development Period
Declarant	Owner Member	Owner Member
Declarant	Owner Member	Owner Member
Declarant	Declarant	Owner Member
	Declarant	Owner Member
	Declarant	Owner Member

3.4. Nomination and Election Procedures.

(a) *Nomination of Candidates.* At least 90 days prior to any election of directors by the Owner Members, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve a term which expires immediately following the election for which the Nominating Committee was appointed. The names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Owner Members at such election. In the Board's discretion, nominations may also be permitted from the floor at the meeting at which any election is held. All candidates shall have a reasonable opportunity to communicate their qualifications to the Owner Members and to solicit votes from the Owner Members.

(b) *Solicitation of Candidates.* Prior to disseminating ballots for the election of Owner Directors, the Board shall provide notice to all Owners soliciting candidates interested in running for a director position as required by and in accordance with *Tex. Prop. Code §209.00593*, as it may be amended or any successor Texas statute thereof.

(c) *Election Procedures.* At each election, voting shall be by ballot, which may be cast in any manner authorized by the Board consistent with Section 2.8. Each Owner Member may cast the vote assigned to his or her Lot for each position to be filled from any of the candidates. Notwithstanding this, if the number of candidates equals the number of positions to be filled and there are no nominations from the floor, any Owner Member may move to accept the slate of candidates nominated by the Nominating Committee, and, if approved, no balloting shall be required. Under no circumstances shall cumulative voting be permitted in any election of directors.

In the event of a tie vote, the Owner Members shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the existing Directors shall resolve the tie. Such election to resolve the tie shall be held by mail, with ballots to be sent by first class mail to each Owner Member entitled to vote on such slate within 10 days after the meeting at which the original election was held.

3.5. Removal of Directors and Vacancies.

Any Owner Director may be removed, with or without cause, by the vote of Owner Members representing a majority of the total votes in the Association. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Owner Members, the Owner Members, by the vote of Owner Members representing a majority of the total votes in the Association, shall elect a successor for the remainder of the term of such removed director.

At any meeting at which a quorum is present, a majority of the directors may remove any Owner Director who has three consecutive unexcused absences from Board meetings. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Owner Members shall elect a successor for the remainder of the term.

Any director whom the Board appoints shall be selected from among eligible Owners or residents of Lots within the Association.

This section shall not apply to directors the Declarant appoints. The Declarant may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Declarant.

B. Meetings.

3.6. Organizational Meetings.

The Board shall hold an organizational meeting within 10 days following each annual Association meeting at such time and place as the Board shall fix.

3.7. Regular Meetings.

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

3.8. Special Meetings.

The President, Vice President, or any two directors may call a special meeting of the Board.

3.9. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting. Notice of any meeting which is conducted or which may be attended by conference telephone or other remote communications system in accordance with Section 3.10 shall specify the form of communications system to be used for the meeting and the means of accessing the communications system. The Board shall notify each director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other

electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the day of the meeting. Notices sent by personal delivery, telephone, or electronic communication shall be delivered at least 72 hours before the time set for the meeting. No notice shall be required for regular meetings conducted in accordance with a published schedule, provided notice of the schedule was delivered to each director in accordance with this subsection (a).

(b) Notice of all Board meetings, setting forth the date, hour, place, and general subject of the meeting, including a general description of any matter to be brought up for deliberation in executive session, shall be given as follows:

(i) by mail to each Owner, not later than the 10th day or earlier than the 60th day before the date of the meeting; or

(ii) at least 144 hours before the start of a regular meeting and at least 72 hours before the start of a special board meeting, sending the notice by e-mail to each Owner who has registered an e-mail address with the Association and either:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to the Members, either on the Windsor Amenities or on other property within the Property, with the permission of the owner of such property; or

(B) posting on any Internet website maintained by the Association or other Internet media.

(c) If the Board recesses a Board meeting until 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 the requirements of this Article III, Part B. If a 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 subsection (b)(ii)(A) or (B) within two hours after adjournment of the meeting being continued.

(d) Except as otherwise specifically provided in subsection (e), the Board may meet by any means of communication, including electronic and telephonic communication pursuant to Section 3.10(b) without prior notice to the Owners, or the Board may take action by unanimous written consent pursuant to Section 3.14, without prior notice to the Owners, 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 subsection (b) 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 Board meeting.

(e) The Board may not, without prior notice to the Owners under subsection (b), consider or vote on fines; damage assessments; initiation of foreclosure actions; initiation of enforcement actions (other than temporary restraining orders or violations involving a threat to health or safety); increases in assessments; levying of special assessments; appeals from a denial of architectural control approval; lending or borrowing money; the adoption or amendment of a dedicatory instrument; the approval of an annual budget or the approval of an amendment to the annual budget by more than 10 percent; the sale or purchase of real property; the filling

of a vacancy of the Board; the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or the election of an officer. In addition, the Board may not consider or vote on 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) Subsections (b) through (e) of this section shall not apply to a Board meeting during the Development Period unless the meeting is conducted for the purpose of:

- (i) adopting or amending the Governing Documents;
 - (ii) increasing the amount of the Annual Assessment or adopting or increasing a Special Assessment;
 - (iii) electing non-developer directors or establishing or modifying the process for their election;
- or
- (iv) changing the voting rights of Members.

Nothing in this subsection (f) shall authorize the Board to take action on any matter listed in clauses (i) through (iv) in contravention of the approval that would otherwise be required under the Governing Documents or Texas law.

(c) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting.

3.10. Telephonic Participation in Meetings.

(a) Except as otherwise authorized in this Section 3.10, all Board meetings shall be held within Lubbock County or an adjacent county.

(b) Members of the Board or any committee the Board designates may participate in a Board or committee meeting by conference telephone or similar communications equipment through which all persons participating in the meeting may hear and be heard by every other Board member. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

(c) A meeting of the Board, or of any committee designated by the Board, may be held by means of a remote electronic communications system, including videoconferencing technology or the Internet, but only if: (i) each person entitled to participate in the meeting consents to the meeting being held by means of that system; and (ii) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.

3.11. Quorum of Board.

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute

the Board's decision, unless Texas law, these By-Laws, or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting without further notice other than an announcement at the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

3.12. Conduct of Meetings.

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

3.13. Open Meetings; Executive Session.

(a) Subject to the provisions of Section 3.13(b) and Section 3.14, all Board meetings shall be open to all Members, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak. The Board shall make agendas for its meetings reasonably available for examination by all Members or their representatives prior to the meeting.

(b) Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and attendance at such meeting restricted to directors and such other persons as the Board may specifically invite and announce during the open portion of the Board meeting, to discuss matters of a sensitive nature, such as proposed, pending, or threatened litigation, or other matters specified by law. Following an executive session, any decision made must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of any 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.

3.14. Action Without a Formal Meeting.

Subject to Section 3.9, any action to be taken or which may be taken at a Board meeting may be taken without a meeting if the directors sign a written consent, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.15. Powers.

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those which the Governing Documents or Texas law require to be done and exercised exclusively by the membership.

3.16. Duties.

The Board's duties shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the expenses of the Association pursuant to Article IV of the Declaration;
- (b) levying against and collecting assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Property other than Lots except as required by the Declaration, including, but not limited to, the Windsor Amenities, in a manner consistent with the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing within the Properties;
- (d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) opening bank accounts on the Association's behalf and designating the signatories required;
- (f) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Windsor Amenities in accordance with the Governing Documents provided, if the Association proposes to contract for services that will cost more than \$50,000.00, it shall solicit bids or proposals for such services using a bid process established by the Board as required by *Texas Prop. Code §209.0052(c)*;
- (h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Association;
- (k) keeping a detailed accounting of the Association's receipts and expenditures;
- (l) making available upon request to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Article 7; and
- (m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Texas law, the Certificate of Formation, or these By-Laws.

3.17. Conflicts of Interest.

Unless otherwise approved by a majority of the other directors, no Owner Director may transact business with the Association or any Association contractor during his or her term as director or within two years after the term expires. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. A director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members.

Notwithstanding the above, directors appointed by the Declarant may be employed by or otherwise transact business with the Declarant or any affiliates of Declarant, and the Declarant may transact business with the Association or its contractors.

Article 4 Officers

4.1. Officers.

The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Assistant Vice Presidents, Assistant Secretaries, and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Association, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

Article 5 Committees

5.1. General.

In addition to such committees as the Declarant or Board may appoint pursuant to the Declaration, the Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Members of any committee serve at the pleasure of the Board and have no authority to take action on behalf of the Association or the Board. Committees serve to inform and make recommendations to the Board. Each committee shall operate in accordance with the terms of such resolution. In the conduct of its duties and responsibilities, each committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.9, 3.10, and 3.11 of those By-Laws. Notwithstanding the foregoing, at all ARC meetings, the quorum requirement shall be the presence of ARC members constituting at least 40% of all ARC members. Except as otherwise provided by Board resolution or the Governing Documents, a committee may meet by unanimous written consent of its members in lieu of a meeting.

5.2. Covenants Committee.

In addition to any other committees that the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article 9 of these By-Laws. The Covenants Committee shall have no responsibility for seeking out violations of the Governing Documents.

Article 6 Standards of Conduct; Liability and Indemnification

6.1. Standards for Directors and Officers.

Board determinations of the meaning, scope, and application of Governing Document provisions shall, in the absence of an adjudication by a court of competent jurisdiction to the contrary, be final and binding as to all persons or property benefitted or bound by the provisions of the Governing Documents. The Board shall exercise its power in accordance with any applicable procedures established in the Governing Documents.

In performing their duties, directors and officers shall act as fiduciaries and shall be insulated from liability as provided for directors of corporations under Texas law and as otherwise provided by the Governing Documents. Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Texas law.

6.2. Liability.

(a) A director or officer shall not be personally liable to the Association, any Member, or any other person for any action taken or not taken as a director or officer if he or she has acted in accordance with Section 6.1.

(b) Pursuant to the business judgment rule, a director also shall not be personally liable for any action taken or not taken as a director if the director:

(i) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(ii) affirmatively undertakes to make decisions which the director reasonably believes are necessary for the Association's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which all directors have by virtue of their ownership or occupancy of a Lot or relationship to the Declarant or an affiliate of Declarant); and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

(c) The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf.

6.3. Indemnification.

Subject to the limitations of Texas law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Texas law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Association; or

(ii) intentional misconduct or knowing violation of the law; or

- (iii) an unlawful distribution to members, directors or officers; or
- (iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as an expense of the Association, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.4. Advancement of Expenses.

In accordance with the procedures and subject to the conditions and limitations set forth in Texas law, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

6.5. Board and Officer Training.

The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable Texas corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format. The cost of such seminar shall be an expense of the Association.

The Board also may provide, or provide for, Owner and resident education designed to foster a better understanding of Property's governance and operations, and leadership training classes designed to educate Owners of the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

Article 7 Management and Accounting

7.1. Compensation of Directors and Officers.

The Association shall not compensate directors and officers for acting as such unless Owner Members representing a majority of the total votes in the Association approve such compensation at an Association meeting. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

7.2. Right of Declarant Member to Disapprove Actions.

So long as there is a Declarant Membership, the Declarant shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Declarant's sole judgment, would tend to impair rights of the Declarant or Homebuilders under the Declaration or these By-Laws, interfere with development or construction of any portion of the Property or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this section have been met.

(a) Notice. The Association shall give the Declarant written notice of all meetings of the membership, the Board, and committees and any actions which any of them propose to take by written consent in lieu of a meeting. The Association shall give such notice by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the Association. Such notice shall comply as to Board meetings with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. At any such meeting, the Association shall give the Declarant the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

The Declarant, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was approved or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the approved action.

The Declarant may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Association. The Declarant shall not use its right to disapprove to reduce the level of services the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

7.3. Management Certificate and Managing Agent.

The Association shall record a management certificate as required by *Tex. Prop. Code §209.004* and amend the same within 30 days of any change in the information required to be set forth therein. In addition, within seven days after recording an initial or amended management certificate, the Association shall electronically file a copy of the same with the Texas Real Estate Commission.

The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.16. The Board may employ the Declarant or any affiliates of Declarant as managing agent or manager.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Development Period unless such contract contains a right of termination which may be exercised by the Association, with or without cause and without penalty, at any time after termination of the Development Period upon not more than 90 days' written notice.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest that it may have in any firm providing goods or services to the Association.

7.4. Accounts and Reports.

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

- (i) accounting and controls should conform to generally accepted accounting principles; and
- (ii) the Association's cash accounts shall not be commingled with any other accounts, and during the Development Period, operating accounts shall not be commingled with reserve accounts;

(b) Commencing at the end of the Association's first full fiscal year, the following financial reports shall be prepared for the Association within 90 days after the end of each fiscal year:

- (i) an income statement reflecting all income and expense activity for the preceding fiscal year;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding fiscal year;
- (iii) a balance sheet as of the last day of the preceding fiscal year;
- (iv) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution); and
- (v) a statement of changes in financial position for the fiscal year.

Such annual report may be prepared on an audited, reviewed, or compiled basis, as the Board determines. A copy of the annual financial report shall be made available at no charge to any Member requesting a copy within 180 days after the close of the fiscal year.

(c) The Board shall report in writing to the Members any indemnification of or advancement of legal expenses to any officer, director, or committee member in accordance with *Tex. Business Organizations Code §8.152*, as it may be amended or any successor Texas statute thereof.

7.5. Borrowing.

The Association shall have the power to borrow money for any legal purpose and to pledge its property, including assessment revenues, as collateral for the debt.

7.6. Right to Contract.

The Association shall have the right to contract with any person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, amenity providers, and other owners or residents of associations within and outside of Property.

7.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

Article 8 Enforcement Procedures

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Governing Documents. If notice and an opportunity for a hearing is expressly required by the Declaration, the Board shall comply with the following procedures prior to imposition of sanctions:

8.1. Notice and Response.

The Board or its delegate shall serve the alleged violator and/or the Owner with written notice, by certified mail, return receipt requested,

(a) describing the alleged violation or property damage which is the basis of the proposed sanction or amount due to the Association, as applicable;

(b) describing the proposed sanction to be imposed; and

(c) informing the alleged violator and/or Owner that:

(i) he or she has 30 days after receipt of the notice to present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 6;

(ii) he or she may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 *et seq.*), if serving on active military duty;

(iii) attorneys fees and costs may be charged if the delinquency or violation continues after a certain date; and

(iv) if the violation is of a curable nature and does not pose a threat to public health or safety, he or she may avoid the proposed sanction by curing the violation within a reasonable cure period stated in the notice.

Notwithstanding the above, the Association shall have no obligation to provide notice or a cure period if the alleged violator has been given notice of a similar violation within the preceding six months. If the hearing

is to be held before a Covenants Committee, the notice shall also state that the alleged violator has the right to appeal the decision of the Covenants Committee to the Board.

The alleged violator shall respond to the notice of the alleged violation in writing within such 30-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board of such cure in writing within such 30-day period the Board may not assess a fine for such violations and may, but shall not be obligated to, waive or suspend the imposition of others sanctions. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person. If a timely request for a hearing is not made, the sanction stated in the notice may be imposed without further action. Notwithstanding any suspension of proceedings hereunder, subject to Texas law, if the same or similar violation is reported within 12 months after the date of the notice of the original violation, the Association may pursue any and all sanctions described in the original notice without further notice to the alleged violator.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

8.2. Hearing.

If a hearing is requested within the allotted 30-day period, the hearing shall be held before the Covenants Committee, or if one has not been appointed, then before the Board in executive session within 30 days after receipt of the alleged violator's request. Either the Board or the alleged violator may request a postponement of up to 10 days, and such postponement shall be granted. Additional postponements may be granted upon agreement of both the Association and the alleged violator. The Board shall notify the alleged violator at least 10 days prior to the hearing of the time, date, and place of the hearing and provide the Owner with a packet containing all documents, photographs, and communications relating to the matter the Association intends to introduce at the hearing. If the Association does not provide such packet at least 10 days prior to the hearing, the Owner is entitled to an automatic 15-day postponement of the hearing. At the hearing, a member of the Board or the Association's designated representative shall first present the Association's case against the Owner. The alleged violator shall be afforded a reasonable opportunity to be heard and both the Association and the Owner shall be entitled to make an audio recording of the hearing. If the alleged violator fails to appear, a hearing may be held in his or her absence. The Board may adopt rules for the conduct of such hearings that may include, without limitation, rules that govern the presentation of evidence and witnesses and the ability of an alleged violator to question adverse witnesses. The minutes of the meetings of the Board or Covenants Committee, as applicable, shall contain a written statement of the results of the hearing (i.e., the Board's or Committee's decision) and the sanction, if any, to be imposed. Written notice of the decision shall be mailed to the violator within three days after the hearing.

8.3. Appeal.

Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board in accordance with *Tex. Prop. Code* §209.007, as it may be amended or any successor Texas statute thereof.

Article 9 Miscellaneous

9.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

9.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law or the Governing Documents.

9.3. Conflicts.

If the Governing Documents violate any applicable provision of Texas law, such provision of Texas law shall control. If there are conflicts among the provisions of the Certificate of Formation, the Declaration, and these By-Laws, the provisions of the Declaration, the Certificate of Formation, and the By-Laws (in that order) shall prevail.

9.4. Books and Records.

(a) Document Retention. The Board shall be responsible for compliance with the following document retention policy relating to the Association's books and records:

- (i) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
 - (ii) financial books and records shall be retained for seven years;
 - (iii) account records of current owners shall be retained for five years;
 - (iv) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
 - (v) minutes of meetings of the owners and the board shall be retained for seven years;
- and
- (vi) tax returns and audit records shall be retained for seven years.

(b) Turnover of Books and Records. Within 90 days after termination of the Development Period, the Declarant shall deliver to the Association all property, books and records of the Association in the Declarant's possession.

(c) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Governing Documents, the membership register, books of account, the minutes

of meetings of the Members, the Board, and committees, and any other records as required by Texas law. The Board shall provide for such inspection to take place within 10 business days after receipt of a written request for access at the Association's office or at such other place within the Property as the Board shall designate. The Association shall not be required to make available for inspection or copying any records that identify:

- (i) a particular Owner's violation history, personal financial information, history of payments or delinquencies in paying amounts due to the Association, or contact information other than address; or
- (ii) information related to an Association employee, including personnel files;

unless the Owner or employee whose records would be disclosed has given his or her prior written approval to release such information or a court orders such records to be released or made available to the requesting Owner or his or her representative.

(d) Rules for Inspection. An Owner or the Owner's authorized representative must submit to the Association a written request for access to inspect or copies of books and records under subsection (b), identifying the specific books and records or information desired. Such request shall be mailed by certified mail to the Association's mailing address or that of its authorized representative as reflected on the most current management certificate filed under *Tex. Prop. Code §209.004*, as it may be amended or any successor Texas statute thereof. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and:

(i) if an inspection is requested, then on or before the 10th business day after the date the Association receives the request, the Association shall send written notice to the Owner of dates during normal business hours that the Owner or its authorized representative may inspect the requested books and records, to the extent those books and records are in the possession, custody, or control of the Association; or

(ii) if copies of identified books and records are requested, then the Association shall produce the requested books and records, to the extent required under subsection (c) and in the possession, custody, or control of the Association, on or before the 10th business day after the date the Association receives the request, except as otherwise provided by *Tex. Prop. Code §209.005*, as it may be amended or any successor Texas statute thereof.

The Board shall establish a records production and copying policy that prescribes the charges to be paid by the Owner for compilation, production, and reproduction of information requested by such Owner or its authorized representative under this Section, which charges may include all reasonable costs of materials, labor, and overhead, but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3, as it may be amended or any successor Texas statute thereof ("**Authorized Charges**"). No charge shall be made pursuant to such policy until the policy has been recorded as required by *Tex. Prop. Code §209.005*, as it may be amended or any successor Texas statute thereof, and *§202.006*, as it may be amended or any successor Texas statute thereof. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the Authorized Charges vary from the estimate, the Association shall submit a final invoice to the Owner on or before the 30th business day after the date the information is delivered reflecting the variance and any balance or refund due. Any balance due which is not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Owner may be added to the Owner's account as an assessment. Any amount paid in excess of

Authorized Charges shall be refunded to the Owner not later than the 30th business day after the date the invoice is sent to the Owner.

(e) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

9.5. Notices.

(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Declaration or these By-Laws or by Texas law, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, by facsimile or electronic mail with written confirmation of transmission. It is the responsibility of each Member to give notice to the Association of any change in the Member's address, facsimile number, or email address. Where the Governing Documents or applicable law require notice to an Owner or Member, notice given to any co-Owner of a Lot shall be deemed notice to all co-Owners of such Lot.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Member, at the address, telephone facsimile number, or e-mail address which the Member has designated in writing and filed with the Secretary or, if no such address or number has been designated, at the address of the Lot of such Member;

(ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the Members pursuant to this section; or

(iii) if to the Declarant, at the Declarant's principal address as it appears on the Secretary of State's records, or at such other address as the Declarant shall designate by notice in writing to the Association pursuant to this section.

(c) Effective Date. Notice sent in accordance with Sections 9.5(a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

9.6. Amendment.

(a) *By Declarant.* Prior to termination of the Development Period, the Declarant may unilaterally amend these By-Laws. Thereafter, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Lots. So long as there is a Declarant Membership, the Declarant Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any Member's right.

(b) *By Owner Members Generally.* Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Owner Members representing 67% of the total votes in the Association, and the consent of the Declarant if Declarant Membership exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) *Validity and Effective Date of Amendments.* Amendments to these By-Laws shall become effective upon recordation in the Real Property Records of Lubbock County, Texas, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its adoption, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Declarant Membership without the written consent of the Declarant, the Declarant Member, or the assignee of such right or privilege.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Windsor at Preston Manor Owners Association, a Texas nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of Windsor at Preston Manor Owners Association, Inc. as duly adopted by resolution of the Board of Directors thereof on the 26 day of July, 2022

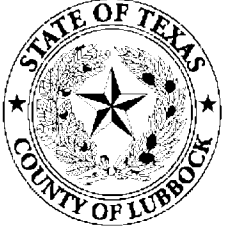
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Residential Association this 26 day of July, 2022

[SEAL]

Teresa Wilkinson
Teresa Wilkinson, Secretary

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
07/26/2022 01:28 PM
Recording Fee: \$234.00
2022036065