

BY-LAWS  
OF  
BIRCH CREEK FOREST PROPERTIES, INCORPORATED

Article I. Offices

The principal office of the corporation shall be located at Birch Creek Forest, Burleson County, Texas. The corporation may have such other offices as the Board of Directors may determine or as the affairs of the corporation may require from time to time.

The corporation shall have and continuously maintain in the State of Texas a registered office and a registered agent whose office is identical with such registered office, as are required by the Texas Non-Profit Corporation Act.

Article II. Members

Section 1. Classes of Members The corporation shall have one class of members.

Section 2. Members All members must be property owners in Birch Creek Forest subdivision, and their lots must be subject to the restrictive covenants for the section in which their lot is located.

Section 3. Voting Rights Each property owner shall be entitled to one vote for each complete lot owned in the subdivision on which is subject to the restrictive covenants on each matter submitted to a vote of the members.

Article III. Meetings of Members

Section 1. Annual Meeting An annual meeting of the members shall be held at Birch Creek Forest on the last Saturday in August or the first Saturday during September whichever Saturday is the nearest to Labor Day in each year at the hour of 10:00 o'clock, a.m., for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day designated, herein, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be, but in any event within 30 days.

Section 2. Special Meetings Special meetings of the members may be called by the President, the Board of Directors, or not less than one-tenth of the members having voting rights.

Section 3. Failure to Hold Annual Meeting If the Board of Directors fails to hold an annual meeting of the members, an owner may demand that meeting of the association members be called not later than the 30<sup>th</sup> day after the owner's demand. The owner's demand must be in writing and sent by certified mail to the registered agent of the property

owners' association or to the association at the address for the association according to the most recently filed management certificate. If the Board of Directors still fails to call an election, an election committee may be formed to call a meeting as provided for in Section 209.014 of the Texas Property Code as it may be amended from time to time.

Section 4. Notice of Meetings Written or printed notice stating the place, day and hour of the Annual Meeting, Regular Meeting, or any Special Meeting of members shall be delivered, either personally or by mail to each member entitled to vote at such meeting, not later than the tenth day nor earlier than sixty days before the date of such meeting, by or at the direction of the President, the Board of Directors, or the persons call the meeting. The purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation with postage thereon prepaid.

Section 5. Quorum There must be at least twenty-five members in person or by proxy at any meeting to constitute a quorum at such meeting. If a quorum is not present at any meeting of members, a majority of the members may adjourn the meeting without further notice.

Section 6. Open Meetings All annual, regular, and special meetings of the Board of Directors shall be open to the members. The Board of Directors may adjourn to executive session to address personnel issues, litigation, contract negotiation, enforcement actions and confidential communications. Following an executive session, any decision made by the board shall be summarized orally and placed in the minutes in general terms without breaching the privacy of individual owners and distributing information that needs to remain confidential.

Section 7. Proxies At any meeting of members, a member entitled to vote may designate another person to represent and act for him provided such proxy is executed in writing by the member. The format of such proxy is as follows:

#### PROXY

Know all men by these Presents, That I, \_\_\_\_ (name)\_\_\_\_, being the owner of property in Birch Creek Forest Properties, Inc., do hereby constitute and appoint \_\_\_\_ (name)\_\_\_\_ Agent for me, And in my name. place and stead to vote as my proxy, at the Annual/Special Meeting of Birch Creek Forest Properties, Inc. to be held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, or any adjournment thereof, according the number of votes I should be entitled to vote if personally present.

Executed this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_(legal signature)\_\_\_\_\_  
Section \_\_\_\_ Block \_\_\_\_ Lot(s)\_\_\_\_\_

Any proxy received which does not designate an individual as Agent will not be counted. The Board of Directors, nor any individual officer or member of the Board of Directors, shall not have the power to vote any proxy(ies). No proxy shall be valid for more than eleven (11) months from the date of its execution. All proxies shall be filed with the secretary at or prior to any meeting for which they will be used.

Section 8. Voting Where directors or officers are to be elected by members, such election may be conducted by mail. Envelopes containing ballots must be clearly marked with the word "BALLOT". All envelopes so marked will be unopened until the close of the general election. Each ballot must be signed by the member casting the vote. Any vote cast in an election where members are voting must be in writing and be signed by the member.

#### Article IV. Board of Directors

Section 1. Election The Board of Directors will be elected by vote of members at the Annual Meeting. At a Regular Monthly Board of Director's Meeting at least sixty days prior to the Annual Meeting, the current Board of Directors shall name a nominating committee consisting of three property owners who shall submit nominations for directors at a Regular Monthly Meeting of the Board of Directors at least thirty days prior to the annual meeting. In addition, nominations may be made by any property owner at either of the two Regular Monthly Meetings of the Board of Directors held in July or August (3-4-00) immediately preceding the Annual Meeting.

Section 2. Number, Tenure and Qualifications The number of directors shall be five. Each director elected at the Annual Meeting shall serve a two year term with no limitation (8-5-00) to number of terms. Directors must be members of the corporation. A person who has been convicted of a felony or of a crime involving moral turpitude is immediately ineligible to serve on the Board of Directors, is automatically considered removed from the board, and is prohibited from future service on the board.

Section 3. Removal of Director A Director shall be removed if he is convicted of a felony or a crime involving moral turpitude or for good cause by a majority vote of the remaining directors for, among other things or for other conduct which is detrimental to the best interest of the community. A Director may be removed for failure to attend three (3) successive regular meetings of the Board of Directors.

Section 4. Vacancies Any vacancy occurring in the Board of Directors as a result of a resignation of a board member, the death or disability of a board member, shall be filled by appointment by a majority vote of the Board of Directors as soon as possible. Any Director appointed to fill a vacancy shall serve for the unexpired portion of the term (5-3-97). A Director appointed by the Board of Directors may not hold the office of President. Any director whose term has expired or any director's position created by an enlargement of the Board of Directors must be elected at the annual meeting or as otherwise provided in these By-Laws.

Section 5. General Powers The affairs of the corporation shall be managed by its Board of Directors. The Board of Directors shall collect, hold and disburse the Maintenance Fund for the benefit, directly or indirectly, of the subdivision. The Maintenance Fund may be expended for any purposes which tend to maintain the property values in the subdivision, including by way of example but not by way of limitation: the payment of maintenance or improvement expenses incurred by lighting, streets, sidewalks, paths, alleys, green areas and parks, parkways, esplanades, areas between streets and lot lines, ramps, boat landings, collecting and disposing of garbage, ashes, rubbish and the like, employing policemen and watchmen, collection of maintenance charges, enforcement of restrictions, and generally for doing any other thing necessary or desirable to maintain or improve the property of the subdivision. The authority of the Board of Directors also includes electing, appointing or removing any director or officer of the corporation as provided for in these By-Laws and amending the Articles of Incorporation.

Section 6. Regular Meetings The Board of Directors will hold Regular Monthly Meetings on the first Saturday of each month at the Community Building at Birch Creek Forest at 8:00 a.m. (5-3-97). If the day fixed for the Regular Meeting should be a legal holiday or otherwise inappropriate, such meeting shall be held on the next succeeding Saturday. Regular Meetings of the Board of Directors shall be open to the members of Birch Creek Forest, and all business coming before the Board of Directors shall be conducted in such open meeting format, except when the board adjourns to executive session as provided for herein. A teleconference participation may be permitted with approval of the President of the Board given prior to the meeting.

Section 7. Special Meetings Special Meetings of the Board of Directors may be called by or at the request of the President or any two Directors.

Section 8. Notice Notice of any Special Meeting of the Board of Directors shall be given to each Director at least ten days previously thereto by written notice delivered personally or sent by mail or telegram at his address as shown by the records of the corporation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, with postage thereon prepaid.

Section 9. Quorum A majority (minimum of 3) of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Directors are present at said time, a majority of the Directors present may adjourn the meeting without further notice. The attendance of a director at a meeting shall constitute a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these by-laws.

Section 10. Resolutions All matters to be resolved will be presented at a Regular Monthly Meeting of the Board of Directors. Motions, resolutions and other binding decisions must be transacted at a Regular Monthly Meeting as provided for in Section 6. of this Article.

Section 11. Exceptions With regard to matters concerning personnel or real estate, such matters may be discussed in private meeting(s) of the Board of Directors; provided, however, any resolution concerning personnel or real estate must be conducted at a Regular Meeting open to members.

Section 12. Compensation Directors as such shall not receive any stated salaries or compensation for their services. Any Director may serve the corporation in any other negotiated capacity and receive compensation therefor, however, said Director shall abstain from voting whenever a decision is to be made regarding the specific business in which the Director receives compensation (8-5-00).

Section 13. Informal Action by Directors The Board of Directors may take action without a meeting relating to routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action if it is done by unanimous written consent of the board.

Section 14. Matters Requiring Notice to Members A board may not meet and vote without prior notice to members who would be affected by any of the following actions which might be taken up by the board:

- a. fines;
- b. damage assessments;
- c. initiation of foreclosure actions or enforcement actions;
- d. increase in assessments;
- e. levying special assessments;
- f. appeals from denials of architectural control applications;
- g. suspending rights of an owner before the owner has an opportunity to appear before the board.

#### Article V. Officers

Section 1. Officers The officers of the Board of Directors of the corporation shall be a President, one or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary, an Assistant Secretary, and a Treasurer. The Board. may elect such other officers, as it shall deem desirable. Any two or more offices may be held by the same person except the offices of President and Secretary.

Section 2. Election and Term of Office The officers of the Board of Directors of the corporation shall be elected annually by vote of a majority of Board Members at the Organizational Meeting which shall follow the Annual Meeting.

Section 3. Removal Any officer of the Board of Directors may be removed from office by a majority vote of the remaining Board of Directors whenever in its judgment the best interests of the corporation would be served thereby.

Section 4. Vacancies A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by a majority vote of the Board of Directors for the unexpired portion of the term. However, no Director appointed by the Board of Directors may hold the office of President.

Section 5. President The President shall be the principal executive officer of the corporation and shall in general supervise the business and affairs of the corporation. He shall preside at all meetings of the members and of the Board of Directors. As a member of the Board of Directors, the President has the right and obligation to vote on any motion or resolution properly brought before the Board. He may sign, with the Secretary or Treasurer, and any other proper officer of the corporation authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these by-laws or by statute to some other officer(s) or agent(s) of the corporation. In general, he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice President In the absence of the President or in the event of his inability or refusal to act, the Vice President (or in the event there be more than one Vice-President, the vice presidents in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or the Board of Directors.

Section 7. Treasurer If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VII. of these by-laws; and in general perform all the duties incident to the office of the Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Secretary The Secretary shall keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these by-laws or as required by law; be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these by-laws; keep a register of the post-office address of each member which shall be furnished by such member; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 9. Assistant Treasurers and Assistant Secretaries If required by the Board of Directors, the assistant treasurer(s) shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant treasurer(s) and assistant secretary(ies), in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary or by the President of the Board of Directors.

## Article VI. Committees

Section 1. Committees The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, to the extent provided in said resolution, which shall have and exercise the authority of the Board of Directors in the management of the corporation according to guidelines provided by the Board of Directors; provided, however, that no such committee shall have the authorities delegated to the board of directors as specified in Article IV., Section 5 (General Powers). The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed upon it or him by law. Committee members thereof may be appointed or removed by the Board of Directors whenever in its judgment the best interests of the corporation will be served by such action.

Section 2. Social Committees Other committees not having and exercising the authority of the Board of Directors in the management of the corporation may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Such committees will perform their duties in accordance with guidelines provided by the Board of Directors. Committee members thereof may be appointed or removed by the Board of Directors whenever in its judgment the best interests of the corporation will be served by such action.

Section 3. Term of Office Each member of a committee shall continue as such until the next Annual Meeting of the members or until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee.

Section 4. Chairman One member of each committee shall be appointed Chairman by the Board of Directors.

Section 5. Vacancies Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 6. Quorum Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7. Rules Each committee may adopt rules for its own government not inconsistent with these by-laws or with rules adopted by the Board of Directors.

#### Article VII. Contracts: Checks, Deposits and Funds

Section 1. Contracts The Board of Directors, by resolution duly made in accordance with these by-laws, may authorize an officer or officers of the corporation to enter into or execute and deliver a contract or instrument in the name of and on behalf of the corporation, such authority being confined to specific instances only.

Section 2. Checks, Drafts, etc. All DEMAND ORDERS OF PAYMENT of money, notes or other evidences of indebtedness issued in the name of the corporation shall be approved by a majority of the Board of Directors at a Regular, Special or Annual Meeting and bear the signatures of a minimum of three (3) members of the Board of Directors, however, checks \$2,000.00 or less may be signed by any one (1) board member, checks over \$2,000.00 require two (2) signatures. (12-02-06)

In addition, any expenditure in excess of \$2,000.00 must be approved by a minimum of four members of the Board of Directors.

Section 3. Deposits All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 4. Gifts The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or device for the general purposes or for any special purpose of the corporation.

#### Article VIII. Certificates of Membership

The Board of Directors may provide for the issuance of certificates evidencing membership in the corporation, which shall be in such form as may be determined by the board.

#### Article IX. Books and Records

Section 1. Open Records Production and Copying The books, records, and papers of the Association shall at all times during reasonable business hours be subject to inspection by any member. The Association may charge the requestor all reasonable costs of materials, labor, and overhead, for compiling, producing, and reproducing the requested information. The charge will be the rate permitted by Sec. 70.3 of the Texas Administrative Code as it may be amended from time to time. The Association shall adopt a policy for production and copying of records which shall be filed in the Official Records of Burleson County, Texas. Payment in advance for copying and production may be required by the Association.

Section 2. Records Retention Policy At a minimum, the Association will retain the documents required by Prop. Code Sec. 209.005(m), as it may be amended from time to time, for the time periods required by that section. The Association shall adopt a policy relating to records retention which shall be filed of record in the Official Records of Burleson County, Texas. These policies may be adopted, amended, or restated from time to time by the Board of Directors.

#### Article X. Fiscal Year

The fiscal year of the corporation shall begin on the first day of June and end on the last day of May in each year.

#### Article XI. Maintenance Fees

Section 1. Annual Maintenance Fees Each lot is subject to an annual Maintenance Fee as provided for in the Deed Restrictions of Birch Creek Forest Properties, Inc.

Section 2. Payment of Maintenance Fees Maintenance Fees shall be payable in advance on the first day of January of each year as specified in the Deed Restrictions of Birch Creek Forest Properties, Inc. Fees of a new member shall be prorated from the first day of the month in which he becomes a member.

Section 3(a). Default When any member shall be in default in the payment of the Maintenance Fee(s) after such fees are due and payable, the right to use the amenities, including, but not limited to swimming pool, community building, trash dump, park reservation privileges, can be suspended until such member's Maintenance Fee payment(s) is(are) made.

Section 3(b). Notice of Default Before the Association suspends a member's right to use a common area or amenity, files a suit against a member except to collect a regular or special assessment, a foreclosure or Association lien, charging an owner with property damage, or levy a fine for violation of the restrictions or By-Laws or rules of the Association, the Association or its agent must give written notice to the owner by certified mail, return receipt requested. The notice must describe the violation or basis for the action, state the amount of the fine, damage, or unpaid assessment, and it must give the owner a reasonable opportunity to cure the violation or pay the charge or assessment before any suspension or other action takes place. The owner may request a hearing before the Board on the matter within thirty (30) days of receiving the notice. The notice must also state that the owner may have special rights under federal law, including the Servicemember Care Relief Act (50 U.S.C. App. Sec. 501, et seq.) if the owner is serving in active military duty.

Section 4. Collection Fee A collection fee for payments not made by the due date may be assessed each year for each lot.

## Article XII. Seal

The Board of Directors shall provide a corporate seal, which shall be in the form of a circle and shall have inscribed thereon "Corporate Seal of Birch Creek Forest Properties, Inc."

## Article XIII. Waiver of Notice

Whenever any notice is required to be given under the provisions of the Texas Non-Profit Corporation Act or under provisions of the articles of incorporation or the by-laws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent to the giving of such notice.

## Article XIV. Amendments to By-Laws

These by-laws may be altered, amended or repealed, in whole or in part, and new by-laws may be adopted by a vote of (1 ) a quorum of the members of the Board of Directors AND (2) a majority of the members in attendance at any Regular, Special or Annual Meeting, provided that at least thirty days prior written notice is given of intention to alter, amend or repeal or to adopt new by-laws at such meeting.

Date Adopted 5-3-2014

President

Secretary

Asst. Secretary

Vice President

Treasurer

brl/re/Birch Creek/By Laws