

**BYLAWS OF  
THE PRESERVE HOMEOWNERS ASSOCIATION, INC.,  
A TEXAS NONPROFIT CORPORATION**

**Adopted February 2001**

**ARTICLE I**

**OBJECT**

Section 1.01 Purposes This document describes the rules under which The Preserve Homeowners Association (PHOA) is to be governed. The business address of the Association is P. O. Box 163772, Austin, TX 78716-3772, and via internet: <http://www.preservehomeowners.com>

The purposes for which this non-profit Association has been formed are to administer the common affairs of all of the owners of the Lots, as that term is defined in the Declaration of Covenants, Conditions, and Restrictions for The Preserve Subdivision, a plat of record in Book 85, page 152-C, Plat Records of Travis County, Texas; said Declaration being recorded in Volume 9189, pages 442-463, of the Real Property Records of Travis County, Texas; the Amendment to the Declaration of Covenants, Conditions, and Restrictions for The Preserve Subdivision, as recorded in Volume 9833, page 309, of the Real Property Records of Travis County, Texas; and the Second Amendment to the Declaration of Covenants, Conditions and Restrictions for The Preserve Subdivision, as recorded in volume 10,721, page 1362, of the Real Property Records of Travis County, Texas (hereinafter referred to as the "Declarations"). The additional purposes for which this non-profit Association has been formed are to assure the upkeep, maintenance, improvement, and administration of any property which may later be acquired by or placed under the control of the Association; to assure the upkeep, maintenance, improvement, and administration of any private streets used in connection with the above-described property; to enforce the Declarations for the benefit of all the owners of the Lots; and, more generally, to carry out the functions and exercise the powers described in the Articles of Incorporation of The Preserve Homeowners Association, Inc.

Section 1.02 Jurisdiction of Bvlaws. All present or future owners, tenants, future tenants, or any other person who might use the facilities of the Association in any manner are subject to the regulations set forth in these Bylaws. The mere acquisition, occupancy, or rental of any of the platted lots

within the Plat, or in any additional property later placed under the jurisdiction of the Association will signify that these Bylaws are accepted and ratified and that the owner, tenant, or occupant thereof will comply with the terms and provisions hereof.

## **ARTICLE II**

### **DEFINITIONS**

Section 2.01 Association shall mean and refer to THE PRESERVE HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

Section 2.02 Board shall mean and refer to the Board of Directors of the Association.

Section 2.03 Common Area shall mean and refer to all real property owned by the Association for the common use and enjoyment of the Owners, including any conservation easement or greenbelt easement.

Section 2.04 Improvements shall include, but shall not be limited to, the erection of, additions to, or alterations of any structure, including, but not limited to, any buildings, detached buildings, garages, carports, storage buildings, tool sheds, kennels or greenhouses, the erection of any fence, the moving of any structure from another location to a lot; the grading, scraping, excavation, or other rearranging of the surface of any Lot; the construction of any driveway, walkway, entry way, patio or other similar item; and the alteration or replacement of any exterior surface, including the repainting of any painted surfaces and the painting of formerly unpainted surfaces.

Section 2.05 Lot shall mean and refer to any plot of land identified by number upon the recorded subdivision map of the Property, with the exception of the Common Area.

Section 2.06 Member shall mean and refer to every person or entity who holds membership in the Association by virtue of ownership of a Lot. In the event ownership of a Lot is held by two or more persons or entities, all such persons or entities shall be members of the Association. The vote for such multiple owner lot shall be exercised as the owners shall determine between

themselves, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 2.07 Single Family Residence shall mean and refer to a structure containing one dwelling unit only and occupied by not more than one family.

### **ARTICLE III**

#### **The Board of Directors**

Section 3.01 General Powers. The affairs of the corporation shall be managed by its Board of Directors, which consists of its currently elected officers. All Directors shall be owners of lots within the Plat. The Board of Directors shall have all powers vested in the Association by Article VII of the Declarations.

Section 3.02 Other Powers. The Board of Directors is, without limitation, additionally empowered as follows:

- a) To administer and enforce the covenants, conditions, restrictions, uses, limitations, obligations, and all other provisions as set forth in the Declarations, by lawsuit or otherwise;
- b) To keep in good order, condition and repair all of the Common Areas and all items, if any, of personal property used in the enjoyment of the Common Areas;
- c) To estimate and fix annual and special assessments to be paid by each of the Owners; and to levy and collect all annual assessments and/or special assessments. Unless amended by the Board, the Annual Assessment Period shall run from January 1 until December 31 of the succeeding year. The due date on such annual assessment shall be February 15 of each year;
- d) To collect delinquent Assessments by suit or otherwise and to enjoin or seek damages from any defaulting Owner as is provided in the Declarations and these Bylaws;

e) To suspend a Member's voting rights and right to use the Common Area, if any, and facilities thereon (1) for any period during which any assessment owed by the Member remains unpaid thirty (30) days after it is due; or (2) for a period not to exceed thirty (30) days because of the infraction of the Rules by a Member, members of the family of a Member, or guests of a Member;

f) To protect and defend the Association or any property owned thereby from loss and damage, by suit or otherwise;

g) To borrow funds in order to pay for any expenditure or outlay pursuant to the authority granted by the provisions of the Declarations, the Articles and these Bylaws; to pledge or otherwise grant a security interest in the Association's Assessments or funds to secure such indebtedness; and to execute all such instruments evidencing such indebtedness as this Board of Directors may deem necessary or appropriate, including, without limitation, the power to borrow money for the purpose of acquiring or improving Common Areas and for constructing or improving facilities thereon, and in connection therewith the power to mortgage the Common Areas or portions thereof;

h) To enter into contracts within the scope of their duties and powers;

i ) To establish one or more bank accounts, savings accounts, or other investment accounts for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors;

j) To keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements and to permit examination thereof at any reasonable time by each of the Owners;

k) To prepare and deliver annually to each Owner, upon request, a statement summarizing all receipts, expenses, or disbursements since the last such statement;

l) To meet at least once a year.

m) To designate and employ the personnel necessary for the maintenance and operation of the Common Areas, if any, and of the business of the Association;

n) In general, to carry on the administration of this Association and to do all of those things necessary and reasonable in order to carry out the functions of the Association under the Declarations and the Articles;

Section 3.03 Number, Qualification, Election, and Term. The Board of Directors shall consist of the five officers of the Association; the duly elected President, Vice President, Secretary, Treasurer and Chairperson of the Architectural Control Committee (ACC). These officers are elected by the Association as a whole at the annual meeting of the Association as specified in Article 5.

Section 3.04 Limited Liability. No Director shall be liable to the Association for monetary damages for an act or omission in the Director's capacity as a director, except liability of a Director for:

- a) A breach of a Director's duty of loyalty to the Association;
- b) An act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;
- c) A transaction from which a Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's office; d) An act or omission for which the liability of a Director is expressly provided for by statute; or
- e) An act related to an unlawful stock repurchase or payment of a dividend.

Section 3.05 Removal Any director/officer may be removed from office, either for or without cause, at any meeting of Directors by the affirmative vote of a majority of the Directors present and entitled to vote at such meeting, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting. If the notice calling such meeting shall have been so provided, the vacancy caused by such removal may be filled at such meeting by the affirmative vote of a majority of the Directors present and entitled to vote.

Section 3.06 Vacancies Any vacancy occurring in the Board of Directors may be filled by the vote of a majority of the remaining directors, even if such remaining directors comprise less than a quorum of the Board of Directors.

Section 3.07 Regular Meetings Regular meetings of the Board of Directors shall be held once a year, without notice, at such place and hours as may be fixed from time by Resolution of the Board. The Board of Directors may provide by resolution the time and place for the holding of additional regular meetings of the Board without other notice than such resolution.

Section 3.08 Special Meetings. Special meetings of the Board of Directors shall be held at the times and places fixed by resolutions of the Board or by call of the President or any two (2) directors. The Secretary or officer performing duties shall give notice of special meetings to each director at his usual business or residence address at least two (2) days before the meeting, by written notice delivered personally or sent by mail or e-mail message, or telephone. No notice shall be necessary for any adjourned meeting. A waiver of notice of any special meeting, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, 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 a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 3.09 Quorum. A majority of the number of directors fixed by these Bylaws shall constitute a quorum for the transaction of business, but if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors Present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.10 Procedure at Meetings. The President of the PHOA shall act as Chairman of the Board of Directors, who shall preside at meetings of the Board. In the absence of the Chairman at any meeting, a member of the Board to be selected by the members present shall preside. In the absence of the Secretary, the presiding officer of the meeting may designate any person to act as Secretary. At meetings of the Board of Directors, business shall be transacted in such order as from time to time the Board may determine.

Section 3.11 Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 3.12 Directors' Action by Written Consent. Any action required to be or which may be taken at a meeting of the Board of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken shall be signed by each director entitled to vote at such meeting, and such written consent shall have the same force and effect as a unanimous vote of the Board of Directors.

Section 3.13 Election of Members of Architectural Control Committee

At the Annual meeting, the Association shall elect an Architectural Control Committee. The Committee shall keep minutes of all its proceedings. The Board of Directors may appoint one or more of its number to serve on said Committee. The duties, rules, and procedures of the Architectural Control Committee shall be as provided in Sections 6.09 through 6.19 of the Declarations.

Section 3.14 Meeting by Telephonic or Internet Communications.

Subject to the provisions required or permitted by these Bylaws or the laws of the State of Texas for notice of meetings, members of the Board of Directors or members of any committee designated by the Board of Directors may participate in and hold regular annual meetings, special meetings, or any other meeting required or permitted under these Bylaws by any means of which all persons participating in the meeting can communicate with all others. Participation in a meeting pursuant to this section shall constitute presence in person at such a meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**ARTICLE IV**

## Meeting of Membership

Section 4.01 Annual Meetings. An annual meeting of the members shall be held once a year, upon ten (10) days written notice to all members at a time, date, and location as determined by the Directors.

Section 4.02 Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-half (1/2) of all of the votes of the entire membership.

Section 4.03 Notice of Meetings. Except as otherwise provided in the Articles of Incorporation, the Declarations, or these Bylaws, written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by sending a copy of such notice at least fifteen (15) days before such meeting to each member entitled to vote thereat. Such notice shall specify the place, day, and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4.04 Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, sixteen votes shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, any member- entitled to vote at such meeting shall have the power to adjourn the meeting from time to time, without notice other announcement of the meeting, until a quorum, as aforesaid, shall be present or represented.

Section 4.05 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

## **ARTICLE V**

### Officers and Their Duties

Section 5.01 Enumeration of officers. The officers of this Association shall be a president, vice-president; a secretary, a treasurer, and chairperson of the ACC, who shall at all times be members of the Board of Directors.

Section 5.02 Election of Officers. The election of officers shall take place at the annual meeting of the members.

Section 5.03 Term and Removal. The officers of this Association shall be elected annually and shall hold office for one (1) year unless he/she shall sooner resign, or shall be removed as provided in Article 3, or otherwise disqualified to serve.

Section 5.04 Multiple Offices. No person shall simultaneously hold more than one elected office.

Section 5.05 Duties. The duties of the officers are as follows:

a) President The president shall preside at all meetings of the Association and the Board of Directors; shall see that orders and resolutions are carried out; and shall sign all leases, mortgages, deeds, and other written instruments.

b) Vice President The vice president shall act in the place and stead of the president in the event of the president's absence, inability, or refusal to act, and shall exercise such other duties as may be required of him by the Board. The vice president shall oversee routine and non-routine landscape work in the common areas.

c) Secretary The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties as required by the Board.

d) Treasurer The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of

income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the members.

e) Chairperson of the Architectural Control Committee (ACC) The role the ACC and it's chairperson is described in the Declarations.

## **ARTICLE VI**

### **Contracts, Checks, Deposits, and Funds**

Section 6.01 Contracts. The Board of Directors may authorize any agent or agents of the Association to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances; and, unless so authorized by the Board of Directors or by these Bylaws, no agent or employee shall have any power or authority to bind the Association by any contract or engagement, or to pledge its credit or to render it liable pecuniarily for any purpose or to any amount.

Section 6.02 Checks, Drafts, etc. All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officers or employees of the Association as shall from time to time be authorized pursuant to these Bylaws.

Section 6.03 Depositories. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may from time to time designate, upon such terms and conditions as shall be fixed by the Board of Directors. The Board of Directors may from time to time authorize the opening and keeping with any such depository as it may designate of general and special bank accounts, and may make such special rules and regulations with respect thereto, not inconsistent with the provisions of these Bylaws, as it may deem expedient.

## **ARTICLE VII**

### **Books and Records**

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its member's meetings, Board of Directors, and committees having any of the authority of the Board of Directors, and the Secretary shall keep a record giving the names and addresses of the members entitled to vote. All books and records of the Association may be inspected by any member or his agent or attorney for any proper purpose at any reasonable time.

## **ARTICLE VIII**

### **Miscellaneous**

Section 8.01 Resignations. Any director or officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the President or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 8.02 Indemnification of Directors. Each person who may have served as a director of this Association, shall, to the fullest extent allowed by Law, be indemnified by the Association against liabilities imposed upon him and expenses reasonably incurred by him in connection with any claim made against him, or any action, suit or proceeding to which he may be made a party by reason of his being or having been such director or officer and against such sums as independent counsel selected by the Board of Directors shall deem reasonable payment made in settlement of any such claim, action, suit or proceeding primarily with a view to avoiding expenses of litigation.

## **ARTICLE IX**

### Waiver of Notice

Whenever any notice is required to be given under the provisions of the Texas Nonprofit Association Act or under the provisions of the Articles of Incorporation of the Bylaws of the Association, a waiver thereof in writing signed by the person or

persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## **ARTICLE X**

### Amendments

These Bylaws may be altered amended, or repealed, or new Bylaws may be adopted, by a majority of the Board of Directors, or the Association as a whole, at any duly held meeting; provided that notice of such proposed action shall have been contained in the notice of any such meeting.

IN WITNESS WHEREOF, we, being all the Directors of the Association have hereunto set our hands this    day of 2001.

William F. Bennett  
President/Director

Larry White  
Vice President/Director

Pam Rogers  
Treasurer/Director

Melody Summersett  
Secretary/ Director

Valerie Luessenhop  
Chairman ACC / Director