

**BY-LAWS**  
**OF**  
**FLAGSTONE CREEK HOMEOWNERS ASSOCIATION, INC.**  
**(A Texas Non-Profit Corporation)**

**ARTICLE I**

**NAME**

1.1 **NAME.** The name of the organization shall be **Flagstone Creek Homeowners Association, Inc.**, hereinafter called "Association".

1.2 **PRINCIPAL OFFICE.** The principal office of the Association shall be located at such suitable and convenient place as shall be permitted by law and designated by the Board of Directors.

1.3 **DEFINITIONS OF TERMS.** The terms used in these By-Laws, to the extent they are defined in the Declaration of Covenants, Conditions and Restrictions for Flagstone Creek executed by Rockwall Hall Parkway Lots, L.P. as Declarant (the "Declaration"), shall have the same definition as set forth in the Declaration, as the same may be amended from time to time, recorded in the office of the County Clerk of Rockwall County, Texas.

**ARTICLE II**

**PURPOSE AND OWNER OBLIGATION**

2.1 **PURPOSE.** The purpose for which this nonprofit Association was formed is to be and constitute the homeowners' association referenced in the Declaration to provide for the governance and maintenance of the Flagstone Creek subdivision situated in the County of Rockwall, State of Texas.

2.2 **OWNER OBLIGATION.** All present or future owners or any other person who might reside in the Properties are subject to the regulations set forth in these By-Laws. The mere acquisition of any of the residential lots or other Units (the "Lots") comprising the Properties or the mere act of occupancy of any residential dwellings (the "Dwellings") on the Lots will signify that these By-Laws are accepted, ratified and will be strictly followed by such owner or occupant.

**ARTICLE III**

**DEFINITIONS AND TERMS**

3.1 **MEMBERSHIP.** Any person on becoming an Owner of a Lot shall automatically become a Member of this Association and be subject to these By-Laws. Such membership shall terminate without any formal Association action whenever such person ceases to own a Lot. Such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Association during the period of such ownership and membership in this Association, or impair any rights or remedies which the Board of Directors of the Association or others may have against such former Owner and Member arising out of or in any way connected with such ownership and membership, and the

covenants and obligations incident thereto. No certificates of stock shall be issued by the Association, but the Board of Directors, if it so elects, may issue one (1) Membership Card per Lot to the Owner(s) of the Lot. Such Membership Card shall be surrendered to the Secretary whenever ownership of the Lot designated thereon is terminated.

### 3.2 VOTING RIGHTS.

- (a) The Association shall have two classes of voting membership.

CLASS "A": Class "A" Members shall be all Members other than the Declarant. Class "A" Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interest in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot owned by a Class "A" Member.

CLASS "B": The sole Class "B" Members shall be the Declarant and any other Declarant Affiliates. Such parties, as the sole Class "B" Members, shall be entitled to ten (10) votes for each Lot they own. When any Class "B" Member transfers ownership of a Lot to any person or entity other than a Class "B" Member, the Class "B" Membership with respect to such Lot shall terminate.

(b) Except as otherwise specifically set forth elsewhere in these By-Laws, the Articles or the Declaration, (i) any action requiring the approval of the Members shall require the assent of a majority of the votes of the Members in attendance in person or by proxy at a duly called meeting at which a quorum is present, or (ii) alternatively, any action requiring the approval of the Members may be taken with the written assent of more than fifty percent (50%) of the outstanding votes of the Members.

3.3 **MAJORITY OF UNIT OWNERS OR CLASS "B" MEMBERS.** As used in these By-Laws and the Declaration, (a) the phrase "majority of the Members" shall mean those Members with more than fifty percent (50%) of the votes entitled to be cast, and (b) the phrase "majority of the Class "B" Members" shall mean those Class "B" Members with more than fifty percent (50%) of the Class "B" votes entitled to be cast.

3.4 **MEMBER IN GOOD STANDING.** A Member of the Association shall be considered to be in good standing and eligible to vote if such member:

(a) Has, not less than seven (7) days prior to the taking of any vote by the Association, fully paid all assessments or other charges levied by the Association against such member's property and then due and payable, as such assessments or charges are provided for in the Declaration;

(b) Does not have a lien filed by the Association against such member's property; and

(c) Has discharged any and all other obligations to the Association as may be required of its members hereunder or under the Declaration.

The Board of Directors of the Association shall have sole responsibility and authority for determining the good standing status of any member at any time. The voting rights of any Member may be suspended by the Board of Directors for any period during which any assessment remains past due, unless the Member is in good faith contesting the validity or amount of the assessment.

3.5 **QUORUM.** Except as otherwise provided in these By-Laws, the presence in person or by proxy of Members entitled to cast ten percent (10%) of the votes of each class of Members shall constitute a quorum. Members present at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal, during the course of the meeting, of members constituting a quorum.

3.6 **PROXIES.** Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time of each meeting.

## **ARTICLE IV**

### **ADMINISTRATION**

4.1 **ASSOCIATION RESPONSIBILITIES.** The affairs of the Association shall be conducted by its Board of Directors.

4.2 **PLACE OF MEETINGS.** All annual and special meetings of the Association shall be held at the principal office of the Association or at such other suitable and convenient place as may be permitted by law and from time to time fixed by the Board of Directors and designated in the notices of such meetings.

4.3 **ANNUAL MEETINGS.** Annual meetings shall be held on the 2nd Thursday in December of each year, unless such day is a legal holiday, in which case such meeting shall be held at the specified time on the first business day thereafter which is not a legal holiday; or on a date selected by the Board of Directors and noticed to the Members. If not previously called, the first (1st) annual meeting shall be called by the Board of Directors after the earlier of the expiration of the Class "B" Control Period as set forth in Section 5.2 or the happening of either event set forth in Sections 5.5 (a) or (b).

4.4 **SPECIAL MEETINGS.** It shall be the duty of the President to call a special meeting of the Owners as directed by resolution of the Board of Directors or upon a petition signed by Members holding at least ten percent (10%) of the votes in the Association or Class "B" Members holding at least twenty percent (20%) of the Class "B" Votes and presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

4.5 **NOTICE OF MEETINGS.** The Secretary shall mail notices of annual and special meetings to each Member of the Association, directed to the Member's last known post office address, as shown on the records of the Association, by regular mail, postage prepaid. Such notice shall be mailed not less than ten (10) days nor more than sixty (60) days before the date of such meeting and shall state the date, time and place of the meeting and the purpose or purposes thereof. In lieu of mailing notice as herein provided, such notice may be delivered by hand or left at his residence in his absence. If requested in writing as provided in the Declaration, any Mortgagee of record or its designee may be entitled to receive similar notice.

4.6 **WAIVER OF NOTICE.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members,

either before or after such meeting. Attendance at any meeting by a Member or alternate shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

4.7 **ADJOURNED MEETING.** If any meeting of Members cannot be organized because a quorum has not attended, a majority of the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is attained. At any such reconvened meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without additional notice. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to voting Members in the manner prescribed for regular meetings.

4.8 **CONDUCT OF MEETINGS.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. Such records shall be kept by the Association for at least seven years.

## **ARTICLE V**

### **BOARD OF DIRECTORS**

5.1 **NUMBER AND QUALIFICATION.** The affairs of this Association shall be governed by a Board of Directors composed initially of three (3) persons. At any annual meeting of Members, the Members may elect to increase the number of members of the Board of Directors to not more than five (5) directors. Except with respect to Directors appointed by the Class "B" Members, the Directors shall be Members or spouses of Members; provided, however, no individual and his or her spouse may serve on the Board of Directors at the same time. In the case of a Member which is not a natural person, the individual designated in writing to the Secretary of the Association as the representative of such Member shall be eligible to serve as a Director.

5.2 **DIRECTORS DURING CLASS "B" CONTROL PERIOD.** The Directors shall be selected by a majority of the Class "B" Members acting in their sole discretion and shall serve at the pleasure of a majority vote of the Class "B" Members until the first to occur of the following (the "Class "B" Control Period"):

- (a) when the total votes outstanding in the Class "A" Membership equals or exceeds the total votes outstanding in the Class "B" Membership;
- (b) September 20, 2016; or
- (c) when, in its sole discretion, the Declarant determines and declares in a recorded instrument that the Class B Control Period has expired.

### 5.3. RIGHT TO DISAPPROVE ACTIONS.

(a) So long as the Class "B" membership exists, a majority of the Class "B" Members shall have a right to disapprove any action, policy or program of the Association, the Board of Directors and any committee, which in the judgment of a majority of the Class "B" Members would tend to impair rights to the Declarant, Declarant Affiliates or Builders under the Declaration or these By-Laws, or interfere with development, construction of any portion of the Properties or diminish the level of services being provided by the Association.

(b) No such action, policy or program shall become effective or be implemented until and unless:

(i) The Class "B" Members shall receive written notice of all meetings and proposed actions approved at meetings of the Association, the Board of Directors or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time. Any such notice shall comply with Sections 5.14, 5.15, 5.16 and 5.17 and such notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(ii) The Class "B" Members shall have been given the opportunity at any such meeting to join in or to have its representatives or agents join in the discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Members, their representatives or agents shall make their concerns, thoughts, and suggestions known to the Board and/or the members of the appropriate committee. A majority of the Class "B" Members shall have and are hereby granted a right to disapprove any such action, policy, or program authorized by the Association, the Board or any committee thereof, if Board, committee, or Association approval is necessary for such action. This right may be exercised by a majority of the Class "B" Members, their representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Members shall not use their right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

5.4. **NOMINATION OF DIRECTORS.** Except with respect to Directors selected by the Class "B" Members, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of positions to be filled. The names of the candidates shall be submitted to the Secretary of the Association on or before the day before the election. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

**5.5 ELECTION AND TERM OF OFFICE.** Notwithstanding any other provision contained herein:

(a) At the first annual meeting after the time that Class "A" Members other than Builders own seventy-five percent (75%) of the Units proposed by the Master Plan for the property described in Exhibit "A" of the Declaration, or whenever a majority of the Class "B" Members earlier determines, the Members representing the Class "A" Members shall be entitled to elect one (1) of the three (3) Directors. The remaining two (2) Directors shall be appointees of a majority of the Class "B" Members. The Director elected by the Class "A" Members shall not be subject to removal by the Class "B" Members and shall be elected for a term of two (2) years or until the happening of the event described in subsection (b) below, whichever is shorter. If such Director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term in a like manner.

(b) Notwithstanding subsection (a) of this Section 5.5, at the first annual meeting after the time that Class "A" Members other than Builders own ninety percent (90%) of the Units proposed by the Master Plan for the property described in Exhibit "A" of the Declaration, or whenever a majority of the Class "B" Members earlier determines, the Board shall be increased to five (5) directors and the Class "A" Members shall be entitled to elect two (2) of the five (5) Directors. The remaining three (3) Directors shall be appointees of a majority of the Class "B" Members. The Directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Members and shall be elected for a term of two (2) years or until the happening of the event described in subsection (c) below, whichever is shorter. If such Directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term in a like manner.

(c) Notwithstanding subsections (a) and (b) of this Section 5.5, at the first annual meeting of the membership after the termination of the Class "B" Control Period, the Board shall be increased to five (5) Directors, if not already so increased. The Class "A" Members shall be entitled to elect three (3) of the five (5) Directors. The remaining two (2) Directors shall be appointees of a majority of the Class "B" Members or, if there are no Class "B" Members, the former Class "B" Members. The three (3) Directors elected by the Class "A" Members shall serve a term of two (2) years and the two (2) Directors appointed shall serve a term of one (1) year. At the expiration of the initial term of office of each member of the Board of Directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. Each voting Member may cast the total number of votes to which it is entitled under Section 3.2 of the Declaration with respect to each vacancy to be filled. There shall be no cumulative voting. The candidate(s) receiving the most votes shall be elected.

(d) For any vote on candidates for the board that results in a tie, the President of the Association, or other person presiding over the meeting at which such tie vote occurs, will select a winner from the tied candidates. The Directors elected by the Members shall hold office until their respective successors have been elected by the Association. Directors may be elected to serve any number of consecutive terms.

**5.6 REMOVAL OF DIRECTORS AND VACANCIES.**

(a) Any Director elected by the Members may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast for the election of such Director. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a Director, a successor shall then and there be elected by the Members entitled to elect the

Director so removed to fill the vacancy for the remainder of the term of such Director. Any Director elected by the Members who has three consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days may be removed by a majority of the Directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term.

(b) In the event of the death, disability, or resignation of a Director, a vacancy may be declared by the Board, and it may appoint a successor; provided, upon written petition of a majority of the Class "B" Members or Class "A" Members entitled to cast at least ten percent (10%) of the total Class "A" votes in the Association, the Board shall call a special meeting for the purpose of electing a successor to fill any vacancies on the Board. In such case, only the Members entitled to elect the director who vacated the position shall be entitled to vote for a successor.

#### 5.7 POWERS.

(a) The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Members or the membership generally. The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

(b) In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, in way of explanation, but not limitation:

(i) preparation and adoption, in accordance with Article IV of the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses;

(ii) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Unit's proportionate share of the Common Expenses shall be due and payable by February 1<sup>st</sup> of each year;

(iii) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility;

(iv) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Area of Common Responsibility and, where appropriate, providing for the 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;

(v) collecting the assessments, depositing the proceeds thereof in a bank depository

which it shall approve, and using the proceeds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

- (vi) making and amending rules and regulations;
- (vii) opening of bank accounts on behalf of the Association and designating the signatories required;
- (viii) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;
- (ix) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (x) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (xi) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;
- (xii) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;
- (xiii) making available to any prospective purchaser of a Unit, any Owner of a Unit, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Unit, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing the Unit and all other books, records, and financial statements of the Association; and
- (xiv) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties.

5.8 **MANAGEMENT.** The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board by these By-Laws, other than the powers set forth in subparagraphs (i), (ii), (vi), (vii), and (ix) of Section 5.7(b). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

5.9 **BORROWING.** The Association, acting through the Board of Directors, shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Area of Common Responsibility without the approval of the Members of the Association. The Board shall also have the power to borrow money for other purposes; provided, however, the Board shall obtain voting Member approval in the same manner provided in Section 4.4 of the Declaration for Special Assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the



Association for that fiscal year. Notwithstanding anything to the contrary contained in the Declaration, these By-Laws, or the Articles, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the total Class "A" vote other than the Declarant and the Declarant's nominees.

**5.10 RIGHTS OF THE ASSOCIATION.** With respect to the Area of Common Responsibility, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Villages and other owners or residents associations, both within and without the Properties. Such agreements shall require the consent of a majority of the total number of directors of the Association.

**5.11 ENFORCEMENT.**

(a) In addition to such other rights which are specifically granted under the Declaration, the Board of Directors shall have the power to impose reasonable fines, which shall constitute a Specific Assessment secured by a lien upon the property of the violating Owner (upon the terms and limitations in the Declaration), and to suspend an Owner's right to vote or any person's right to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder, subject to the limitations set forth below in this Section 5.11. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association; provided, however, nothing herein shall authorize the Association or the Board to limit ingress and egress to or from a Unit. In the event that any occupant, guest or invitee of a Unit violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(b) Consistent with Section 209.006 of the Texas Property Code, before taking any of the actions described therein, the Association must comply with the notice and hearing requirements set forth in Chapter 209 of the Texas Property Code, as amended.

(c) Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help or, following compliance with the procedures set forth in Section 9.7 of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above, subject however to any applicable provisions of the Texas Property Code. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

**5.12 ACTIONS EXEMPT FROM NOTICE AND HEARING REQUIREMENTS.** As permitted by applicable law, such as Section 209.007 of the Texas Property Code, the notice and hearing provisions of Section 5.11 do not apply if the Association files a suit seeking a temporary restraining order or temporary injunctive relief, or files a suit that includes foreclosure as a cause of action.

5.13 **LIABILITY LIMITATIONS.** Neither any Owner, Member, the Board, any director, nor any officer of the Association shall be personally liable for debts contracted for, or otherwise incurred by the Association, or for a tort of any other Member or Owner whether such other Member or Owner was acting on behalf of the Association or otherwise. Neither the Declarant, the Association, nor their respective directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same. The Declarant, the Association or any other person, firm or corporation required to make such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portion thereof.

5.14 **ORGANIZATION MEETING.** The first (1st) meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board of Directors shall be present.

5.15 **REGULAR MEETINGS.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail, telephone or facsimile, at least three (3) days prior to the day named for such meeting. The date, time and place of such regular meetings of the Board of Directors shall be made available to Members in good standing at the offices of the Association upon request.

5.16 **SPECIAL MEETINGS.** Special meetings of the Board of Directors may be called by the President or Secretary, or upon the written request of at least two (2) Directors. The President or Secretary will give three (3) days' personal notice to each Director by mail, telephone or facsimile, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting.

5.17 **WAIVER OF NOTICE.** Before or at any meeting of the Board of Directors, any Director may in writing, waive notice of such meeting and such waiver shall be deemed at any meeting equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

5.18 **QUORUM OF BOARD OF DIRECTORS.** At all meetings of the Board of Directors, a majority of Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such reconvened meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without additional notice.

5.19 **FIDELITY BONDS.** The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premium on such bonds shall be paid by the Association.

5.20 **TELEPHONE PARTICIPATION.** One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all Persons participating in the meeting can hear each other at the same time, and those directors so participating shall be deemed present at such meeting. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

5.21 **COMPENSATION.** No Director shall receive any compensation from the Association for acting as such unless approved by Members representing a majority of the total Class "A" vote of the Association at a regular or special meeting of the Association; provided, however, any Director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other Directors. Nothing herein shall prohibit the Association from compensating a Director, or any entity in which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such Director's interest was disclosed to the Board prior to the Board's approval of the contract, and the contract was approved by a majority of the Board, excluding the interested Director.

5.22 **OPEN MEETINGS.** Subject to the provisions below in this Section 5.21, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding persons other than directors to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

## ARTICLE VI

### OFFICERS

6.1 **DESIGNATION.** The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, all of whom shall be elected from among the Board of Directors. The Board of Directors may appoint such other officers as it deems desirable. Any two or more officers may be held by the same person, except the offices of President and Secretary.

6.2 **ELECTION OF OFFICERS.** The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

6.3 **REMOVAL OF OFFICERS.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

6.4 **PRESIDENT.** The President shall be the chief executive officer of the Association. The President shall preside at all meetings of both the Association and the Board of Directors. The President shall have all the general powers and duties which are usually vested in the office of president of an association. The President shall co-sign all promissory notes with the Secretary and co-sign all checks with the Treasurer.

6.5 **VICE PRESIDENT.** The Vice President shall perform all of the duties of the President in the absence of the President and such other duties as may be required of him from time to time by the Board of Directors.

6.6 **SECRETARY AND ASSISTANT SECRETARY.**

a. The Secretary, or such Assistant Secretaries as may be appointed by the Board of Directors, shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct and shall co-sign all instruments of conveyance; and the Secretary shall, in general, perform all the duties incident to the office of the Secretary.

b. The Secretary, or such Assistant Secretaries as may be appointed by the Board of Directors, shall compile and keep up to date at the principal office of the Association a complete list of Members and their last known addresses as shown on the records of the Association. This list shall show opposite each Member's name, the street address of their Lot. The list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

6.7 **TREASURER.** The Treasurer shall receive and deposit in appropriate bank accounts all money of the Association and shall disburse such as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board of Directors, including authority to: co-sign all checks; keep proper books of account; cause an annual statement of the Association's books to be made at the completion of each fiscal year; prepare an annual budget and a statement of income expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members; and perform all other duties assigned to the Treasurer by the Board of Directors.

6.8 **COMMITTEES.** Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the members of the Board of Directors. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## ARTICLE VII

### INDEMNIFICATION OF OFFICERS AND DIRECTORS

7.1 **INDEMNIFICATION.** To the full extent permitted by applicable law, and subject to the requirements of Section 22.230 of the Texas Business Organizations Code, the Association shall indemnify every Director or officer, his heirs, executors and administrators, against all loss, cost and expense, including counsel fees, reasonably incurred in connection with any action, suit or proceeding to which such Director or officer may be made a party, or is threatened to be make a party, by reason of being or having been a Director or officer of the Association, or a director, officer or other representative of another entity at the request of the Association, except in matters of gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters in which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful

misconduct in the performance of duties as such Director or officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director or officer may be entitled. All liability, loss, damage, cost and expense incurred or suffered by the Association in connection with the foregoing indemnification provision shall be treated and handled by the Association as Common Expenses; provided, however, nothing contained in this Article VII shall be deemed to obligate the Association to indemnify any Member or Owner of a Lot, who is or has been a Director or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Declaration as a Member or Owner of a Lot covered thereby.

## ARTICLE VIII

### AMENDMENTS TO BY-LAWS

#### 8.1 AMENDMENT.

(a) Until termination of the Class "B" membership, Declarant may unilaterally amend these By-Laws for any purpose. After such termination, the Declarant may unilaterally amend these By-Laws if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the U.S. Department of Housing and Urban Development (Federal Housing Administration), the Veterans Administration, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make, purchase insure or guarantee mortgage loans on the Units; (iv) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure mortgage loans on the Units; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. So long as Declarant, or another Declarant Affiliate still owns property described in Exhibit "A" of the Declaration, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any material right of any Owner.

(b) Except as otherwise specifically provided herein, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the total votes in the Association, and the consent of the Declarant, so long as the Declarant has a right to annex additional property to the Declaration or if Declarant, or another Declarant Affiliate owns any property described in Exhibit "A" of the Declaration. 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) If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

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

ARTICLE IX

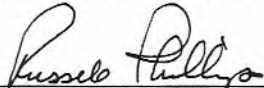
NON-PROFIT ASSOCIATION

9.1 **NON-PROFIT PURPOSE.** This Association is not organized for profit. No Owner, Member, Director, or person from whom the Association may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be paid as a salary or as compensation to, or distributed to or inure to the benefit of any Owner, Member, or Director; provided, however, always (i) that reasonable compensation may be paid to any Member while acting as an agent or employee of the Association for services rendered in effecting one (1) or more of the purposes of the Association and (ii) that any Director may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true, complete and correct copy of the By-Laws of Flagstone Creek Homeowners Association, Inc., a Texas non-profit corporation, as adopted by resolution of the Board of Directors on the 11th day of July, 2008.

IN WITNESS WHEREOF, I hereunto set my hand and affix the Seal of the Corporation, this the 11th day of July, 2008.

  
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Russell Phillips, Secretary