

**PLEMONS-EAKLE NEIGHBORHOOD ASSOCIATION, INC.**  
**a Texas nonprofit corporation**

**AMENDED AND RESTATED BYLAWS**

**Effective February 28, 2012**

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**PLEMONS-EAKLE NEIGHBORHOOD ASSOCIATION, INC.**  
**a Texas nonprofit corporation**

**AMENDED AND RESTATED BYLAWS**

These Amended and Restated Bylaws (the “Bylaws”) govern the affairs of PLEMONS-EAKLE NEIGHBORHOOD ASSOCIATION, INC., a Texas nonprofit corporation (the “Association”).

**ARTICLE 1: OFFICES AND PURPOSE**

**1.01 Principal Office.** The Association may have a principal office in Texas, as the Board of Directors (herein referred to as the “Board of Directors” or the “Board”) may determine. The Board of Directors may change the location of the principal office of the Association.

**1.02 Registered Office and Registered Agent.** The Association will maintain a registered office and registered agent in Texas. The registered office may, but need not, be identical with the Association’s principal office in Texas. The Board of Directors may change the registered office and the registered agent as permitted in the Texas Business Organizations Code, as amended (the “Code”).

**1.03 Purpose.** The purpose of the Association is to provide a vehicle for citizen involvement in the future development of this area and to promote and protect the quality of life, the safety of its residents, the residential and historical characteristics of the neighborhood, and the value of its property.

**1.04 Policy.** Neither the Association nor any member purporting to speak for the Association shall support or oppose any political party or candidate for elective office. Nor shall the Association be used to further the political or religious views of any individual or groups of individuals.

**1.05 Boundaries.** Boundaries of the Association are Washington Street on the west, (including structures which claim a Washington Street address on both sides of the street); and the midpoint of the following streets: Canyon Drive on the east; 10th Street on the north; and 34th Street on the south. The area within the territorial boundaries is called the “District.”

**ARTICLE 2: MEMBERS**

**2.01 Members.** The Association will have three classes of members: (a) a resident member is a person who lives within the District; (b) a non-resident member is a person who owns property or a business, or who heads an organization located within the District; and (c) an associate member is a person not residing or owning property within the District who subscribes to the purpose and policy of the Association. Associate members do not have the privileges of voting, being elected to the Board of Directors, or serving as committee chairs; they may, however, participate on special committees and in all other Association activities.

**2.02. Emeritus.** The Board of Directors may confer honorary membership on persons who have displayed significant support of the Association and the District. Emeritus members shall have the same rights as associate members.

**2.03. No Distributions.** No member shall be entitled to any dividend or any part of the income of the Association or to share in the distribution of the Association's assets upon dissolution.

**2.04. Dues.** The Board will set the amount of annual dues. Each resident member and non-resident member shall pay annual dues in order to vote, serve as directors or on committees, participate in meetings or receive notices.

**2.05. Voting Rights.** The Board of Directors has the discretion to decide which, if any, matters shall be submitted to the members for a vote, except that the following decisions will always be submitted to the members for a vote: dissolution of the Association, merger or consolidation with another corporation, sale of substantially all the Association's assets, and amendments to the Association's articles of incorporation. Each resident member is entitled to one vote per adult family member with a maximum of 2 votes per residence on each matter submitted to a vote of the members. Each non-resident member will have one vote. Associate members and emeritus members may not vote.

**2.06 Membership Roster.** Rosters of the Association members are to be used for Association purposes only, unless specifically authorized by the Board of Directors.

**2.07. Transferring Membership.** Membership in the Association is not transferable or assignable. Membership terminates when annual dues are not paid by a resident or non-resident member or the Association dissolves.

**2.08. Waiving Interest in Corporate Property.** The Association owns all real and personal property, including all improvements located on the property, acquired by the Association. A member has no interest in specific property of the Association. Each member waives the right to require partition of all or part of the Association's property.

### **ARTICLE 3: MEETINGS OF MEMBERS**

**3.01. Annual Meeting.** The Board will hold an annual meeting of members in May of each year on a date and at a time determined by the Board. If the day fixed for the annual meeting is a Saturday, Sunday, or legal holiday in Texas, the meeting will be held on the next business day. At the annual meeting, the members will elect directors and officers and transact any other business that may come before the meeting. If, in any year, the election of directors and officers is not held on the day designated for the annual meeting, or at any adjournment of the annual meeting, the Board will call a special meeting of the members to elect directors and officers as soon as possible.

**3.02 General Meetings.** General meetings of the members shall be convened as determined by the Board of Directors, but no fewer than twice a year, including a fall meeting and the annual meeting.

**3.03. Special Meetings.** Special meetings of the members may be called with 10 days prior notice by the President, the Board, or written request of 10 resident members.

**3.04. Place of Meeting.** The Board may designate any place as the place of meeting for any annual meeting or for any special meeting called by the Board.

**3.05. Notice of Meetings.** Written notice of any members' meeting, including the annual meeting, will be delivered to each member entitled to vote at the meeting not less than 10 days before the date of the meeting as provided in Article 11 of these Bylaws. The record date for determining the members entitled to notice of any meeting of members will be 20 days prior to the meeting. After fixing the record date, the Board will cause to be prepared an alphabetical list of all members entitled to notice of any meeting of members. Notice will be given by or at the direction of the President or Secretary, or the officers or persons calling the meeting.

**3.06. Quorum.** A quorum at a meeting of members for an annual meeting, general meeting or special meeting will consist of 10 members entitled to vote at the meeting. The members present at a duly called or held meeting at which a quorum is present may continue to transact business, even if enough members leave so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of members required for a quorum. If a quorum is not present at any time during a meeting, a majority of the members who are present may adjourn and reconvene the meeting once without further notice.

**3.07. Actions of Members.** The vote of a majority of voting members in good standing, present and entitled to vote at a meeting at which a quorum is present, will constitute the act of the members unless law or the Bylaws require a greater number.

**3.08. Proxies.** A member may not vote by proxy.

#### **ARTICLE 4: BOARD OF DIRECTORS**

**4.01. Management of Association.** The Board will manage corporate affairs, and will be the principal governing and policy making body of the Association.

**4.02. Number, Qualifications, and Tenure of Directors.** The number of directors will consist of nine members entitled to vote, including the President, Vice President, Secretary and Treasurer. Up to 2 additional members may be appointed as deemed necessary by the Board. Directors must be members of the Association. Each director may serve for any number of consecutive terms.

**4.03. Election and Term.** Directors will be elected by the vote of the members entitled to vote at the annual meeting. Each director will hold office for a term of 3 years beginning on June 1 following the annual meeting or until a successor is elected and qualifies. A director may be elected to succeed himself or herself as director.

**4.04. Nominations.** The Nominating and Bylaws Committee shall recommend a slate of officers and directors, which shall be included in the notice of the annual meeting sent to Association members. Any voting member wishing to make an additional nomination must give the name to the Nominating Committee chair at least five days before the annual meeting, so the committee can contact the nominee, explain the duties of the particular office or directorship, and learn whether the nominee wishes to run for the office. No nominations may be made after the deadline or from the floor. Nominees must be voting members whose dues are current. Not more than two places on the Board of Directors may be held by non-resident members.

**4.05. Vacancies.** The Board will fill any vacancy in the Board and any director position to be filled due to an increase in the number of directors, resignation of a director, removal, or ineligibility of the director to serve. A vacancy is filled by the affirmative vote of a majority of the remaining directors, even if it is less than a quorum of the Board, or if it is a sole remaining director. A director selected to fill a vacancy will serve for the unexpired term of his or her predecessor in office.

**4.06. Annual Meeting.** The annual meeting of the Board may be held without notice other than these Bylaws. The annual meeting of the Board will be held in May of each year immediately after, and at the same place as, the annual meeting of the members.

**4.07. Regular Meetings.** The Board will meet at least 4 times each year and may provide for additional meetings as determined in the Board's discretion. The meetings will be held at a location determined by the Board. Written notice of regular meeting of the Board will be delivered to each director not less than 24 hours before the date of the meeting.

**4.08. Special Meetings.** Special meetings of the Board may be called by, or at the request of, the President or any two directors. A person or persons authorized to call special meetings of the Board may fix any place within the District as the place for holding a special meeting. The person or persons calling a special meeting will inform the Secretary of the Association of the information to be included in the notice of the meeting. The Secretary of the Association will give notice to the directors as provided in these Bylaws.

**4.09. Notice.** Written notice of any special meeting of the Board will be delivered to each director not less than 24 hours before the date of the meeting. The notice will state the place, day, and time of the meeting; who called it; and the purpose or purposes for which it is called.

**4.10. Quorum.** A majority of the number of directors then in office constitutes a quorum for transacting business at any board meeting. The directors present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough directors leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of directors required for a quorum. If a quorum is never present at any time during a meeting, a majority of the directors present may adjourn and reconvene the meeting once without further notice.

**4.11. Duties of Directors.** The Board of Directors is empowered to set policy and take action according to the purposes of the Association and the positions and goals as established by the



members. A decision of the Board will remain in effect until such time as it is overturned by a two-thirds vote of the members present and voting at a general meeting.

Directors will discharge their duties, including any duties as committee members, in good faith, with ordinary care, and in a manner, they reasonably believe to be in the Association's best interest. In this context, the term "ordinary care" means the care that ordinarily prudent persons in similar positions would exercise under similar circumstances. In discharging any duty imposed or power conferred on directors, directors may, in good faith, rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Association or another person that has been prepared or presented by a variety of persons, including officers and employees of the Association, professional advisors or experts such as accountants or legal counsel. A director is not relying in good faith if the director has knowledge concerning a matter in question that renders reliance unwarranted.

Directors are not deemed to have the duties of trustees of a trust with respect to the Association or with respect to any property held or administered by the Association, including property that may be subject to restrictions imposed by the donor or transferor of the property.

**4.12. Duty To Avoid Improper Distributions.** Directors who vote for or assent to improper distributions are jointly and severally liable to the Association for the value of improperly distributed assets, to the extent that, as a result of the improper distribution or distributions, the Association lacks sufficient assets to pay its debts, obligations, and liabilities. Any distribution made when the Association is insolvent, other than in payment of corporate debts, or any distribution that would render the Association insolvent, is an improper distribution. A distribution made during liquidation without payment and discharge of or provision for payment and discharge of all known debts, obligations, and liabilities is also improper. Directors present at a board meeting at which the improper action is taken are presumed to have assented, unless they dissent in writing. The written dissent must be filed with the Secretary of the Association before adjournment of the meeting in question or mailed to the Secretary by registered mail immediately after adjournment.

A director is not liable if, in voting for or assenting to a distribution, the director (1) relies in good faith and with ordinary care on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more officers or employees of the Association; legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or a committee of the Board of which the director is not a member; (2) while acting in good faith and with ordinary care, considers the Association's assets to be at least that of their book value; or (3) in determining whether the Association made adequate provision for paying, satisfying, or discharging all of its liabilities and obligations, relied in good faith and with ordinary care on financial statements or other information concerning a person who was or became contractually obligated to satisfy or discharge some or all of these liabilities or obligations. Furthermore, directors are protected from liability if, in exercising ordinary care, they acted in good faith and in reliance on the written opinion of an attorney for the Association.

Directors held liable for an improper distribution are entitled to contribution from persons who accepted or received the improper distributions knowing they were improper. Contribution is in proportion to the amount received by each such person.

**4.13. Delegating Duties.** Directors may select advisors and delegate duties and responsibilities to them, such as the full power to buy or otherwise acquire stocks, bonds, securities, and other investments on the Association's behalf; and to sell, transfer, or otherwise dispose of the Association's assets and properties at a time and for a consideration that the advisor deems appropriate. The directors have no liability for actions taken or omitted by the advisor if the Board acts in good faith and with ordinary care in selecting the advisor. The Board may remove or replace the advisor at any time and without any cause whatsoever.

**4.14. Interested Directors.** Contracts or transactions between directors, officers, or members who have a financial interest in the matter are not void or voidable solely for that reason. Nor are they void or voidable solely because the director, officer, or member is present at or participates in the meeting that authorizes the contract or transaction, or solely because the interested party's votes are counted for the purpose. However, every director with any personal interest in the transaction must disclose all material facts concerning the transaction, including all potential personal benefit and potential conflicts of interest, to the other members of the Board. The transaction must be approved by a majority of the uninterested directors with the authority to authorize the transaction.

**4.15. Actions of Board of Directors.** The vote of a majority of directors present and voting at a meeting at which a quorum is present will constitute the act of the Board, unless the act of a greater number is required by law or by some other provision of these Bylaws. A director who is present at a meeting and abstains from a vote is considered to be present.

**4.16. Proxies.** A director may not vote by proxy.

**4.17. Compensation.** Directors may not receive salaries for their services. The Board may approve reimbursing directors for a reasonable expense related to the business of the Association.

**4.18. Removing Directors.** The Board may vote to remove a director at any time without cause. A director's absence from 3 consecutive board meetings or a director's violation of the policies of the Association subject the director to removal. A meeting to consider removing a director may be called and noticed following the procedures provided in these Bylaws for a special meeting of the directors of the Association. The notice of the meeting will state that the issue of consideration of the removal of the director will be on the agenda. A director may be removed by the affirmative vote of a majority of the remaining directors.

**4.19. Loyalty.** The Board is vested with the responsibility of furthering the purposes and goals of the Association. When speaking in public, a Board member should represent the majority view as reached through deliberations and decisions of the Board and the Board members.

## ARTICLE 5: OFFICERS

**5.01. Officers.** The Association's officers will be a President, Vice President, Secretary and Treasurer. The Board may create additional officer positions including vice presidents, define the authority and duties of each such position, and elect or appoint persons to fill the positions. No officer positions may be held by the same person.

**5.02. Election and Term of Office.** The Association's officers will be elected annually by the members entitled to vote at the annual meeting. Each officer will hold office for a term of 3 years or until a successor is duly selected and qualifies. An officer may be appointed to succeed himself or herself in the same office.

**5.03. Removal.** Any officer elected by the members may be removed by the members without cause.

**5.04. Vacancies.** The Board may select a person to fill a vacancy in any office for the unexpired portion of the officer's term.

**5.05. President.** The President is the Association's Chief Executive Officer. The President will supervise and control all the Association's business and affairs and will preside at all meetings of the members and of the Board. The President shall set the agenda for, convene, and preside over all meetings of the members and the Board of Directors. The President shall be the representative for the Association at public functions or appoint other representatives as necessary. The President shall be an ex-officio member of all committees except the Nominating Committee and Bylaws Committee. The President may approve expenditures of less than \$500.00; and expenditures greater than \$500.00 shall be approved by the Board. The President may execute any deeds, mortgages, bonds, contracts, or other instruments that the Board authorizes to be executed. The President may not execute instruments on the Association's behalf if this power is expressly delegated to another officer or agent of the Association by the Board, these Bylaws, or the Code. The President will perform other duties prescribed by the Board and all duties incident to the office of President.

**5.06. Vice President.** When the President is absent, cannot act, or refuses to act, a Vice President will perform the President's duties. When acting in the President's place, the Vice President has all the powers of and is subject to all the restrictions on the President. The Vice President shall assist the President in all responsibilities, and shall coordinate the functions of the standing and special committees. If there is more than one Vice President, the Vice Presidents will act for the President in the order designated by the Board. A Vice President will perform other duties as assigned by the President or Board.

**5.07. Secretary.** The Secretary will:

- (a) Give all notices as provided in the Bylaws or as required by law.
- (b) Take minutes of the meetings of the members and the Board and keep the minutes as part of the records of the Association.

- (c) Maintain custody of the Association's records.
- (d) Keep a register of the mailing or electronic address of each member, director, and officer of the Association.
- (e) Handle correspondence as directed by the President.
- (f) Perform duties as assigned by the President or the Board.
- (g) Perform all duties incident to the office of Secretary.

**5.08. Treasurer.** Upon appointment, the Treasurer will:

- (a) Collect dues and be responsible for all the Association's funds.
- (b) Receive and give receipts for money due and payable to the Association from any source.
- (c) Deposit all funds in the Association's name in banks, or other depositories as these Bylaws provide or as the Board or President directs.
- (d) Write checks, reimburse approved expenses and disburse funds to discharge the Association's obligations.
- (e) Maintain the Association's financial books and records.
- (f) Make a financial report to the Board at its meetings and to the members at the annual meeting.
- (g) Perform other duties as assigned by the President or the Board.
- (h) Perform all the duties incident to the office of Treasurer.

## **ARTICLE 6: COMMITTEES**

**6.01. Standing Committees.** The Board of Directors shall establish a Nominating and Bylaws Committee and may establish other standing committees such as membership, publicity, and newsletter. The Board shall appoint committee chairmen and members.

- (a) The Nominating and Bylaws committee shall make recommendations to the membership for officers and directors. It shall also make recommendations to the Board of Directors for changes to the Bylaws. The Board shall review the proposed changes, designate them as either "recommended" or "not recommended" and refer them to the members at the annual meeting.

(b) Policies for other standing committees shall be developed by the Board of Directors.

(c) Subjects deemed to be of ongoing concern, such as historical aspects or land use and zoning, may be designated as standing committees.

**6.02. Special Committees.** The Board may establish one or more committees on an ad hoc basis to address issues of concern to the Association delegating specified authority to such committee, and appointing or removing members to the committees. A special committee will include one or more directors and may include persons who are not directors. The Board may also delegate to the President its power to appoint and remove members of a committee. The Board may establish qualifications for membership on a special committee. The special committees will be dissolved upon completion of the project or resolution of the issues, and may be reinstated as necessary.

Establishing a committee or delegating authority to it will not relieve the Board, or any individual director, of any responsibility imposed by these Bylaws or otherwise imposed by law. No committee has the authority of the Board to:

- (a) Amend the articles of incorporation.
- (b) Adopt a plan of merger or of consolidation with another corporation.
- (c) Authorize the sale, lease, exchange, or mortgage of all or substantially all of the Association's property and assets.
- (d) Authorize voluntary dissolution of the Association.
- (e) Revoke proceedings for voluntary dissolution of the Association.
- (f) Adopt a plan for distributing the Association's assets.
- (g) Amend, alter, or repeal these Bylaws.
- (h) Elect, appoint, or remove a member of a committee or a director or officer of the Association.
- (i) Approve any transaction to which the Association is a party and that involves a potential conflict of interest as defined in Section 7.04 of these Bylaws.
- (j) Take any action outside the scope of authority delegated to it by the Board.

**6.03. Term of Office.** Committee members will continue to serve on the committee in the discretion of the Board or until a successor is appointed. However, a committee member's term will terminate if the committee is terminated, or if the member dies, ceases to qualify, resigns, or is removed as a member. A vacancy on a committee may be filled by an appointment made in

the same manner as an original appointment. A person appointed to fill a vacancy on a committee will serve for the unexpired portion of the terminated committee member's term.

**6.04. Chair and Vice Chair.** The chair of each committee will be appointed by the President. The chair will call and preside at all meetings of the committee. Each committee will appoint a vice-chair who will perform the chair's duties when the chair is absent, cannot act, or refuses to act. When a vice-chair acts for the chair, the vice-chair has all the powers of and is subject to all the restrictions on the chair.

**6.05. Notice of Meetings.** Written notice of a committee meeting will be delivered to each member of a committee not less than 24 hours before the date of the meeting. The notice will state the place, day, and time of the meeting, and the purpose or purposes for which it is called.

**6.06. Quorum.** A majority of the number of committee members constitutes a quorum for transacting business at any meeting of the committee. The committee members present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough committee members leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of committee members required for a quorum. If a quorum is never present at any time during a meeting, the chair may adjourn and reconvene the meeting once without further notice.

**6.07. Actions of Committees.** The vote of a majority of committee members present and voting at a meeting at which a quorum is present will constitute the act of the committee unless the act of a greater number is required by statute or by some other provision of these Bylaws. A committee member who is present at a meeting and abstains from a vote is considered to be present.

**6.08. Proxies.** A committee member may not vote by proxy.

**6.09. Compensation.** Committee members may not receive salaries for their services. The Board may approve reimbursing committee members for reasonable expenses related to the committee's purpose.

**6.10. Rules.** Each committee may adopt its own rules, consistent with these Bylaws or with other rules that may be adopted by the Board.

## **ARTICLE 7: TRANSACTIONS OF THE CORPORATION**

**7.01. Contracts.** The Board may authorize any officer or agent of the Association to enter into a contract or execute and deliver any instrument in the name of, and on behalf of, the Association. This authority may be limited to a specific contract or instrument, or it may extend to any number and type of possible contracts and instruments.

**7.02. Deposits.** All of the Association's funds will be deposited to the credit of the Association in banks or other depositories that the Board selects.

**7.03. Gifts.** The Board may accept, on the Association's behalf, any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association. The Board may make gifts and give charitable contributions not prohibited by these Bylaws, the articles of incorporation, state law, and provisions set out in federal tax law that must be complied with to maintain the Association's federal and state tax status.

**7.04. Potential Conflicts of Interest.** The Association may not make any loan to a director or officer of the Association. A member, director, officer, or committee member of the Association may lend money to and otherwise transact business with the Association except as otherwise provided by these Bylaws, the articles of incorporation, and applicable law. Such a person transacting business with the Association has the same rights and obligations relating to those matters as other persons transacting business with the Association. The Association may not borrow money from or otherwise transact business with a member, director, officer, or committee member of the Association unless the transaction is described fully in a legally binding instrument and is in the Association's best interests. The Association may not borrow money from or otherwise transact business with a member, director, officer, or committee member of the Association without full disclosure of all relevant facts and without the Board's approval, not including the vote of any person having a personal interest in the transaction.

**7.05. Prohibited Acts.** As long as the Association exists, and except with the Board's prior approval, no member, director, officer, or committee member of the Association may:

- (a) Do any act in violation of these Bylaws or a binding obligation of the Association.
- (b) Do any act with the intention of harming the Association or any of its purposes.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the Association's intended or ordinary business.
- (d) Receive an improper personal benefit from the operation of the Association.
- (e) Use the Association's assets, directly or indirectly, for any purpose other than carrying on the Association's business.
- (f) Wrongfully transfer or dispose of Association property, including intangible property such as good will.
- (g) Use the Association's name (or any substantially similar name) or any trademark or trade name adopted by the Association, except on behalf of the Association in the ordinary course of its business.
- (h) Disclose any of the Association's business practices, trade secrets, or any other information not generally known to the community to any person not authorized to receive it.

## ARTICLE 8: BOOKS AND RECORDS

**8.01. Required Books and Records.** The Association will keep correct and complete books and records of account and minutes of proceedings of the board meetings and committee meetings. The Association will keep at its registered office the original or a copy of its articles of incorporation, Bylaws, and amendments thereto.

**8.02. Inspection and Copying.** Any member, director, officer, or committee member of the Association may inspect copies of all the corporate books and records required to be kept under the Bylaws. Such a person may, by written request, receive copies if he or she has a proper purpose related to his or her interest in the Association.

## ARTICLE 9: FISCAL YEAR

**9.01. Fiscal Year.** The Association's fiscal year will begin on the first day of January and end on the last day of December in each year.

## ARTICLE 10: INDEMNIFICATION

### **10.01. When Indemnification is Required, Permitted, and Prohibited.**

(a) The Association will indemnify a director, officer, member, committee member, employee, or agent of the Association who was, is, or may be named defendant or respondent in any proceeding as a result of his or her actions or omissions within the scope of his or her official capacity in the Association. For the purposes of this article, an agent includes one who is or was serving at the Association's request as a director, officer, partner, venturer, proprietor, trustee, partnership, joint venture, sole proprietorship, trust, employee-benefit plan, or other enterprise.

(b) The Association will indemnify a person only if he or she acted in good faith and reasonably believed that his or her conduct was in the Association's best interests. In case of a criminal proceeding, the person may be indemnified only if he or she had no reasonable cause to believe that the conduct was unlawful. The Association will not indemnify a person who is found liable to the Association or is found liable to another on the basis of improperly receiving a personal benefit from the Association. A person is conclusively considered to have been found liable in relation to any claim, issue, or matter if the person has been adjudged liable by a court of competent jurisdiction and all appeals have been exhausted. Termination of a proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent does not necessarily preclude indemnification by the Association.

(c) The Association will pay or reimburse expenses incurred by a director, officer, member, committee member, employee, or agent of the Association in connection with the person's appearance as a witness or other participation in a proceeding involving or affecting the Association when the person is not a named defendant or respondent in the proceeding.

(d) In addition to the situations otherwise described in this paragraph, the Association may indemnify a director, officer, member, committee member, employee, or agent of the



Association to the extent permitted by law. However, the Association will not indemnify any person in any situation in which indemnification is prohibited by Section 10.01(b), above.

(e) The Association may advance expenses incurred or to be incurred in the defense of a proceeding to a person who might eventually be entitled to indemnification, even though there has been no final disposition of the proceeding. Advancement of expenses may occur only when the procedural conditions specified in Section 10.03(c), below, have been satisfied. Furthermore, the Association will never advance expenses to a person before final disposition of a proceeding if the person is a named defendant or respondent in a proceeding brought by the Association or one or more members or if the person is alleged to have improperly received a personal benefit or committed other willful or intentional misconduct.

**10.02. Extent and Nature of Indemnity.** The indemnity permitted under these Bylaws includes indemnity against judgments, penalties, (including excise and similar taxes), fines, settlements, and reasonable expenses (including attorney's fees) actually incurred in connection with the proceeding. If the proceeding was brought by or on behalf of the Association, the indemnification is limited to reasonable expenses actually incurred by the person in connection with the proceeding.

**10.03. Procedures Relating to Indemnification Payments.**

(a) Before the Association may pay any indemnification expenses (including attorney's fees), the Association must specifically determine that indemnification is permissible, authorize indemnification, and determine that expenses to be reimbursed are reasonable, except as provided in subparagraph (c), below. The Association may make these determinations and decisions by any one of the following procedures:

(i) Majority vote of a quorum consisting of directors who, at the time of the vote, are not named defendants or respondents in the proceeding.

(ii) If such a quorum cannot be obtained, by a majority vote of a committee of the Board, designated to act in the matter by a majority vote of all directors, consisting solely of two or more directors who at the time of the vote are not named defendants or respondents in the proceeding.

(iii) Determination by special legal counsel selected by the Board by the same vote as provided in subparagraphs (i) or (ii), above, or if such a quorum cannot be obtained and such a committee cannot be established, by a majority vote of all directors.

(iv) Majority vote of members, excluding directors or other members who are named defendants or respondents in the proceeding.

(b) The Association will authorize indemnification and determine that expenses to be reimbursed are reasonable in the same manner that it determines whether indemnification is permissible. If special legal counsel determines that indemnification is permissible, authorization of indemnification and determination of reasonableness of expenses will be made

as specified by subparagraph (a)(iii), above, governing selection of special legal counsel. A provision contained in the articles of incorporation, or a resolution of members or the Board that requires the indemnification permitted by Section 10.01, constitutes sufficient authorization of indemnification even though the provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

(c) The Association will advance expenses before final disposition of a proceeding only after it determines that the facts then known would not preclude indemnification. The determination that the facts then known to those making the determination would not preclude indemnification and authorization of payment will be made in the same manner as a determination that indemnification is permissible under subparagraph (a), above.

In addition to this determination, the Association may advance expenses only after it receives a written affirmation and undertaking from the person to receive the advance. The person's written affirmation will state that he or she has met the standard of conduct necessary for indemnification under these Bylaws. The written undertaking will provide for repayment of the amounts advanced by the Association if it is ultimately determined that the person has not met the requirements for indemnification. The undertaking will be an unlimited general obligation of the person, but it need not be secured and may be accepted without reference to financial ability to repay.

(d) Any indemnification or advance of expenses will be reported in writing to the Association's members. The report will be made with or before the notice or waiver of notice of the next members' meeting, or with or before the next submission to members of a consent to action without a meeting. In any case, the report will be sent within the 12-month period immediately following the date of the indemnification or advance.

## ARTICLE 11: NOTICES

**11.01. Notice by Mail or Electronic Transmission.** Any notice required or permitted by these Bylaws to be given to a member, director, officer, or member of a committee of the Association shall be in writing and may be given by mail, facsimile or electronic transmission. If mailed, a notice is deemed delivered when deposited in the mail addressed to the person at his or her address as it appears on the corporate records, with postage prepaid. If notice is transmitted by facsimile or electronically, it is deemed delivered when it is sent. Any notice required to be given to any member or any director pursuant to the Code, the articles of incorporation, or these Bylaws may be delivered via electronic or facsimile transmission to the full extent provided by the Code, provided the member or director consents to the delivery of notice by such means. A member or director may consent to the delivery of notice by electronic or facsimile transmission by providing a written request (including, without limitation, by electronic transmission) to the Secretary of the Association. The member or director may revoke such consent at any time by means of a written notice (including, without limitation, by electronic transmission) to the Secretary of such revocation. Upon the electronic transmission of notice to all consenting members or directors, the Secretary or other person responsible for transmitting such notice shall maintain an electronic receipt or hard copy in the records of the Association showing that such

notice was given. A person may change his or her address in the corporate records by giving written notice of the change to the Secretary of the Association.

**11.02. Signed Waiver of Notice.** Whenever any notice is required by law or under the articles of incorporation or these Bylaws, a written waiver signed by the person entitled to receive such notice is considered the equivalent of giving the required notice. A waiver of notice is effective whether signed before or after the time stated in the notice being waived.

**11.03. Waiving Notice by Attendance.** A person's attendance at a meeting constitutes waiver of notice of the meeting unless the person attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

## **ARTICLE 12: SPECIAL PROCEDURES CONCERNING MEETINGS**

**12.01. Meeting by Telephone or Electronically.** The Board of Directors and any committee of the Association may hold a meeting by telephone conference or similar communications equipment or other suitable electronic communications system such as electronic mail or the Internet, or any combination thereof that permits each person participating in the meeting to communicate with the other persons participating in the meeting. The notice of a meeting by telephone conference or electronically must state the fact that the meeting will be held by such means as well as all other matters required to be included in the notice; and a person's participation in a telephone conference meeting or electronically constitutes his or her presence at the meeting. Actions taken by the Board of Directors or a committee at such meetings may be taken by voting electronically.

**12.02. Decision without Meeting.** Any decision required or permitted to be made at a meeting of the members, the Board, or any committee of the Association may be made without a meeting. A decision without a meeting may be made if a written consent to the decision is signed by all the persons entitled to vote on the matter. The original signed consents will be placed in the Association minute book and kept with the corporate records.

## **ARTICLE 13: AMENDING BYLAWS**

**13.01. Alteration, Amendment, or Repeal.** These Bylaws may be altered, amended, or repealed, and new bylaws may be adopted by the vote of two-thirds of the members who are in attendance eligible to vote at an annual, general or special meeting at which a quorum is present. The notice of any meeting at which these Bylaws may be altered, amended, or repealed, or at which new Bylaws may be adopted will include the text of the proposed bylaw provisions. Alternatively, the notice may include a fair summary of the new provisions with a summary of the existing provisions.

## **ARTICLE 14: MISCELLANEOUS PROVISIONS**

**14.01. Legal Authorities Governing Construction of Bylaws.** These Bylaws will be construed under Texas law. All references in these Bylaws to statutes, regulations, or other

sources of legal authority will refer to the authorities cited, or their successors, as they may be amended from time to time.

**14.02. Legal Construction.** To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements and all requirements for obtaining and maintaining all tax exemptions that may be available to nonprofit corporations. If any bylaw provision is held invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision, and the Bylaws will be construed as if they had not included the invalid, illegal, or unenforceable provision.

**14.03. Parliamentary Authority.** Robert's Rules of Order as in existence at the time of any meeting shall govern all meetings of the Association where applicable.

**14.04. Headings.** The headings used in the Bylaws are for convenience and may not be considered in construing the bylaws.

**14.05. Number.** All singular words include the plural, and all plural words include the singular.

**14.06. Parties Bound.** The Bylaws will bind and inure to the benefit of the members, directors, officers, and committee members of the Association and their respective heirs, executors, administrators, legal representatives, successors, and assigns except as the Bylaws otherwise provide.

**14.07. Dissolution.** Upon dissolution of the Association, its assets, after payment of all its debts, shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, upon vote of two-thirds of the eligible members attending a meeting of the Association called for such purpose at which a quorum is present.

### CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of Plemons-Eagle Neighborhood Association, Inc. and that these Amended and Restated Bylaws constitute the Association's Bylaws. These Bylaws were duly adopted by the members on February 28, 2012.

  
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Donna Peck, Secretary