

**BYLAWS  
OF  
PLUM CREEK UPTOWN DISTRICT  
PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE 1  
GENERAL**

1.1 **Purpose.** These Bylaws provide for the governance of the property known as Plum Creek Uptown District (the "Property"), being part of a large development locally known as Plum Creek in Hays County, Texas, subject to and more fully described in one or more Declarations Of Covenants, Conditions and Restrictions For Plum Creek Uptown District, recorded or to be recorded in the Official Public Records of Hayes County, Texas (collectively, the "**Declaration**").

1.2 **Definitions.** Words and phrases defined in the Declaration have the same meanings when used in these Bylaws. Article 1 of the Declaration is incorporated herein by reference.

1.3 **Nonprofit Purpose.** The Association is organized to be a nonprofit corporation.

1.4 **Parties To Bylaws.** All present or future Owners and all other persons who use or occupy the Property in any manner are subject to these Bylaws and the Declaration. The mere acquisition or occupancy of any portion of the Property will signify that these Bylaws are accepted, ratified, and will be strictly followed.

1.5 **General Powers And Duties.** The Association, acting through the Board, has the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Property as may be required or permitted by the Declaration. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

**ARTICLE 2  
MEMBERS**

2.1 **Membership.** Ownership of a portion of the Property is required to qualify for Membership in the Association. Any person on becoming an Owner of any portion of the Property shall automatically become a Member of the Association and be subject to these Bylaws.

2.2 **Termination.** The Membership of a Member shall terminate at such time as such Member shall no longer own a portion of the Property.

2.3 **Non-Transferability.** Except as provided herein, Membership in this Association is not transferable or assignable.

**ARTICLE 3**  
**MEETINGS OF THE ASSOCIATION**

3.1 **Annual Meeting.** An annual meeting of the Association will be held during the month of May of each year or at such time as shall be designated by the Board and stated in a notice of the meeting for the purpose of electing directors in accordance with these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

3.2 **Special Meetings.** It is the duty of the President to call a special meeting of the Association if directed to do so by a majority of the Board or by a petition signed by Owners of at least twenty percent (20%) of the Property. The meeting must be held within thirty (30) days after the Board resolution or receipt of petition. The notice of any special meeting must state the time, place, and purpose of the meeting. No business, except the purpose stated in the notice of the meeting, may be transacted at a special meeting.

3.3 **Place Of Meetings.** The Board may designate any place for the annual meeting or for any special meeting called by the Board.

3.4 **Notice Of Meetings.** At the direction of the Board, written notice of meetings of the Association will be given to an Owner at least ten (10) days but not more than sixty (60) days prior to the meeting. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and in the case of a special meeting when required by statute or these Bylaws, the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board.

3.5 **Voting Eligibility.** Each Member of the Association shall be entitled to one (1) vote for each acre of Property owned by such Member (including partial votes for any partial acreage) on each matter submitted to a vote of Members; provided that each Declarant ("Declarant") provided for in the Declaration (or the assignee in writing of its rights thereunder) shall be entitled to five (5) votes for each acre of Property owned by such Declarant or assignee (including partial votes for any partial acreage). However, the Board may determine that no Member may vote at meetings of the Association if the Member's financial account with the Association is in arrears thirty (30) days before the date of a meeting of the Association at which Members will vote, provided each ineligible Member is given notice of the arrearage and an opportunity to become eligible. The Board may specify the manner, place, and time for payment for purposes of restoring eligibility. A determination of Members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than forty-five (45) days after the original meeting. In accordance with Section 22.158 of the Texas Business Organizations Code, the Board will prepare and make available a list of the Association's voting Members.

3.6 **Voting Members List.** The Board will prepare and make available a list of the Association's voting Members in accordance with Section 22.158 of the Texas Business Organizations Code.

3.7 **Quorum.** At any meeting of the Association, the presence in person or by proxy of Members representing at least ten percent (10%) of the votes in the Association constitutes 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. If a quorum is not present at any meeting of the Association for which proper notice was given, Members representing at least a majority of the votes present at the meeting, although not constituting a quorum, may vote to recess the meeting for not more than twenty-four (24) hours in order to attain a quorum, provided the place of the meeting remains as stated in the notice. If the meeting is adjourned without attainment of a quorum, notice of a new meeting for the same purposes within fifteen (15) to thirty (30) days may be given to an Owner, at which meeting the Members present in person or by proxy (even if less than ten percent (10%) of the votes) will be sufficient to constitute a quorum for the purposes of that meeting.

3.8 **Votes.** The vote of Members representing at least a majority of the votes cast at any meeting at which a quorum is present binds all Members for all purposes, except when a higher percentage is required by these Bylaws, the Declaration, or by law. Cumulative voting is prohibited.

3.8.1 **Co-Owned Property.** If any Property is owned by more than one Member, the vote appurtenant to that Property is cast in accordance with Section 82.110(a) of Act.

3.8.2 **Corporation-Owned Property.** If any Property is owned by a corporation, the vote appurtenant to that Property may be cast by any officer of the corporation in the absence of the corporation's written appointment of a specific person to exercise its vote. The vote of a partnership may be cast by any general partner in the absence of the partners' written appointment of a specific person. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

3.8.3 **Association-Owned Property.** Votes allocated to any Property owned by the Association may be counted towards a quorum and for all ballots and votes except the election or removal of directors. The vote appurtenant to such Property owned by the Association is exercised by the Board.

3.9 **Proxies.** At any meeting of Members, votes may be cast in person or by written proxy. To be valid, each proxy must (a) be signed and dated by a Member or his duly authorized attorney-in-fact; (b) identify the Property to which the vote is appurtenant; (c) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (d) identify the meeting for which the proxy is given; (e) not purport to be revocable without notice; and (f) be delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates one (1) year after its date. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless (a) the proxy has been acknowledged or sworn to by the Member, before and certified by an

officer authorized to take acknowledgments and oaths, or (b) the Association also receives the original proxy within five (5) days after the vote.

3.10 **Adjournment Of Meeting.** At any meeting of the Association, a majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place.

3.11 **Action Without Meeting.** Subject to Board approval, any action which may be taken by a vote of the Members at a meeting of the Association may also be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by Members representing at least a majority of votes in the Association or such higher percentage as may be required by the Declaration. This Section may not be used to avoid the requirement of an annual meeting and does not apply to the election of directors.

3.12 **Telephone Meetings.** Members of the Association may participate in and hold meetings of the Association by means of telephone conference or similar communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

3.13 **Order of Business.** Unless the notice of meeting states otherwise, or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows: (a) determine votes present by roll call or check-in procedure; (b) announcement of quorum; (c) proof of notice of meeting; (d) reading and approval of minutes of preceding meeting; (e) reports; (f) election of directors (when required); or (g) special business.

## ARTICLE 4 BOARD OF DIRECTORS

4.1 **Number and Term.** The Board will consist of three (3) persons. One director will be elected for a three (3) year term, one director will be elected for a two (2) year term and one director will be elected for a one (1) year term. A director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The number of directors may be changed by amendment of these Bylaws but may not be less than three (3).

4.2 **Qualification.** The following qualifications apply to the election or appointment of persons to the Board.

4.2.1 **Owners.** To qualify as a director, a person must be a Member of the Association or a spouse of a Member.

4.2.2 **Entity Member.** If any Property is owned by a legal entity, such as a partnership or corporation, any officer, partner, agent, or employee of that entity Member is eligible to serve as a director and is deemed to be a Member for the purposes of this Section.

If the relationship between the entity Member and the director representing it terminates, that directorship will be deemed vacant.

4.2.3 **Not Qualified.** No person may be elected or appointed as a director if any assessment against the person or his Property is delinquent at the time of election or appointment, provided he has been given notice of the delinquency and a reasonable opportunity to cure it. No person may be elected or appointed as a director if the person is a party adverse to the Association or the Board in pending litigation to which the Association or the Board is a party

4.3 **Election.** Directors will be elected by the Members of the Association. The election of directors will be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by mail, facsimile transmission, electronic mail, or a combination of any of these.

4.4 **Removal of Directors.**

4.4.1 **Removal by Members.** Except to the extent limited by law, the Certificate of Formation or these Bylaws, any director may be removed, either for cause or without cause, at a special meeting called for that purpose by Members representing at least two-thirds of the votes present in person or by proxy at the meeting and a successor may then and there be elected to fill the vacancy created. Any director whose removal has been proposed by the Members must be given an opportunity to be heard at the meeting.

4.4.2 **Removal by Directors.** A director may not be removed by the officers or by the remaining directors, except for the following limited reasons for which a director may be removed by at least a majority of the directors at a meeting of the Board called for that purpose: (a) the director is a party adverse to the Association or the Board in pending litigation to which the Association or the Board is a party; provided the Association did not file suit to effect removal of the director; (b) the director's account with the Association has been delinquent for at least ninety (90) days or has been delinquent at least three times during the preceding twelve (12) months, provided he was given notice of the default and a reasonable opportunity to cure; (c) the director has refused or failed to attend three or more meetings of the Board during the preceding twelve (12) months, provided he was given proper notice of the meetings; or (d) the director has refused or failed to cure a violation of the Declaration for which he has been given notice, a reasonable opportunity to cure, and an opportunity to request a hearing before the Board.

4.5 **Vacancies.** Vacancies on the Board caused by any reason, except the removal of a director by a vote of the Association, are filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board. Each director so elected serves until the next meeting of the Association, at which time a successor will be elected to fill the remainder of the term.

#### 4.6 Meetings of the Board.

4.6.1 Organizational Meeting. Within ten (10) days after the annual meeting, the directors will convene an organizational meeting for the purpose of electing officers. The time and place of the meeting will be fixed by the Board and announced to the directors.

4.6.2 Regular Meetings. Regular meetings of the Board may be held at any time and place as the Board determines, from time to time, but at least one (1) such meeting must be held each calendar quarter. Notice of regular meetings of the Board will be given to each director as provided in Article 11 of these Bylaws.

4.6.3 Special Meetings. Special meetings of the Board may be called by the President or, if he is absent or refuses to act, the secretary, or by any two directors. At least three (3) days' notice will be given to each director, personally or by telephone, written, or electronic communication, which notice must state the place, time, and purpose of the meeting.

4.6.4 Emergency Meetings. In case of emergency, the Board may convene a meeting after making a diligent attempt to notify each director by any practical method.

4.6.5 Actions without Meetings. Any action required or permitted to be made at a meeting of the Board may be made without a meeting. An action 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 corporation minute book and kept with the corporate records. This Section does not apply to actions that require meetings under the Act.

4.6.6 Conduct of Meetings. The President presides over meetings of the Board and the secretary keeps, or causes to be kept, a record of resolutions adopted by the Board and a record of transactions and proceedings occurring at meetings.

4.6.7 Quorum. A majority of the number of directors then in office constitutes a quorum for transacting business at any Board meeting, and the acts of the majority of the directors present at a meeting at which a quorum is present are the acts of the Board. If less than a quorum is present at a meeting of the Board, the majority of those present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business that may have been transacted at the meeting as originally called may be transacted without further notice. Directors may not participate by proxy at meetings of the Board.

4.6.8 Open Meetings. Regular and special meetings of the Board are open to Members of the Association, subject to the following provisions to the extent permitted or required by the Act:

4.6.8.1 No audio or video recording of the meeting may be made, except by the Board or with the Board's prior express written consent.

4.6.8.2 Members who are not directors may not participate in Board deliberations under any circumstances, and may not participate in Board discussions unless the Board expressly so authorizes at the meeting.

4.6.8.3 The Board may adjourn any meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar or sensitive nature. The nature of business to be considered in executive session will first be announced in open session.

4.6.8.4 The Board may prohibit attendance by non-Members, including representatives, proxies, agents, and attorneys of Members.

4.6.8.5 The Board may prohibit attendance by any Member who disrupts meetings or interferes with the conduct of Board business.

4.6.8.6 The Board may but is not required to publish to Members the time, date, and place of Board meetings, but will provide the information if requested in writing by a Member on a meeting-by-meeting basis.

4.6.9 Telephone Meetings. Unless otherwise restricted by the Certificate of Formation, subject to the provisions required or permitted by law and these Bylaws for notice of meetings, Members of the Board or any committee of the Association may participate in and hold meetings of the Board or committee by means of telephone conference or similar communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

4.7 **Powers and Duties.** The Board has all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Property. The Board may do all acts and things except those which, by law or the Governing Documents, are reserved to the Members and may not be delegated to the Board. Without prejudice to the general and specific powers and duties set forth in laws or the Governing Documents, or powers and duties as may hereafter be imposed on the Board by resolution of the Association, the powers and duties of the Board include, but are not limited to, the following:

4.7.1 Standard of Care. 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 corporation's best interest. In performing their duties, the directors are required to exercise certain standards of care and are subject to certain liabilities, including but not limited to the following provisions of State law: Section 82.103(a) and (f) of the Act, and Sections 22.221, 22.224, 22.226, 22.227, 22.228, 22.229, and 22.235 of the Texas Business Organizations Code.

4.7.2 Appointment of Committees. The Board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the Board with its responsibilities. The resolution may establish the purposes and powers of the committee created, provide for the appointment of a chair and committee members, and may provide for reports, termination, and other administrative matters deemed appropriate by the Board. Members of committees will be appointed from among the Owners and Residents.

4.7.3 Manager. The Board may employ a manager or managing agent for the Association, at a compensation established by the Board, to perform duties and services authorized by the Board.

4.8 Actions by Directors. The Board will try to act by consensus. However, if a consensus is not available, the vote of at least two-thirds (2/3<sup>rd</sup>) of directors is enough to constitute the act of the Board, unless the act of a greater number is required by law or by some other provision of the Bylaws.

4.9 Interested Directors. Contracts or transactions between directors or officers 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 or officer is present at or participates in the meeting that authorizes the contract or transaction, 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 or other group authorizing the transaction. The transaction must be approved by a majority of the uninterested directors or other group with authority to authorize the transaction.

4.10 Fidelity Bonds. To the extent reasonably commercially available, the Association will maintain (a) a policy of officer and director liability insurance, (b) fidelity bonds for any of its officers, agents, and employees who handle Association funds, and (c) such other insurance as the Board shall determine from time to time.

## ARTICLE 5 OFFICERS

5.1 Designation. The principal officers of the Association are the President, the Secretary, and the Treasurer. The Board may create additional officer positions, define the authority and duty of each such position and elect or appoint persons to fill the positions. The President and Secretary must be directors. The same person may hold any two or more offices, but no one may serve as both President and Secretary at the same time. If an officer is absent or unable to act, the Board may appoint a director to perform the duties of that officer and to act in place of that officer, on an interim basis. Notwithstanding anything to the contrary contained herein, no officer may take any action without written Board approval.

5.2 Election and Term. The Board shall elect the officers at the first Board meeting following each annual meeting of the voting Members, to serve until their successor is elected and qualified unless the officer shall sooner resign, or is removed, or otherwise disqualified to serve.



5.3 **Removal.** Any officer elected or appointed by the Board may be removed by the Board without cause at any regular meeting of the Board or at any special meeting of the Board called for that purpose. The removal of an officer who is also a director does not constitute removal from the Board.

5.4 **Resignation.** An officer may resign at any time by giving written notice to the Board. Unless the notice of resignation states otherwise, it is effective when received by the Board and does not require acceptance by the Board. The resignation of an officer who is also a director does not constitute resignation from the Board.

5.5 **Vacancies.** The Board may select a person to fill a vacancy in any office for the unexpired portion of the officer's term at a regular or special meeting called for that purpose.

5.6 **Standard of Care.** In performing their duties, the officers are required to exercise the standards of care provided by Section 82.103(a) and (f) of the Act and by Section 22.235 of the Texas Business Organizations Code.

5.7 **President.** The President shall be the chief executive officer of the Association, and subject to the direction and control of the Board, shall (a) preside at all meetings of the Association and of the Board; (b) supervise and control the business and affairs of the Association; (c) possess all the general powers and duties which are usually vested in the office of President of a corporation organized under the laws of the State of Texas; (d) see that all orders and resolutions of the Board are carried into effect ; and (e) perform such other duties as the Board may prescribe.

5.8 **Secretary.** The Secretary shall: (a) attend all meetings of the Board; (b) keep the minutes of all meetings of the Board and of the Association; (c) be in charge of such books, papers, and records as the Board may direct; (d) maintain or cause to be maintained a record of the names and addresses of the Members for the mailing of notices; (e) certify and record any amendments to the Declarations; and (f) in general, perform or cause to be performed all duties incident to the office of Secretary.

5.9 **Treasurer.** The Treasurer shall: (a) have custody of the corporate funds and securities of the Association; (b) keep or cause to be kept full and accurate financial records and books of account showing all receipts and disbursements; (c) deposit or cause to be deposited all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board; (d) prepare or cause to be prepared all required financial data and tax returns; (e) prepare or cause to be prepared the annual and supplemental budgets of the Association; (f) review the accounts of the managing agent on a monthly basis in the event a managing agent is responsible for collecting and disbursing Association funds; and (g) perform or cause to be performed all the duties incident to the office of Treasurer.

5.10 **Authorized Agents.** Except when the Governing Documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association. In the absence of Board designation, the President and the Secretary are the only persons authorized to execute instruments on behalf of the Association.

## ARTICLE 6 TRANSACTIONING BUSINESS

6.1 **Contracts.** The Board may authorize any officer or agent of the corporation to enter into a contract or execute and deliver any instrument in the name of, and on behalf of, the corporation. 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.

6.2 **Custody of Funds.** All the corporation's funds will be deposited to the credit of the corporation in banks, trust companies, or other depositories that the Board selects.

6.3 **Conflicts of Interest.** The corporation may not make any loan to a director or officer of the corporation. The corporation may not borrow money from—or otherwise transact business with—a director, officer, or committee member of the corporation without the Board's approval.

6.4 **Prohibited Actions.** As long as the corporation exists, and except with the Board's prior approval, no director, officer, or committee members of the corporation may:

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

## ARTICLE 7 RULES

7.1 **Rules.** The Declarant may adopt initial rules and regulations for: (a) the administration of the Association and the Governing Documents; (b) the maintenance, management, operation, use, conservation, and beautification of the Property; and (c) the health, comfort, and

general welfare of the Residents; provided, however, that such rules may not be in conflict with law or the Governing Documents. The Board will, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the Members. On request from any Member or Resident, the Board will provide a current and complete copy of rules. Additionally, the Board will, from time to time, distribute copies of the current and complete rules to Owners and, if the Board so chooses, to non-Member Residents.

7.2 **Adoption and Amendment.** Any rule may be adopted, amended, or terminated by the Board, provided that the rule and the requisite Board approval are properly recorded as a resolution in the minutes of the meeting of the Board.

7.3 **Notice and Comment.** At least ten (10) days before the effective date, the Board will give written notice to an Owner of any amendment, termination, or adoption of a rule, or will publish same in a newsletter or similar publication that is circulated to the Members. The Board may, but is not be required, to give similar notice to any tenants or occupants who are not Members.

## **ARTICLE 8 ENFORCEMENT**

8.1 **Remedies.** The violation of any provision of the Governing Documents gives the Board the following rights, in addition to any other rights set forth in the Governing Documents:

8.1.1 **Fines.** To impose reasonable fines, if notice and an opportunity to be heard are given.

8.1.2 **Self-Help.** After notice and an opportunity to be heard are given, except in case of an emergency, to enter the Property or Common Element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition (except for additions or alterations of a permanent nature that may exist in that Property) that is contrary to the intent and meaning of the provisions of the Governing Documents. The Board may not be deemed liable for any manner of trespass by this action.

8.1.3 **Courts.** To enjoin, abate, or remedy, by appropriate legal proceedings, the continuance of any breach.

8.2 **Notice and Hearing.** Before imposing a fine or exercising self-help abatement, the Board must give the Owner a written violation notice and an opportunity to be heard.

8.2.1 **Notice of Violation.** The Board's written violation notice will contain the following: (a) the date the violation notice is prepared or mailed; (b) a description of the violation; (c) a reference to the rule or provision of the Governing Documents that is being violated; (d) a description of the action required to cure the violation; (e) the amount of the fine to be levied and/or the abatement action to be taken; (f) the date the fine begins accruing or abatement action becomes possible; and (g) a statement that not later than the 30th day after the date of the violation notice, the Owner may request a hearing before the Board to contest the fine or the abatement action. In addition to giving the written violation notice to

the Owner, the Board may also give a copy of the notice to the non-Owner Resident, if the Board deems it appropriate.

8.2.2 **Hearing.** To request a hearing before the Board, an Owner must submit a written request to the Board within thirty (30) days after the date of the violation notice. Within ten (10) days after receiving the Owner's request for a hearing, the Board will give the Owner notice of the date, time, and place of the hearing. The hearing will be scheduled for a date within forty-five (45) days from the date the Board receives the Owner's request, and should be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. Pending the hearing, the Board may continue to exercise the Association's other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of the fine or the abatement action described in the notice. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend the hearing in person, or may be represented by another person or written communication. No audio or video recording of the hearing may be made. The minutes of the hearing must contain a statement of the results of the hearing and the amount of fine, if any, imposed, or abatement action, if any, authorized. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the hearing, the notice requirement will be deemed satisfied.

8.3 **Imposition of Fine.** Within thirty (30) days after levying the fine or authorizing the abatement, the Board must give the Owner notice of the levied fine or abatement action. If the fine or action is announced at the hearing at which the Owner is actually present, the notice requirement will be satisfied. Otherwise, the notice must be in writing.

8.3.1 **Amount.** The Board may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Board may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation. If the Board allows fines to accumulate, it may establish a maximum amount for a particular fine, at which point the total fine will be capped.

8.3.2 **Type of Fine.** If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, weekly, or monthly). If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.

8.3.3 **Other Fine-Related.** The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard. The Association may not charge interest on unpaid fines. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Board may adopt a collection policy that applies Owners' payments to unpaid fines before retiring other types of assessments.

8.3.4 **Additional Enforcement Rights.** Notwithstanding the notice and hearing requirement, the Board may take immediate and appropriate action, without giving the notices required in this Article, against violations of the Governing Documents which, in the

Board's opinion, are (a) self-evident, such as vehicles parked illegally or in violation of posted signs; (b) threatening to life or property; or (c) repeat violations of the same provision by the same Owner to whom prior notices and demands have been given for the same violation. Further, the provisions of this Article do not apply to specific remedies provided in the Governing Documents for certain violations, such as nonpayment of assessments and for any claims, disputes or controversies subject to mandatory binding arbitration as provided in Article XXII of the Declaration.

## **ARTICLE 9 OBLIGATIONS OF THE OWNERS**

9.1 **Notice of Sale.** Any Owner intending to sell or convey his Property or any interest therein must give written notice to the Board of his intention, together with (a) the address or legal description of the Property being conveyed, (b) the name and address of the intended purchaser, (c) the name, address, and phone number of the title company or attorney designated to close the transaction, (d) names and phone numbers of real estate agents, if any, representing seller and purchaser, and (e) scheduled date of closing. An Owner will furnish this information to the Board at least ten (10) business days before the scheduled date of closing or conveyance. The requirements of this Section may be satisfied by giving the Association a copy of an accepted resale contract in connection with the Owner's request to the Association for a resale certificate.

9.2 **Proof of Ownership.** Except for those Owners who initially purchase Property from a Declarant, any person, on becoming an Owner, must furnish to the Board evidence of Ownership, which copy will remain in the files of the Association. A copy of the recorded deed is the customary evidence. The Association may refuse to recognize a person as a Member unless this requirement is first met. This requirement may be satisfied by receipt of a Board-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the Property or any interest therein.

9.3 **Owners' Information.** Within thirty (30) days after acquiring an Ownership interest, the Owner must provide the Association with the Owner's mailing address, telephone number, and driver's license number, if any; the name and telephone number of any tenant or occupant other than the Owner; and the name, address, and telephone number of any person managing the Property as agent of the Owner. An Owner must notify the Association within thirty (30) days after he has notice of a change in any information required by this Section, and must provide the information on request by the Association from time to time.

9.4 **Mailing Address.** The Owner or the several Co-Owners must register and maintain one mailing address to be used by the Association for mailing of monthly statements, notices, demands, and all other communications. If an Owner fails to maintain a current mailing address with the Association, the address of the Owner's Property is deemed to be his mailing address.

9.5 **Registration of Mortgagees.** Within thirty (30) days after granting a lien against his Property, the Owner must provide the Association with the name and address of the holder of the lien and the loan number. The Owner must notify the Association within thirty (30) days after he has

notice of a change in the information required by this Section. Also, the Owner will provide the information on request by the Association from time to time.

9.6 **Assessments.** All Owners are obligated to pay assessments imposed by the Association to meet the Common Expenses as defined in the Declaration. A Member is deemed to be in good standing and entitled to vote at any meeting of the Association if he is current in the assessments made or levied against him and his Property.

9.7 **Compliance with Documents.** Each Owner will comply with the provisions and terms of the Governing Documents, and any amendments thereto. Further, each Owner will always endeavor to observe and promote the cooperative purposes for which the Property was established.

## **ARTICLE 10 BOOKS AND RECORDS**

10.1 **Required Books and Records.** The Association will use its best efforts to keep complete and correct copies of the books and records required by Section 82.114(a) of the Act which, on the date these Bylaws were prepared, include the following:

- A. Minutes or a similar record of the proceedings of meetings of the Association. A recitation in the minutes that notice of the meeting was properly given is sufficient evidence that the notice was given.
- B. Minutes or a similar record of the proceedings of meetings of the Board.
- C. Names and mailing addresses of the Members, the currency and accuracy of the information being the responsibility of the Members.
- D. Names and mailing addresses of the Mortgagees, the currency and accuracy of the information being the responsibility of the Members and their Mortgagees.
- E. Financial records and books of account for the Association, kept in a manner consistent with generally accepted accounting principles.
- F. A copy of plans and specifications acquired by the Association over time for Improvements to the Property.
- G. Copies of income tax returns prepared for the Internal Revenue Service.
- H. Copies of the Governing Documents and all amendments to any of these. Also, for at least four (4) years, a record of all votes or written consents by which amendments to the Governing Documents were approved.

10.2 **Inspection of Books and Records.** Books and records of the Association will be made available for inspection and copying pursuant to Section 82.114(b) of the Act and Section 22.351 of the Texas Business Organizations Code. The Board may require a Member to submit a

written demand for inspection, stating the purpose for which the Member will inspect the books and records. The Board has the following rights:

- A. To determine whether the Member's purpose for inspection is proper.
- B. To deny the request if the purpose is deemed not proper.
- C. If granting the request, to identify which books and records are relevant to the Member's stated purpose for inspection.

10.2.1 Copies. A Member, at Member's expense, may obtain photocopies of books and records for which the Board grants the right of inspection. The Board has the right to retain possession of the original books and records, to make copies requested by the Member, and to charge the Member a reasonable fee for copying.

10.2.2 Member's Agent. A Member's inspection of the books and records may be assisted or performed by the Member's agent, accountant, or attorney.

10.2.3 Records of Attorneys and Accountants. The files and records of an attorney or accountant who performs services for the Association are not records of the Association and are not subject to inspection by Members.

10.3 Resale Certificates. Any officer may prepare or cause to be prepared, certify, and execute resale certificates in accordance with Section 82.157 of the Act. The Association may charge a reasonable fee for preparing resale certificates. The Association may refuse to furnish resale certificates until the fee is paid. Any unpaid fees may be assessed against the Property for which the certificate is furnished. The Board can authorize the Manager to prepare, certify, and execute the resale certificate to the extent permitted by applicable law.

## ARTICLE 11 NOTICES

11.1 Notices. Any written notice required or permitted by these Bylaws may be given personally, by mail, by fax, electronic mail, or by any other method permitted by the Texas Nonprofit Corporation Act. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the Member at the address shown on the Association's records. If transmitted by fax or by electronic mail, the notice is deemed delivered on successful transmission of the facsimile or electronic mail. If any Property is owned by more than one person, notice to one co-Owner is deemed notice to all Co-Owners. All notices or demands intended to be served upon the Board of Directors of the Association or the Association shall be sent by regular or certified mail, postage prepaid, to 6001 West William Cannon, Building 2, Suite 201, Austin, Texas 78749, until such address is changed by a notice of address change as provided by law, with a copy to each Member.

11.2 Waiver of Notice. Whenever a notice is required to be given to an Owner, Member, or director, a written waiver of the notice, signed by the person entitled to the notice, whether before or after the time stated in the notice, is equivalent to giving the notice. Attendance by a Member or director at any meeting of the Association or Board, respectively, constitutes a waiver of notice by

the Member or director of the time, place, and purpose of the meeting. If all Members or directors are present at any meeting of the Association or Board, respectively, no notice is required and any business may be transacted at the meeting.

## ARTICLE 12 DECLARANT PROVISIONS

12.1 **Board of Directors.** The initial directors will be appointed by Declarant and need not be Owners. Directors appointed by Declarant may not be removed by the Owners and may be removed by Declarant only. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee. If there are two Declarants, each Declarant shall have the right to appoint one director and shall each agree to a third director, or in the absence of such agreement, such third director shall be elected as provided herein.

12.2 **Organizational Meeting.** Within sixty (60) days after Declarant no longer owns any Property covered by the Declaration, or sooner at Declarant's option, Declarant will call an organizational meeting of the Members for the purpose of electing directors, by ballot of Members. Notice of the organizational meeting will be given as if it were notice of an annual meeting.

12.3 **Conflict.** To the extent of any conflict with any provision in the Bylaws, the provisions of this Article shall control.

## ARTICLE 13 AMENDMENTS TO BYLAWS

13.1 **General.** These Bylaws may be amended by a majority of the Members.

13.2 **Effective.** To be effective, each amendment must be in writing, reference the names of the Association; and be executed by a majority of the Members. Further, if these Bylaws are publicly recorded, the amendment must recite the recording data for the Bylaws, be in a form suitable for recording as a real property record, and be delivered to the county clerk for recordation.

13.3 **Declarant Protection.** As long as the Declarant owns a portion of the Property, no amendment of these Bylaws may be effective without the Declarant's written and acknowledged consent. The Declarant's written consent must be part of the amendment instrument.

## ARTICLE 14 MISCELLANEOUS PROVISIONS

14.1 **Fiscal Year.** The fiscal year of the Association will be set by resolution of the Board, and is subject to change from time to time as the Board determines. In the absence of a resolution by the Board, the fiscal year is the calendar year.

14.2 **Compensation.** A director, officer, Member, or Resident may not receive any pecuniary profit from the operation of the Association, and no funds or assets of the Association may be paid as a salary or as compensation to, or be distributed to, or inure to the benefit of a director, officer, Member, or Resident. However,



- A. Reasonable compensation may be paid to a director, officer, Member, or Resident for services rendered to the Association in other capacities.
- B. A director, officer, Member, or Resident may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided the expense has been approved by the Board.
- C. The Board may budget and use Association funds to purchase awards, certificates, a celebratory meal, or other customary tokens or demonstrations of appreciation for volunteer activities.
- D. This provision does not apply to distributions to Owners permitted or required by the Declaration or the Act.

14.3 **Choice of Law.** These Bylaws will be construed under Texas law.

14.4 **Conflicting Provisions.** If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, the conflicting Bylaws provision is null and void, but all other provisions of these Bylaws remain in full force and effect. In the case of any conflict between the Certificate of Formation of the Association and these Bylaws, the Certificate of Formation shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

14.5 **Severability.** Whenever possible, each provision of these Bylaws will be interpreted in a manner as to be effective and valid. Invalidation of any provision of these Bylaws, by judgment or court order, does not affect any other provision which remains in full force and effect.

14.6 **Construction.** To the greatest extent possible, these Bylaws shall be construed to conform to all legal requirements for obtaining and maintaining all tax exemptions available to nonprofit corporations. The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and may not be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.

14.7 **Waiver.** No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

14.8 **Indemnification.** To the fullest extent permitted by applicable law, the Association will indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a director, officer, committee member, employee, servant or agent of the Association, against expenses (including attorneys fees, judgments,

finances and amounts paid in settlement) actually and reasonably incurred by such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court that such person: (a) acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to be, the best interests of the Association; or (b) with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. Provided, however, that no Board member may vote or take part in a decision regarding the indemnification of such person. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, or with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.

14.9 **Preparer.** These Bylaws were prepared by Mitchell D. Savrick, Savrick, Schumann, Johnson, McGarr, Kaminski & Shirley, L.L.P., 4330 South Mopac, Suite 150, Austin, Texas 78735.

**CERTIFICATION & ACKNOWLEDGMENT**

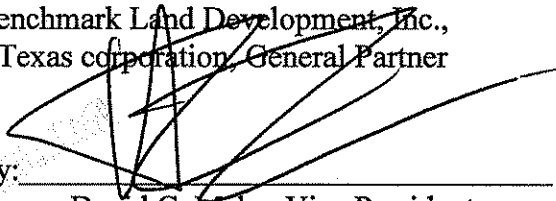
I CERTIFY that the foregoing Bylaws of Plum Creek Uptown District Property Owners' Association, Inc. were adopted by the Declarant of Plum Creek Uptown District, for the benefit of Plum Creek Uptown District.

SIGNED this \_\_\_ day of February, 2008.

PLUM CREEK DEVELOPMENT PARTNERS, LTD.  
a Texas Limited Partnership

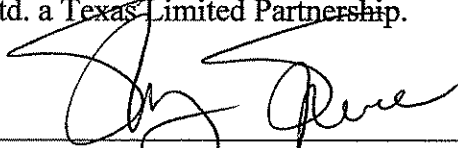
By: BGI PLUM CREEK DEVELOPERS, LTD.,  
a Texas limited partnership, General Partner

By: Benchmark Land Development, Inc.,  
a Texas corporation, General Partner

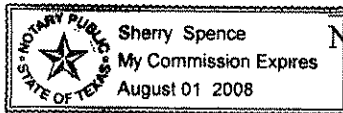
By:   
David C. Mahn, Vice President

THE STATE OF TEXAS    §  
                                  §  
COUNTY OF TRAVIS    §

This instrument was acknowledged before me on February 27, 2008, by David C. Mahn, who is known to me, as Vice President of Benchmark Land Development, Inc., a Texas Corporation, the general partner of BGI Plum Creek Developers, Ltd., a Texas limited partnership, as general partner of Plum Creek Development Partners, Ltd. a Texas Limited Partnership.



Notary Public, State of Texas



MOUNTAIN PLUM, LTD.

BY: MP GENERAL, L.L.C.  
Its General Partner

By: *Laura N. Gill*  
Name: Laura N. Gill  
Title: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF *Dallas*

§  
§  
§

Before me, the undersigned authority, on this day personally appeared *Laura N. Gill*, \_\_\_\_\_ of MP General, L.L.C., the general partner of Mountain Plum, Ltd., known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that [s]he executed the same in the capacity and for the purposes and consideration therein expressed.

Given under my hand and seal of office this *26<sup>th</sup>* day of February, 2004.

*Norma Wilson*  
Notary Public - State of Texas

