

**AMENDED AND RESTATED BYLAWS OF**  
**BROOK MEADOWS HOMEOWNERS ASSOCIATION, INC.**

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**AMENDED AND RESTATED BYLAWS OF  
BROOK MEADOWS HOMEOWNERS ASSOCIATION, INC.**

WHEREAS, the Members of the Brook Meadows Homeowners Association, Inc. (hereinafter the "Association") desire to amend and restate the By-Laws of the Brook Meadows Homeowners Association (hereinafter the "Original By-Laws"); and

WHEREAS, pursuant to Article VIII, Section 8.06 of the Original Bylaws, these Amended and Restated By-Laws of the Association (the "Bylaws") were approved by the Board of Directors of the Association.

NOW THEREFORE, the Members of the Association hereby amend and restate the Original By-Laws as follows:

**ARTICLE I OFFICES**

1.01 **Name.** The name of the Association is Brook Meadows Homeowners Association, Inc.

1.02 **Registered Office and Agent.** The registered office and registered agent of the Association shall be as designated with the Secretary of State of the State of Texas, as they may be changed from time to time.

1.03 **Other Offices.** The Association may also have offices at such other places both within and without the State of Texas as the Board of Directors (hereinafter referred to as the "Board") may from time to time determine, or as the business of the Association may require.

1.04 **Property.** The property affected by these By-Laws is the property described on the plats thereof recorded in Volume 388-177, Page 2, Volume 388-182, Page 79, and Volume 388-191, Page 62 of the Plat Records of Tarrant County, Texas (collectively, hereinafter referred to as "Brook Meadows" or the "Property").

1.05 **Definitions.** The words used in these By-Laws shall have the same meaning as set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Brook Meadows Addition, recorded in the Tarrant County, Texas public records under Document Number D206177634 (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration").

**ARTICLE II MEMBERS & MEETINGS**

2.01 **Class of Voting Membership.** The Association shall have one class of voting membership. Members of the Association (the "Members") shall be entitled to one vote for each lot owned within the Property. When more than one person holds an interest in any lot, all those persons are eligible to become Members and the vote for each lot shall be exercised as the Owners among themselves shall determine, but in no event shall more than one vote be cast with respect to any lot. Eligibility to vote or serve as a director shall be predicated upon a Member being a Member in Good Standing with the Association. No Member shall be allowed to vote or hold office if that Member is noted of record (or within the records of) of the Association to have a deed restriction violation on one or more lots within the Property. A "Member in Good Standing" means a Member who has all assessments of every type and category paid up to date, has no outstanding financial obligations to the Association that are delinquent and is not noted of record (or within the

records) of the Association to have a deed restriction violation on any lots owned by such Member. Only Members in Good Standing are eligible to vote or entitled to participate in meetings of the Association.

2.02 **Membership.** By virtue of ownership of a lot within Brook Meadows, all Owners of lots within Brook Meadows shall be Members of the Association. Membership in the Association and payment of assessments is mandatory.

2.03 **Membership Fees and Dues.** The Association's annual budget shall be prepared by the Board of Directors of the Association (the "Board") and proposed for approval to the membership quorum at the annual meeting of Members. Increases, if any, in the annual assessments to fund the annual budget shall be approved as provided in the Declaration. Assessments shall be payable by the (31<sup>st</sup>) first day of each fiscal year of the Association. Any Owner who purchases or otherwise acquires a lot or lots after the first (1st) day of the month of each fiscal year shall be personally responsible for a pro-rated assessment for the remainder of that year. The Board will have the right, and responsibility, but not the obligation, to undertake collection and legal action, and assess interest charges, as allowed by the usury statutes of the State of Texas, late fees, and costs of collection, including but not limited to attorneys fees, against any Member who has failed to pay all or part of the assessments (annual or special) owed by such Owner. Any assessment not paid within thirty (30) days after the due date shall be considered delinquent. Assessments and other charges shall be collected as provided herein and in the Declaration. Any Member requiring more time to pay the annual assessment or special assessments may request an extension from the Board, but must do so in writing. The Board shall have the right to accept or reject a payment plan for a delinquent Member or grant a thirty-day extension (or such other time frame, as may be determined by the Board) for payment of assessments. Notwithstanding anything contained herein to the contrary, during any extension period, if one is granted, interest shall continue to accrue for the time the assessments remain delinquent. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the assessments provided for in the Declaration by reason of non-use or abandonment. Additionally, pursuant to the authority granted in the Declaration, a late fee shall be determined by the Board, recorded in a BMHA Administrative Resolution and will be applied to all delinquent accounts. (The monthly late fee shall be reduced by the Board for Owners' accounts that have been placed on a BMHA-approved payment plan). Additional late fees and interest will accrue for each subsequent month the account remains unpaid.

2.04 **Sanction of Members.** In accordance with the provisions of the Texas Property Code and the Declaration, the Board may bring legal action against a Member who has violated the dedicatory instruments (as the term is defined in the Texas Property Code) of the Association, including any failure by such Owner to pay fees or assessments for a period of thirty (30) days following delivery of notice of default, or for a violation of the Association's dedicatory instruments. The Board may not take any action against a Member without giving the Member adequate notice and an opportunity to be heard unless opportunity to be heard is not required by Texas law. Such notice shall be in writing and delivered at least thirty days prior to any hearing scheduled for this purpose. A majority of the Board may make a decision to take action against a violating Owner. Under no circumstances does an action taken by the Board against an Owner who has violated the dedicatory instruments of the Association abrogate such violating Owner's obligation to pay any assessments on a timely basis.

2.05 **Annual Meeting.** An Annual Meeting of the Members, commencing with the year following the adoption of these Bylaws, shall be held on the third Monday during the month of April, if not a legal holiday, and if a legal holiday, then on the next business day at such date and time as shall be designated from time to time by the Board and stated in the notice of the meeting, at which time the Members shall elect members of the Board of Directors, and transact such other

business as may properly be brought before the meeting.

2.06 **Member List.** At least ten days before each Annual Meeting or Special Meeting of Members, a complete list of the Members entitled to vote at the meeting, arranged in alphabetical order, with the address of each shall be prepared by the Association's Treasurer or the Treasurer's designee. The current membership list, for a period of ten days prior to the meeting, shall be kept on file by the Association's Treasurer or the Treasurer's designee and available to all Members upon specific written request. It shall also be kept open and available for review at all Special, or Annual membership meetings.

2.07 **Special Meetings.** Special Meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation of the Association (the "Articles"), or by these Bylaws, may be called (a) by the President or the Board, or (b) by at least ten percent of all the Members in Good Standing. Business transacted at all Special Meetings shall be confined to the objects stated in the notice of the meeting.

2.08 **Notice.** Written or printed notice stating the place, day and hour of the meeting and, in case of a Special Meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than sixty days before the date of the meeting either personally or by mail, by or at the direction of the President, the Secretary, or the officer or person calling the meeting, to each Member entitled to vote at the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

2.09 **Quorum.** The Members holding twenty-five percent of the eligible votes that may be cast at a meeting, present in person or represented by proxy, shall be requisite and shall constitute a quorum at all meetings of the Members for the transaction of business except as otherwise provided by statute, the Articles or as provided elsewhere in these Bylaws. If a quorum is not present or represented at a meeting of the Members, the Members entitled to vote thereat, present in person or represented by proxy, shall have the power to adjourn the meeting from time to time, until a quorum is present or represented. At the re-convened meeting a quorum will be twenty percent of the eligible votes cast by the Members, present in person or by proxy. At such re-convened meeting, any business may be transacted which might have been transacted at the meeting as originally notified.

2.10 **Actions of Members.** A vote of a majority of Members in Good Standing, present and entitled to vote at a meeting at which a quorum is present, shall be sufficient to constitute the act of the membership unless the vote of a greater number is required by law or these Bylaws.

### **ARTICLE III DIRECTORS**

3.01 **Management.** The powers of the Association shall be exercised by or under the authority of, and the business and affairs of the Association shall be managed under the direction of, the Board or its designees, who may exercise all such powers of the Association and do all such lawful acts and things as are not by statute or by the Articles or by these Bylaws directed or required to be exercised or done by the Members.

3.02 **Number, Qualification, Election, and Term.** The number of Directors, which shall constitute the whole Board, shall be not less than three nor more than five. In order to qualify for election as a director, a person must be an Owner of a Lot within and a resident of the Brook Meadows Addition and must be a Member in Good Standing with the Association. Within the limits above specified, the number of directors shall be determined by resolution of the Board. A Director shall serve for a two (2) year term, and the terms will be staggered in order to encourage Association consistency. In order to effect the staggered terms, the next Annual Meeting (April 2007) Board elections will offer five Director positions with three of the positions being for a 2 year term and

two positions with a one year term. From that time forward, only those Board positions with expiring terms, or posts of resigning Board members, shall appear on the Annual Meeting ballot. Each Director of the Association shall hold office until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office.

3.03 **Change in Number.** The number of directors provided for in Section 3.02 may be increased or decreased from time to time by amendment to these Bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. Any directorship to be filled by reason of an increase in the number of directors shall be filled (a) by election at an Annual Meeting or at a Special Meeting of Members called for that purpose, or (b) by the Board for a term of office continuing only until the next election of one or more directors by the Members; provided, however, that the Board may not fill more than two such directorships during the period between any two successive Annual Meetings of Members.

3.04 **Removal.** Any director may be removed either for or without cause, at any special or Annual Meeting of Members (achieving a quorum), by the affirmative vote of a majority of Members present in person or by proxy at such meeting and entitled to vote for the election of such director if notice of intention to act upon such matter shall have been given in the notice calling such meeting. Notwithstanding this procedure, any director who has had two (2) consecutive unexcused absences from regularly scheduled Board meetings may be removed by the vote of a majority of the other directors.

3.05 **Vacancies.** Subject to limitations set out in Section 3.03 hereof, any vacancy occurring in the Board (by death, resignation, retirement, removal, or otherwise) may be filled (a) by election at an annual or Special Meeting of Members called for that purpose, or (b) by the affirmative vote of a majority of a quorum of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. If a quorum of remaining board Members is not possible, the process in Section 3.03(a) above shall be used to fill the vacancy.

3.06 **Election of Directors.** Unless otherwise provided by the Articles, Directors shall be elected by plurality of the votes cast by the Members entitled to vote in the election of directors at a meeting of Members at which a quorum is present. Cumulative voting shall not be permitted.

3.07 **Place and Manner of Meetings.** Meetings of the Board, regular or special, may be held either within or without the State of Texas. Members of the Board may participate in such meetings in person, by proxy, or by means of conference telephone or similar communications equipment, or other electronic equipment and/or technology, by means of which all persons participating in the meeting can hear each other, or read the other Board members comments and can participate in the meeting. All Directors at the meeting, in person or electronically, shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

3.08 **Annual Meetings.** The Annual Meeting of the Board shall be held without further notice within thirty (30) days following the Annual Meeting of Members, and at the same place, unless by unanimous consent of the Directors then elected and serving; such time or place shall be changed.

3.09 **Regular Meetings.** Regular Meetings of the Board may be held without notice at such time and place as shall from time to time be determined by the board.

3.10 **Special Meetings.** The President, or any two Directors on three days' notice to each Director, may call Special Meetings of the Board, either personally or by mail, email, or by facsimile with receipted delivery. The President or Secretary shall call Special Meetings of the Board in like manner and on like notice on the written request of two directors. Except as otherwise expressly provided by statute, or by the Articles, or by these Bylaws, neither the

business to be transacted at, nor the purpose of, any Special Meeting need be specified in a notice or waiver of notice.

3.11 **Action Without Meeting.** Any action required by statute to be taken at a meeting of the Board, or any action which may be taken at a meeting of the Board, may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by all the members of the Board. Such consent shall have the same force and effect as a unanimous vote at a meeting.

3.12 **Quorum, Majority Vote.** At all meetings of the Board a majority of the number of directors fixed by these Bylaws shall constitute a quorum for the transaction of business unless a greater number is required by law or by the Articles. The act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board unless the act of a greater number is required by statute, by the Articles of Incorporation or by these Bylaws. If a quorum shall not be present at any meeting of the Board, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

3.13 **Procedure.** The Board shall keep regular minutes of its proceedings. The minutes shall be placed in the permanent records of the Association.

3.14 **Interested Directors, Officers and Members.**

- (a) **Validity.** Any contract or other transaction between the Association and any of its directors or officers (or any Association or firm which any of them are directly or indirectly interested) shall be valid for all purposes notwithstanding the presence of such director or officer at the meeting authorizing such contract or transaction, or his participation in the meeting or authorization.
- (b) **Disclosure, Approval.** The foregoing shall however, apply only if the interest of each such director or officer is known or disclosed:
  - (1) To the Board and it nevertheless authorizes or ratifies the contract or transaction by a majority of the directors present, each such interested director to be counted in determining whether a quorum is present but not in calculating the majority necessary to carry the vote; or
  - (2) To the Members and they nevertheless authorize or ratify the contract or transaction by a majority present, each interested person to be counted for quorum purposes only and not for voting purposes.
- (c) **Non-Exclusive.** This provision shall not be construed to invalidate any contract or transaction, which would be valid in the absence of this provision.

#### **ARTICLE IV COMMITTEES OF THE BOARD OF DIRECTORS**

4.01 **Designation.** The Board of Directors is hereby authorized to establish committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Each committee established by the Board shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee and in accordance with such rules as are adopted by the Board of Directors. The committees of the Board, may include, but not be limited to the following and shall be for the purposes set forth below:

- (a) **Welcoming Committee:** To personally meet and welcome new Owners to Brook

Meadows to ensure that their introduction to the Brook Meadows community is a friendly and positive experience.

- (b) Architectural Review Committee: To ensure homeowner compliance with the Brook Meadows CC&R's architectural regulations and requirements.
- (c) Landscaping Committee: To ensure that the commonly maintained area in Brook Meadows presents an attractive appearance and positive impression to Owners and visitors.
- (d) Communications Committee: To plan, create and distribute news letters and other Board publications, regarding activities of the Association, life in Brook Meadows and community events. Other responsibilities may include the maintenance of the website, and a neighborhood directory.
- (e) Holiday Decoration Committee: To plan and implement decorating the commonly maintained area in Brook Meadows to present an attractive appearance and positive community image to Owners and visitors during holiday periods.
- (f) Social Committee: To plan and coordinate community events that are intended to expand and improve social interactions of Brook Meadows Owners.
- (g) Ad Hoc Committee(s): To provide temporary support, as required, to fulfill Board needs, as designated or required by the Board from time to time.

The Board may, by resolution adopted by a majority of the Board, designate from the Association's membership one or more Ad Hoc committees. All committees shall be comprised of at least one Board member and the other members of such committee must be Members of the Association. The Board may designate one or more of its members as alternate members of any committee, who may, subject to any limitations imposed by the Board, replace absent or disqualified members at any meeting of that committee. The Board may designate a member of each committee to act as the chairman of such committee.

4.02 **Responsibilities, Goals and Objectives**. Each year, prior to the first meeting of a committee, the Board member(s) designated as a member of the committee shall identify and work with the chairman of the committee (if no designated chairman, then with other members of the committee) to create or revise the committee documents, if any, to define the chairman's responsibilities and the responsibilities, goals and objectives of the committee for the ensuing year.

4.03 **Authority**. All committees of the Association shall be vested with advisory powers only and are not authorized to act on behalf of the Association or the Board.

4.04 **Chairman's Responsibilities**. If the Board designates a chairman of a committee, such chairman shall ensure that regular minutes of each of the committee's meetings are kept and provided to the Board, when requested. If the Board does not designate the chairman of a committee, the committee shall designate a member of the committee who shall be vested with the obligation to keep minutes of the meetings of such committee.

4.05 **Removal**. The Board may remove any member of any such committee by the affirmative vote of a majority of the Board, whenever in its judgment the best interests of the Association will be served thereby.

4.06 **Committee Responsibility**. The designation of one or more committees and the delegation of authority to any such committee shall not operate to relieve the Board, or any member thereof, of any responsibility imposed upon it or him by law.



## ARTICLE V OFFICERS

5.01 **Number.** The officers of the Association shall consist of a President, Vice President, Secretary, Treasurer, and a Director at Large, each of whom shall be by the Board.

5.02 **Election.** The Board, at its Annual Meeting shall elect the officers. Each officer must be a member of the Board to serve as an officer.

5.03 **Other Officers.** The Board may elect or appoint such other officers and agents as it shall deem necessary, who shall be appointed for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the board.

5.04 **Term.** Each officer of the Association shall hold office until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office.

5.05 **Removal.** The Board may remove any officer, agent, or member of a committee elected or appointed by the Board whenever in its judgment the best interests of the Association will be served thereby. Election or appointment of an officer or agent or member of a committee shall not of itself create contract rights.

5.06 **Vacancies.** Any vacancy in any office because of death, resignation, removal or otherwise, maybe filled by the Board for the unexpired portion of the term.

5.07 **President.** The President shall be the chief executive officer of the Association, and subject to the control of the Board, shall in general supervise and control all of the business and affairs of the Association and shall see that all orders and resolutions of the Board are carried into effect. He shall create and deliver a meeting agenda to all board members at least two (2) days before any Board meeting. He shall also ensure that proper notice for Annual Meetings, and Special Meetings is sent to all homeowners at least 10 days, and no more than sixty (60) days, in advance of the meetings. The President shall preside at all meetings of the members and of the Board. If the President is not present at the meeting and has not designated a presiding officer to serve in his/her place, the Vice-President shall be the presiding officer. In the absence of the President and the Vice-President, the Board may designate another officer to preside over a meeting. The President may execute, with the Secretary or any other proper officer of the Association thereunto authorized by the Board, any deeds, mortgages, bonds, contracts or other instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed, and in general shall perform all duties incident to the office of President, and such other duties as may be prescribed by the Board from time to time.

5.08 **Vice-President.** The Vice-President, unless otherwise determined by the Board shall, in the absence or disability of the President, perform the duties and have the authority and exercise the powers of the President. The Vice-President shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe, or as the President may from time to time delegate. The Vice-President shall also serve as parliamentarian, to assist in guiding the Board on parliamentary procedures, rules, or debate for all meetings in accordance with the spirit of "Robert's Rules of Order."

5.09 **Treasurer.** The Treasurer, unless otherwise determined by the Board, shall, in the absence or disability of the President and Vice President, perform the duties and have the authority and exercise the powers of the President. The Treasurer shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe or as the President may from time to time delegate, including the following:

- (a) The Treasurer shall have the custody of the Association funds and securities and shall

keep full and accurate accounts of receipts and disbursements of the Association, and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board.

- (b) The Treasurer shall disburse funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and directors, at the Regular meetings of the Board, or whenever the Board or the President may require it, an account of all transactions conducted by the Treasurer on behalf of the Association.
- (c) The Treasurer shall include a Contingency line item (the "Contingency") in the Annual Budget to be proposed to the Membership during the Annual Meeting. The Board shall vote to determine the initial funding allocation to the Contingency. The minimum-funding allocation to the Contingency shall be no less than 10% of the Total Expenses amount in the proposed Annual Budget. The Board shall hold Contingency funds in reserve in anticipation of a possible future event or condition or an unforeseen occurrence that may necessitate special measures and associated unplanned expenditures.
- (d) After Membership approval of the Annual Budget, if the Board determines that an unforeseen event(s) or occurrence has happened that will require reallocation of the Contingency, the Board shall have the authority to vote on how to reallocate a portion or all remaining Contingency funds to any Annual Budget Line Item(s) as necessary to offset a Total Expenses cash-flow shortfall caused by a shortage of assessment payments received or a negative Total Expense Variance.
- (e) If the Board determines that an unforeseen event(s) or occurrence has happened that will require a Special Assessment, the Board shall call a Special Meeting of members to explain the nature and cause(s) of the event(s) or occurrence, and a plan and schedule to respond to the event or occurrence shall be proposed by the Board and shall be approved by a majority vote of a quorum of BMHA members in attendance at the Special Meeting. If a Special Assessment is approved by the Membership, the Treasurer shall reallocate Annual Budget line-item funding using funds from the approved Special Assessment.
- (f) The Treasurer shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe, or as the President may from time to time delegate.

5.10 **Secretary.** The Secretary will attend all sessions of the Board and all meetings of the Members and record the minutes of the proceedings. The Secretary shall give, or cause to be given, notice of the meetings of the Board and Members where such notices are required by Texas law and/or these Bylaws. He shall be under the supervision of the President. The Secretary shall perform such other duties and shall have such other authority and powers as the Board may from time to time prescribe or as the President may from time to time delegate.

5.11 **Director-at-Large.** The Director At Large shall perform such duties required by the Board with powers as the Board may from time to time prescribe or as the President may from time to time delegate.

## **ARTICLE VI INDEMNIFICATION**

6.01 **Definitions.** For purposes of this Article VI:

- (a) "Association" includes any domestic or foreign predecessor entity of the Association in a merger, consolidation, or other transaction in which the liabilities of the predecessor are transferred to the Association by operation of law and in any other transaction in which the Association assumes the liabilities of the predecessor but does not specifically exclude liabilities that are the subject matter of this Article VI.
- (b) "Director" means any person who is or was a director of the Association and any person who, while a director of the Association, is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic Association, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise.
- (c) "Expenses" include court costs and attorneys' fees.
- (d) "Official capacity" means:
  - (1) when used with respect to a director, the office of director in the Association; and
  - (2) when used with respect to a person other than a director, the elective or appointive office in the Association held by the officer or the employment or agency relationship undertaken by the employee or agent in behalf of the Association; provided, however, that in each case described in paragraphs (1) and (2) of this Subsection (d), "official capacity" does not include service for any other foreign or domestic association or any partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise.
- (e) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

6.02 **Indemnification.** To the fullest extent permitted by applicable law, Association shall and does hereby agree to indemnify, protect, hold harmless and defend its officers, directors, and committee members, hereinafter referred to as "Indemnitees" from and against all claims, demands, damages, injuries, losses, liens, causes of action, suits, judgments, penalties, liabilities, debts, costs and expenses, including court costs and attorneys' fees (collectively, "Liabilities"), of any nature, kind or description, whether arising out of contract, tort, strict liability, misrepresentation, violation of applicable law and/or any cause whatsoever (including without limitation, claims for injuries to or death of any person, or damages to or loss of any property) of any person or entity directly or indirectly arising out of, caused by, in connection with, or resulting from any act or omission of any of the Indemnitees; provided, however, that the Association shall not indemnify the Indemnitees for any Liabilities arising as a result of the gross negligence or willful misconduct of Indemnitees. **THE OBLIGATIONS OF THE ASSOCIATION UNDER THIS SECTION SHALL APPLY TO LIABILITIES EVEN IF SUCH LIABILITIES ARE CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, FAULT OR STRICT LIABILITY OF ANY INDEMNITEE AND WHETHER OR NOT SUCH SOLE OR CONCURRENT NEGLIGENCE, FAULT OR STRICT LIABILITY WAS ACTIVE OR PASSIVE.**

The Indemnitees shall promptly advise the Association in writing of any action, administrative or legal proceeding or investigation as to which indemnification may apply, and Association, at Association's expense, shall assume on behalf of Indemnitees and conduct with due diligence and in good faith the defense thereof with competent trial counsel, provided, however, that Indemnitees shall have the right, at their own option, to be represented therein by advisory counsel of their own selection and at their own expense.

In the event of the failure by Association to fully perform its obligations in accordance with

this Section, Indemnitees, at their option, and without relieving Association of its obligations hereunder, may so perform, but all costs and expenses so incurred by Indemnitees in that event shall be reimbursed by the Association to Indemnitees, together with interest, on the same from the date any such expense was paid by Indemnitees until reimbursed by the Association, at the highest lawful rate of interest allowed under applicable usury laws of the State of Texas (or if no maximum rate is applicable, at the rate of eighteen percent (18%) per annum). The indemnification shall not be limited to damages, compensation or benefits payable under insurance policies. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this Section, such legal limitations are made a part of indemnification obligations and shall operate to amend the indemnification obligations to the minimum extent necessary to bring the provisions into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

6.03 **Effect of Termination of Proceeding.** The termination of a proceeding by judgment, order, settlement, or conviction, or on a plea of nolo contendere or its equivalent is not of itself determinative that the person did not meet the requirements set forth in Section 6.02. A person shall be deemed to have been found liable in respect of any claim; issue or matter only after the person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom.

6.04 **Liability Insurance.** The Association may purchase and maintain insurance or another arrangement on behalf of any person who is or was a director, officer, committee member, employee, or agent of the Association or who is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic association, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, against any liability asserted against him and incurred by him/her in such a capacity or arising out of his/her status as such a person, whether or not the Association would have the power to indemnify him/her against that liability under this Article VI. If the insurance or other arrangement is with a person or entity that is not regularly engaged in the business of providing insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Association would not have the power to indemnify the person only if including coverage for the additional liability has been approved by the Members of the Association. Without limiting the power of the Association to procure or maintain any kind of insurance or other arrangement, the Association may, for the benefit of persons indemnified by the Association, (1) create a trust fund; (2) establish any form of self-insurance; (3) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Association; or (4) establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the Association or with any insurer or other person deemed appropriate by the Board regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or part by the Association. In the absence of fraud, the judgment of the Board as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be voidable and shall not subject the directors approving the insurance or arrangement to liability, on any ground, regardless of whether directors participating in the approval are beneficiaries of the insurance or arrangement.

6.05 **Business Judgment Rule.** Any act or thing done by any director, officer, or committee member taken in furtherance of the purposes of the corporation, and accomplished in conformity with the procedures set forth in the Declaration, the Articles, the laws of the State of Texas, and/or these By-laws, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing done shall not be a breach of duty on the part of the director, officer, or committee member if they have been done within the exercise of their discretion and judgment.

The Business Judgment Rule means that a court shall not substitute its judgment for that of the director, officer or committee member. A court shall not re-examine the quality of the decisions made by the director, officer, or committee member by determining the reasonableness of the decision as long as the decision is made in good faith in what the director, officer, or committee member believes to be the best interest of the corporation.

## ARTICLE VII NOTICE

7.01 **Method.** Whenever by statute or the Articles or these Bylaws, notice is required to be given to any Member or director, and no provision is made as to how the notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given in writing, postage prepaid, addressed to the director or Member at the address appearing on the books of the Association, or in any other method permitted by law. Any notice required or permitted to be given by mail shall be deemed given at the time when the same is thus deposited in the United States mail. Notice to directors may also be given by facsimile or electronic communication, with such notice being deemed to have been given when the facsimile or electronic communication is delivered to the telegraph company.

7.02 **Waiver.** Whenever, by statute or the Articles or these Bylaws, notice is required to be given to any Member or director, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

## ARTICLE VIII GENERAL PROVISIONS

8.01 **Books and Records.** The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its Members, its Board, and each committee of its Board. Such records shall contain the names and addresses of all past and current Members.

8.02 **Checks and Notes.** All checks or demands for money and notes of the Association shall be signed by such officer or officers or such other person or persons as the Board may from time to time designate.

8.03 **Fiscal Year.** The fiscal year of the Association shall be fixed by resolution of the Board.

8.04 **Resignation.** Any director, officer, or agent may resign by giving written notice to the President or the Secretary. The resignation shall take effect at the time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8.05 **Amendment of Bylaws.** These By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of a majority of the eligible votes of the Association present, in person or by proxy, at any regular or Special Meeting. Notwithstanding the above, the percentage of votes or other approval 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. The notice of any meeting at which the Bylaws are altered, amended or repealed, or at which new bylaws are adopted, shall include the text of the proposed bylaw provisions as well as the text of any existing provisions proposed to be altered, amended or repealed.

8.06 **Parliamentary Rules.** Except as may be modified by Board resolution, Robert's Rules of

Order (current edition) may govern the conduct of Association proceedings when not in conflict with Texas law, the Declaration, the Articles or these By-Laws.

8.07 **Table of Contents, Headings.** The table of contents and headings used in these bylaws has been inserted for convenience only and does not constitute matter to be construed in interpretation of the spirit of these bylaws.

8.08 **Construction.** Whenever the context so requires, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. If any portion of these Bylaws shall be invalid or inoperative, then, so far as is reasonable and possible:

- (a) The remainder of these Bylaws shall be considered valid and operative; and
- (b) Effect shall be given to the intent manifested by the portion held invalid or inoperative.

8.09 **Conflict.** If there are conflicts between the provisions of Texas law, the Articles, the Declaration, and/or these By-Laws, then the provisions of Texas law, the Declaration, the Articles, and the By-Laws (in that order) shall prevail.

The undersigned, being the current Board, hereby certify that the foregoing Bylaws were unanimously adopted by the Board and are, and shall, become effective on the date the same are filed in the Real Property Records of Tarrant County, Texas.

APPROVED BY:

Director & President, Kevin Elder	_____
Director & Vice President, Dick Cress	_____
Director & Treasurer, Howard Wixson	_____
<del>Director &amp; Secretary, Carole Taylor</del>	Resigned - October 27, 2006
Director at Large, Jim Tressler	_____

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting President of Brook Meadows Homeowners Association, Inc., a Texas non-profit corporation;

That the foregoing By-Laws constitute the Amended and Restated By-Laws of said Association, as duly adopted by a resolution of the Board of Directors of the Association on the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Kevin Elder, President

STATE OF TEXAS                   §  
  §  
COUNTY OF TARRANT         §

BEFORE ME, on this day personally appeared Kevin Elder, the President of Brook Meadows Homeowners Association, Inc. known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same for the purposes and consideration therein expressed and in the capacity therein and herein stated, and as the act and deed of said corporation.

Given under my hand and seal of office, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public – State of Texas

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