

AFTER RECORDING RETURN TO:  
 KRISTI E. STOTTS, ESQ.  
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 AUSTIN, TEXAS 78701  
 EMAIL: KSTOTTS@WINSTEAD.COM

## THE PRESERVE AT HONEY CREEK COMMUNITY MANUAL

LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership, as the Declarant under the Declaration of Covenants, Conditions and Restrictions for The Preserve at Honey Creek, recorded under Document No. 20200214000211140 in the Official Public Records of Collin County, Texas, certifies that the foregoing Community Manual was adopted for the benefit of The Preserve at Honey Creek Residential Community, Inc., a Texas non-profit corporation, as part of the initial project documentation for The Preserve at Honey Creek. This Community Manual becomes effective when recorded.

IN WITNESS WHEREOF, the undersigned has executed this Community Manual on the 13<sup>th</sup> day of February, 2020.

### DECLARANT:

LENNAR HOMES OF TEXAS LAND AND  
 CONSTRUCTION, LTD., a Texas limited partnership

By: U.S. Home Corporation, a Delaware corporation, its  
 general partner

By: Jennifer Eller  
 Printed Name: Jennifer Eller  
 Title: Authorized Agent

STATE OF TEXAS §  
 COUNTY OF Dallas §

This instrument was acknowledged before me this 13<sup>th</sup> day of February, 2020, by Jennifer Eller, Authorized Agent of U.S. Home Corporation, a Delaware corporation, general partner of LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership, on behalf of said entities.

(SEAL)



Stephanie Robertson  
 Notary Public Signature

Cross Reference to that certain Declaration of Covenants, Conditions and Restrictions for The Preserve at Honey Creek, recorded under Document No. 20200214000211140 in the Official Public Records of Collin County, Texas, as may be amended from time to time.

# COMMUNITY MANUAL

*for*

## The Preserve at Honey Creek

*A Residential Community in Collin County*

LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD. is the developer of The Preserve at Honey Creek. The guiding principles for the Community have been set forth in the governing documents for The Preserve at Honey Creek, which include the Development Documents and the Association Documents (both defined below) and are collectively referred to as the Documents (the "**Documents**"). The Documents include such instruments as the Declaration of Covenants, Conditions and Restrictions for The Preserve at Honey Creek (the "**Declaration**"), the Design Guidelines, if any, and this Community Manual (collectively referred to as the "**Development Documents**"), all of which are recorded in the property records by the developer generally prior to the time that you purchased your property. The Development Documents contain covenants, conditions and restrictions which not only encumber your property, but also have a legal and binding effect on all Owners and Residents in the Community, now or in the future.

Under the Development Documents, the developer is the "**Declarant**" who has reserved certain rights to facilitate the development, construction, and marketing of the Community, including its size, shape and composition, while the Community is being built-out (the "**Development Period**"). Furthermore, the Development Documents identify and set forth the obligations of The Preserve at Honey Creek Residential Community, Inc., the non-profit corporation created by the Declarant to exercise the authority and assume the powers described in the Declaration (the "**Association**"). Integral to the functioning of the Community, the Association's roles include owning, operating and maintaining various Common Areas and Community amenities, as well as administering and enforcing all of the Documents.

Other specific Documents include such instruments as the Certificate of Formation and Bylaws which set forth the corporate governance structure of the Association as well as the various Rules and Regulations, which include rules, regulations, policies and procedures outlining the operation of the Association and required standards for use of property, activities and conduct (the "**Association Documents**"). It is the Association Documents which are included within this Community Manual, as further set forth herein.

Capitalized terms used but not defined in this Community Manual shall have the meaning subscribed to such terms in the Declaration.

This Community Manual becomes effective when Recorded.

**THE PRESERVE AT HONEY CREEK  
COMMUNITY MANUAL**

**TABLE OF CONTENTS**

<b>1.</b>	<b>CERTIFICATE OF FORMATION</b>	<b>ATTACHMENT 1</b>
<b>2.</b>	<b>BYLAWS</b>	<b>ATTACHMENT 2</b>
<b>3.</b>	<b>FINE AND ENFORCEMENT POLICY</b>	<b>ATTACHMENT 3</b>
<b>4.</b>	<b>ASSESSMENT COLLECTION POLICY</b>	<b>ATTACHMENT 4</b>
<b>5.</b>	<b>RECORDS INSPECTION, COPYING AND RETENTION POLICY</b>	<b>ATTACHMENT 5</b>
<b>6.</b>	<b>STATUTORY NOTICE OF POSTING AND RECORDATION OF ASSOCIATION GOVERNANCE DOCUMENTS</b>	<b>ATTACHMENT 6</b>
<b>7.</b>	<b>EMAIL REGISTRATION POLICY</b>	<b>ATTACHMENT 7</b>
<b>8.</b>	<b>GENERATOR POLICY</b>	<b>ATTACHMENT 8</b>

ATTACHMENT 1  
CERTIFICATE OF FORMATION

ATTACHMENT 1 – CERTIFICATE OF FORMATION  
THE PRESERVE AT HONEY CREEK  
COMMUNITY MANUAL



## Office of the Secretary of State

### CERTIFICATE OF FILING OF

The Preserve at Honey Creek Residential Community, Inc.  
File Number: 803547123

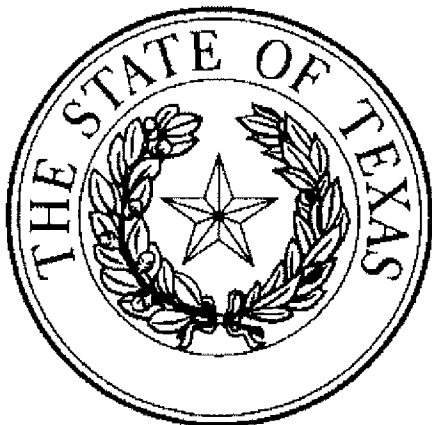
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/13/2020

Effective: 02/13/2020



A handwritten signature in black ink, appearing to read "Ruth R. Hughs".

Ruth R. Hughs  
Secretary of State

FEB 13 2020

CERTIFICATE OF FORMATION  
OF

THE PRESERVE AT HONEY CREEK RESIDENTIAL COMMUNITY, INC.

Corporations Section

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a nonprofit corporation under the Texas Business Organizations Code, does hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I  
NAME

The name of the corporation is: The Preserve at Honey Creek Residential Community, Inc. (hereinafter called the "Association").

ARTICLE II  
NONPROFIT CORPORATION

The Association is a nonprofit corporation.

ARTICLE III  
DURATION

The Association shall exist perpetually.

ARTICLE IV  
PURPOSE AND POWERS OF THE ASSOCIATION

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Business Organizations Code, and does not contemplate pecuniary gain or profit to its members. In furtherance of its powers, the Association shall have the following powers which, unless indicated otherwise by this Certificate of Formation, that certain Declaration of Covenants, Conditions, and Restrictions for The Preserve at Honey Creek, recorded in the Official Public Records of Collin County, Texas, as the same may be amended from time to time (the "Declaration"), the Bylaws, or Applicable Law, may be exercised by the Board of Directors:

(a) all rights and powers conferred upon nonprofit corporations by Applicable Law;

(b) all rights and powers conferred upon property associations by Applicable Law, in effect from time to time, provided, however, that the Association shall not have the power to institute, defend, intervene in, settle or compromise proceedings: (i) in the name of any Member or Lot Owner (whether one or more); or (ii) pertaining to a Claim,

as defined in Section 12.1 of the Declaration, relating to the design or construction of Improvements on a Lot (whether one or more); and

(c) all powers necessary, appropriate, or advisable to perform any purpose or duty of the Association as set out in this Certificate of Formation, the Bylaws, the Declaration, or Applicable Law.

Notwithstanding any provision in *Article XIV* to the contrary, any proposed amendment to the provisions of this *Article IV* shall be adopted only upon an affirmative vote of Members holding one hundred percent (100%) of the total number of votes of the Association and the Declarant.

Terms used but not defined in this Certificate of Formation shall have the meaning subscribed to such terms in the Declaration.

#### **ARTICLE V REGISTERED OFFICE; REGISTERED AGENT**

The street address of the initial registered office of the Association is 401 Congress Avenue, Suite 2100, Austin, Texas 78701. The name of its initial registered agent at such address is Kristi E. Stotts.

#### **ARTICLE VI MEMBERSHIP**

Membership in the Association shall be dependent upon ownership of a qualifying property interest as defined and set forth in the Declaration. Any person or entity acquiring such a qualifying property interest shall automatically become a member of the Association, and such membership shall be appurtenant to, and shall run with, the property interest. The foregoing shall not be deemed or construed to include persons or entities holding an interest merely as security for performance of an obligation. Membership may not be severed from or in any way transferred, pledged, mortgaged, or alienated except together with the title to the qualifying property interest, and then only to the transferee of title to said property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation shall be void.

#### **ARTICLE VII VOTING RIGHTS**

Voting rights of the members of the Association shall be determined as set forth in the Declaration.

**ARTICLE VIII  
INCORPORATOR**

The name and street address of the incorporator is:

NAME	ADDRESS
Kristi E. Stotts	401 Congress Avenue, Suite 2100 Austin, Texas 78701

**ARTICLE IX  
BOARD OF DIRECTORS**

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals, who need not be members of the Association. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors of nonprofit corporations pursuant to the Texas Business Organizations Code. The number of Directors of the Association may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

NAME	ADDRESS
Jack Rowe	1707 Market Place Blvd. Irving, Texas 75063
Yasmine Shahbazi	1707 Market Place Blvd. Irving, Texas 75063
Kyle Dickerson	1707 Market Place Blvd. Irving, Texas 75063

All of the powers and prerogatives of the Association shall be exercised by the Board of Directors named above until their successors are elected or appointed in accordance with the Declaration.

**ARTICLE X  
LIMITATION OF DIRECTOR LIABILITY**

A member of the Board of Directors of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a board member, except to the extent otherwise expressly provided by Applicable Law. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a member of the Board of Directors existing at the time of the repeal or modification.



## **ARTICLE XI INDEMNIFICATION**

Each person who acts as a member of the Board of Directors, officer or committee member of the Association shall be indemnified by the Association against any costs, expenses and liabilities which may be imposed upon or reasonably incurred by him or her in connection with any civil or criminal action, suit or proceeding in which he or she may be named as a party defendant or in which he or she may be a witness by reason of his or her being or having been a member of the Board of Directors, officer, or committee member of the Association, or by reason of any action alleged to have been taken or omitted by him or her in either such capacity. Such indemnification shall be provided in the manner and under the terms, conditions and limitations set forth in Section 4.7 of the Declaration.

## **ARTICLE XII DISSOLUTION**

The Association may be dissolved with the written and signed assent of not less than ninety percent (90%) of the total number of votes of the Association, as determined under the Declaration. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.


## **ARTICLE XIII ACTION WITHOUT MEETING**

Any action required or permitted by Applicable Law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all the Members entitled to vote thereon were present. If the action is proposed by the Association, the Board of Directors shall provide each Member written notice at least ten (10) days in advance of the date the Board proposes to initiate securing consent as contemplated by this Article XIII. Consents obtained pursuant to this Article XIII shall be dated and signed within sixty (60) days after receipt of the earliest dated consent and delivered to the Association at its principal place of business in Texas. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

**ARTICLE XIV  
AMENDMENT**

Except as otherwise provided by the terms and provisions of Article IV of this Certificate of Formation, this Certificate of Formation may be amended by the Declarant during the Development Period or by a Majority of the Board of Directors; provided, however, that any amendment to this Certificate of Formation by a Majority of the Board of Directors must be approved in advance and in writing by the Declarant during the Development Period.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand, this 13<sup>th</sup> day of February, 2020.

  
\_\_\_\_\_  
Kristi E. Stotts, Incorporator

## ATTACHMENT 2

### **BYLAWS OF THE PRESERVE AT HONEY CREEK RESIDENTIAL COMMUNITY, INC.**

#### **ARTICLE I INTRODUCTION**

The name of the corporation is The Preserve at Honey Creek Residential Community, Inc., a Texas non-profit corporation, hereinafter referred to as the "**Association**". The principal office of the Association shall be located in Collin County, Texas, but meetings of Members and Directors may be held at such places within the State of Texas, County of Collin, as may be designated by the Board of Directors, as provided in these Bylaws.

The Association is organized to be a nonprofit corporation.

Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Declaration of Covenants, Conditions and Restrictions for The Preserve at Honey Creek, recorded in the Official Public Records of Collin County, Texas, including the number, qualification, appointment, removal, and replacement of Directors.

#### **ARTICLE II DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

**Section 2.1. Assessment.** "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

**Section 2.2. Association.** "Association" shall mean and refer to The Preserve at Honey Creek Residential Community, Inc., a Texas non-profit corporation.

**Section 2.3. Association Property.** "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which are now or hereafter owned or held by the Association.

**Section 2.4. Association Rules.** "Association Rules" shall mean the rules and regulations adopted by the Declarant or the Board pursuant to the Declaration, as the same may be amended from time to time.

**Section 2.5. Board.** "Board" shall mean the Board of Directors of the Association.

**Section 2.6. Bylaws.** "Bylaws" shall mean the bylaws of the Association, which may be initially adopted and Recorded by Declarant or the Board of the Association and Recorded as part of the initial project documentation for the benefit of the Association. The Bylaws may be amended, from time to time, by the Declarant until expiration or termination of the Development Period (as defined in the Declaration). Any amendment to the Bylaws proposed by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration of the Development Period, the Bylaws may be amended by a Majority of the Board.

**Section 2.7. Certificate.** "Certificate" shall mean the Certificate of Formation of The Preserve at Honey Creek Residential Community, Inc., a Texas non-profit corporation, filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended.

**Section 2.8. Community Manual.** "Community Manual" shall mean the community manual of the Association, which may be initially adopted and Recorded by the Declarant or the Board of the Association and Recorded as part of the initial project documentation for the benefit of the Association and the Property. The Community Manual may include the Bylaws, Rules and Regulations and other policies governing the Association. The Bylaws, Rules and Regulations and other policies set forth in the Community Manual may be amended, from time to time, by the Declarant until expiration or termination of the Development Period (as defined in the Declaration). Any amendment to the Bylaws, Rules and Regulations and other policies governing the Association prosecuted by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the Community Manual may be amended by a Majority of the Board.

**Section 2.9. Declarant.** "Declarant" shall mean LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership, its successors or assigns; provided that any assignment(s) of the rights of LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership, as Declarant, must be expressly set forth in writing and recorded in the Official Public Records of Collin County, Texas.

**Section 2.10. Declaration.** "Declaration" shall mean the "Declaration of Covenants, Conditions and Restrictions for The Preserve at Honey Creek", recorded in the Official Public Records of Collin County, Texas, as the same may be amended from time to time.

**Section 2.11. Majority.** "Majority" shall mean more than half.

**Section 2.12. Manager.** "Manager" shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

**Section 2.13. Member.** "Member" or "Members" shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

**Section 2.14. Mortgage.** "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**Section 2.15. Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any lien or liens upon any portion of the Property.

**Section 2.16. Owner.** "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

**Section 2.17. Property.** "Property" shall mean and refer to the property subject to the terms and provisions of the Declaration.

**Section 2.18. Restrictions.** "Restrictions" means, singularly or collectively as the case may be, the Declaration, the Certificate, Bylaws, the Community Manual, the Design Guidelines, if any, and any Rules and Regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Restriction is part of a Restriction.

### ARTICLE III MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

**Section 3.1. Membership.** Each Owner of a Lot is a mandatory Member of the Association, as more fully set forth in the Declaration.

**Section 3.2. Place of Meetings.** Meetings of the Association shall be held where designated by the Board, either within the Property or as convenient as possible and practical.

**Section 3.3. Annual Meetings.** There shall be an annual meeting of the Members of the Association for the purposes of Association-wide elections or votes and for such other Association business at such reasonable place, date and time as set by the Board.

**Section 3.4. Special Meetings.** Special meetings of Members may be called in accordance with Section 22.155 of the Texas Business Organizations Code or any successor statute.

**Section 3.5. Notice of Meetings.** Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting or by publication in a newspaper of general circulation, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President, the Secretary, or the officers or persons calling the meeting. In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as 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 Association, with postage prepaid. If an election or vote of the Members will occur outside of a meeting of the Members (*i.e.*, absentee or electronic ballot), then the Association shall provide notice to each Member no later than the 20th day before the latest date on which a ballot may be submitted to be counted.

**Section 3.6. Waiver of Notice.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the

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

**Section 3.7. Quorum.** Except as provided in these Bylaws or in the Declaration, the presence of the Members representing ten percent (10%) of the total votes in the Association shall constitute a quorum at all Association meetings. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Members to leave less than a quorum, provided that Members representing at least five percent (5%) of the total votes in the Association remain in attendance, and provided that any action taken is approved by at least a Majority of the votes present at such adjourned meeting, unless otherwise provided in the Declaration.

**Section 3.8. Conduct of Meetings.** The President or any other person appointed by the Board shall preside over all Association meetings, and the Secretary, or the Secretary's designee, shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

**Section 3.9. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. Except as otherwise provided in the Declaration, action may be taken at any legally convened meeting of the Members upon the affirmative vote of the Members having a Majority of the total votes present at such meeting in person or proxy or by absentee ballot or electronic voting, if such votes are considered present at the meeting as further set forth herein. Cumulative voting shall not be allowed. The person holding legal title to a Lot shall be entitled to cast the vote allocated to such Lot and not the person merely holding beneficial title to the same unless such right is expressly delegated to the beneficial Owner thereof in writing. **Any provision in the Association's governing documents that would disqualify an Owner from voting in an Association election of Board Members or on any matter concerning the rights or responsibilities of the Owner is void.** In a Board election, each candidate is allowed to name one person to observe the counting of the ballots, provided that the designated observer (i) is prohibited from seeing the name of the Member who cast any ballot, and (ii) shall not be disruptive, and if found to be disruptive, shall be removed.

**Section 3.10. Methods of Voting: In Person; Proxies; Absentee Ballots; Electronically.** The voting rights of an Owner may be cast or given: (a) in person or by proxy at a meeting of the Association; (b) by absentee ballot; or (c) by electronic ballot. Any vote cast in an election or vote by a Member of the Association must be in writing and signed by the Member. Electronic votes constitute written and signed ballots. In an Association election, written and signed ballots are not required for uncontested races. Votes shall be cast as provided in this Section:

(a) **Proxies.** Any Member may give a revocable written proxy in the form as prescribed by the Board from time to time to any person authorizing such person to cast the Member's vote on any matter. A Member's vote by proxy is subject to any limitations of Texas law relating to the use of general proxies and subject to any specific provision to the contrary in the Declaration or these Bylaws. No proxy shall be valid unless signed by the Member for which it is given or his duly authorized attorney-in-fact,

dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Proxies shall be valid only for the specific meeting for which given and for lawful adjournments of such meeting. In no event shall a proxy be valid more than eleven (11) months after the effective date of the proxy. Every proxy shall be revocable and shall automatically cease upon conveyance of the Lot for which it was given.

(b) Absentee and Electronic Ballots. An absentee or electronic ballot: (1) may be counted as an Owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot; (2) may not be counted, even if properly delivered, if the Owner attends any meeting to vote in person, so that any vote cast at a meeting by an Owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and (3) may not be counted on the final vote of a proposal if the proposal was amended at the meeting to be different from the exact language on the absentee or electronic ballot. For the purposes of this Section, a nomination taken from the floor in a Board member election is not considered an amendment to the proposal for the election.

(i) *Absentee Ballots.* No absentee ballot shall be valid unless it is in writing, signed by the Member for which it is given or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Absentee ballots shall be valid only for the specific meeting for which given and for lawful adjournments of such meeting. In no event shall an absentee ballot be valid after the specific meeting or lawful adjournment of such meeting at which such ballot is counted or upon conveyance of the Lot for which it was given. Any solicitation for votes by absentee ballot must include:

- a. an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
- b. instructions for delivery of the completed absentee ballot, including the delivery location; and
- c. the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(ii) *Electronic Ballots.* "**Electronic ballot**" means a ballot: (a) given by email, facsimile or posting on a website; (b) for which the identity of Owner submitting the ballot can be confirmed; and (c) for which the Owner may receive a receipt of the electronic transmission and receipt of the Owner's ballot. If an electronic ballot is posted on a website, a notice of the posting shall be sent to each Owner that contains instructions on obtaining access to the posting on the website.

**Section 3.11. Tabulation of and Access to Ballots.** A person who is a candidate in an Association election or who is otherwise the subject of an Association vote, or a person related to that

ATTACHMENT 2 – BYLAWS  
THE PRESERVE AT HONEY CREEK  
COMMUNITY MANUAL

person within the third degree by consanguinity or affinity may not tabulate or otherwise be given access to the ballots cast in that election or vote except such person may be given access to the ballots cast in the election or vote as part of a recount process. A person tabulating votes in an Association election or vote or who performs a recount pursuant to *Section 3.12* may not disclose to any other person how an individual voted. Notwithstanding any provision of these Bylaws to the contrary, only a person who tabulates votes pursuant to this Section or performs a recount pursuant to *Section 3.12* shall be given access to any Association ballots.

**Section 3.12. Recount of Votes.** Any Member (the "**Recount Requesting Member**") may, not later than the fifteenth (15<sup>th</sup>) day after the later of the date of any meeting of Members at which an election or vote was held, or the date of the announcement of the results of the election or vote, require a recount of the votes (the "**Recount Request**"). A Recount Request must be submitted in writing either: (i) by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier, with signature confirmation service to the Association's mailing address as reflected on the latest management certificate; or (ii) in person to the Association's managing agent as reflected on the latest management certificate or to the address to which absentee and proxy ballots are mailed. The Recount Requesting Member shall be required to pay, in advance, expenses associated with the recount as estimated by the Association pursuant to subsection (a) below.

(a) **Cost of Recount.** The Association shall estimate the costs for performing the recount by a person qualified to tabulate votes under subsection (b), and no later than the 20th day after the date the Association receives the Recount Request, shall send an invoice for the estimated costs (the "**Initial Recount Invoice**") to the Recount Requesting Member at the Recount Requesting Member's last known address according to the Association's records. The Recount Requesting Member must pay the Initial Recount Invoice in full to the Association on or before the 30th day after the date the Initial Recount Invoice was delivered to the Recount Requesting Member (the "**Deadline**"). If the Initial Recount Invoice is not paid by the Recount Requesting Member by the Deadline, the Recount Requesting Member's Recount Request shall be considered withdrawn and the Association shall not be required to perform a recount. If the Initial Recount Invoice is paid by the Recount Requesting Member by the Deadline, then on or before the 30th day after the date of receipt of payment of the Invoice, the recount must be completed and the Association must provide each Recount Requesting Member with notice of the results of the recount. If the recount changes the results of the election, the Association shall reimburse the Recount Requesting Member for the cost of the recount not later than the 30th day after the date the results of the recount are provided. If the recount does not change the results of the election, and the estimated costs included on the Initial Recount Invoice are either lesser or greater than the actual costs of the recount, the Association shall send a final invoice (the "**Final Recount Invoice**") to the Recount Requesting Member on or before the 30th business day after the date the results of the recount are provided. If the Final Recount Invoice reflects that additional amounts are owed by the Recount Requesting Member, the Recount Requesting Member shall remit such additional amounts to the Association immediately. Any additional amounts not paid to the Association by the Recount Requesting Member before the 30th business day after the date the Final Recount Invoice is sent may be charged as an Individual Assessment against the Recount Requesting Member. If the costs estimated in the Initial Recount Invoice costs exceed the amount reflected in the Final Recount Invoice, then the Recount Requesting Member shall be entitled to a refund, which such refund shall be paid at the time the Final Recount Invoice is delivered pursuant to this Section.



(b) Vote Tabulator. Following receipt of payment of the Initial Recount Invoice, the Association shall retain for the purpose of performing the recount, the services of a person qualified to tabulate votes. The Association shall enter into a contract for the services of a person who: (i) is not a Member of the Association or related to a Member of the Association Board within the third degree by consanguinity or affinity; and (ii) is either a person agreed on by the Association and each person requesting a recount or is a current or former county judge, county elections administrator, justice of the peace or county voter registrar.

(c) Board Action. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

**Section 3.13. Action Without a Meeting.** Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated, and delivered to the Association at its principal place of business in Texas. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

## ARTICLE IV BOARD OF DIRECTORS

### **Section 4.1. Authority; Number of Directors.**

(a) The affairs of the Association shall be governed by a Board of Directors. The number of Directors shall be fixed by the Board of Directors from time to time. The initial Directors shall be three (3) in number and shall be those Directors named in the Certificate. The initial Directors shall serve until their successors are elected and qualified.

(b) In accordance with Section 4.3 of the Declaration, within one hundred and twenty (120) days after seventy-five percent (75%) of the Maximum Number of Lots (as defined in the Declaration) have been made subject to the terms and provisions of the Declaration and have been conveyed to Owners other than the Declarant or a Homebuilder, the President of the Association will thereupon call a meeting of the Members of the Association (the **"Initial Member Election Meeting"**) where the Members will elect one (1) Director for a one (1) year term (**"Initial Member Elected Director"**). Declarant will continue to appoint and remove two-thirds (2/3) of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period. The individual elected to the Board at the Initial Member Election Meeting and his or her successors shall be elected for a one (1) year term.

(c) At the expiration or termination of the Development Period, the Declarant will thereupon call a meeting of the Members of the Association where the Declarant appointed Directors will resign and the Members, including Declarant, will elect three (3) new directors (to replace all Declarant appointed Directors and the Initial Member Elected Director and his or her successors) (the **"Member Election Meeting"**), one (1) Director for a three (3) year term, one (1) Director for a two (2) year term, and one (1)

Director for a one (1) year term (with the individual receiving the highest number of votes to serve the three (3) year term, the individual receiving the next highest number of votes to serve the two (2) year term, and the individual receiving the third highest number of votes to serve a one (1) year term). Upon expiration of the term of a Director elected by the Members pursuant to this *Section 4.1(c)*, his or her successor will be elected for a term of two (2) years.

(d) 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.

(e) Each Director, other than Directors appointed by Declarant, shall be a Member. In the case of corporate, partnership, or other entity ownership of a Lot, the Director must be a duly authorized agent or representative of the corporation, the partnership, or other entity which owns the Lot. Other than as set forth in this subparagraph (e), the Association may not restrict an Owner's right to run for a position on the Board.

**Section 4.2. Compensation.** The Directors shall serve without compensation for such service. As determined by the Board, Directors may be reimbursed for any reasonable and necessary out-of-pocket expenses.

**Section 4.3. Nominations to Board of Directors.** Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

**Section 4.4. Vacancies on Board of Directors.** Except with respect to Directors appointed by the Declarant, if the office of any elected Director shall become vacant by reason of death, resignation, or disability, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws. Except with respect to Directors appointed by the Declarant, any Board Member whose term has expired or who has been removed from the Board must be elected by the Members.

**Section 4.5. Removal of Directors.** Subject to the right of Declarant to nominate and appoint Directors as set forth in *Section 4.1* of these Bylaws, an elected Director may be removed, with or without cause, by the vote of Members holding a Majority of the votes entitled to be cast in the Association.

**Section 4.6. Solicitation of Candidate for Election to the Board.** At least thirty (30) days before the date an Association disseminates absentee ballots or other ballots to Members for the purpose of

voting in a Board election, the Association shall provide notice (the "**Solicitation Notice**") of the election to the Members. The Solicitation Notice shall: (a) solicit candidates that are eligible under *Section 4.1(e)* and interested in running for a position on the Board; (b) state that an eligible candidate has fifteen (15) days to respond to the Solicitation Notice and request to be placed on the ballot; and (c) must be: (1) mailed to each Member; (2) e-mailed to each Member that has registered their e-mail address with the Association; or (3) posted in a conspicuous manner reasonably designed to provide notice to Members, such as: (i) within the Common Area or, with the Member's consent, on other conspicuously located privately owned property within the subdivision; or (ii) on any website maintained by the Association or other internet media.

## **ARTICLE V**

### **MEETINGS OF DIRECTORS**

**Section 5.1. Development Period.** The provisions of this *Article V* do not apply to Board meetings during the Development Period (as defined in the Declaration) during which period the Board may take action by unanimous written consent in lieu of a meeting pursuant to *Section 5.10*, except with respect to a meeting conducted for the purpose of: (a) adopting or amending the Documents (*i.e.*, declarations, bylaws, rules, and regulations); (b) increasing the amount of Regular Assessments of the Association or adopting or increasing a Special Assessment; (c) electing non-Declarant Board members or establishing a process by which those members are elected; or (d) changing the voting rights of Members.

**Section 5.2. Definition of Board Meetings.** A meeting of the Board means a deliberation between a quorum of the Board, or between a quorum of the Board and another person, during which Association business is considered and the Board takes formal action.

**Section 5.3. Regular Meetings.** Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, at such place and hour as may be fixed from time to time by resolution of the Board.

**Section 5.4. Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

**Section 5.5. Quorum.** A Majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a Majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

**Section 5.6. Open Board Meetings.** All regular and special Board meetings must be open to Owners. However, the Board has the right to adjourn a meeting and reconvene in closed executive session to consider actions involving: (a) personnel; (b) pending or threatened litigation; (c) contract negotiations; (d) enforcement actions; (e) confidential communications with the Association's attorney; (f) matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made by the Board in executive session must be summarized orally in general terms and placed in the minutes. The oral summary must include a general explanation of expenditures approved in executive session.

**Section 5.7. Location.** Except if otherwise held by electronic or telephonic means, a Board meeting must be held in the county in which all or a part of the property in the subdivision is located or in a county adjacent to that county, as determined in the discretion of the Board.

**Section 5.8. Record; Minutes.** The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to a Member for inspection and copying on the Member's written request to the Association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the Board.

**Section 5.9. Notices.** Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be: (a) mailed to each Member not later than the tenth (10<sup>th</sup>) day or earlier than the sixtieth (60<sup>th</sup>) day before the date of the meeting; or (b) provided at least seventy-two (72) hours before the start of the meeting by: (i) posting the notice in a conspicuous manner reasonably designed to provide notice to Members in a place located on the Association's common area or on any website maintained by the Association; and (ii) sending the notice by e-mail to each Member who has registered an e-mail address with the Association. It is the Member's duty to keep an updated e-mail address registered with the Association. The Board may establish a procedure for registration of email addresses, which procedure may be required for the purpose of receiving notice of Board meetings. If the Board recesses a regular or special Board meeting to continue the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this Section. If a regular or special Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner as set forth above within two (2) hours after adjourning the meeting being continued.

**Section 5.10. Unanimous Consent.** During the Development Period, Directors may vote by unanimous written consent. Unanimous written consent occurs if all Directors individually or collectively consent in writing to a Board action. The written consent must be filed with the minutes of Board meetings. Action by written consent shall be in lieu of a meeting and has the same force and effect as a unanimous vote of the Directors. As set forth in *Section 5.1*, Directors may not vote by unanimous consent if the Directors are considering any of the following actions: (a) adopting or amending the Documents (*i.e.*, declarations, bylaws, rules, and regulations); (b) increasing the amount of Regular Assessments of the Association or adopting or increasing a Special Assessment; (c) electing non-Declarant Board members or establishing a process by which those members are elected; or (d) changing the voting rights of Members.

**Section 5.11. Meeting without Prior Notice.** The Board may take action outside a meeting including voting by electronic or telephonic means without prior notice to the Members if each Board member is given a reasonable opportunity (i) to express his or her opinions to all other Board members and (ii) to vote. Any action taken without notice to Members must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. The Board may not, unless done in an open meeting for which prior notice was given to the Members pursuant to *Section 5.9* above, consider or vote on: (a) fines; (b) damage assessments; (c) the initiation of foreclosure actions; (d) the initiation of

enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; (e) increases in assessments; (f) levying of special assessments; (g) appeals from a denial of architectural control approval; (h) a suspension of a right of a particular Member before the Member has an opportunity to attend a Board meeting to present the Member's position, including any defense, on the issue; (i) the lending or borrowing of money; (j) the adoption of any amendment of a dedicatory instrument; (k) the approval of an annual budget or the approval of an amendment of an annual budget that increases the budget by more than 10 percent (10%); (l) the sale or purchase of real property; (m) the filling of a vacancy on the Board; (n) the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or (o) the election of an officer.

**Section 5.12. Telephone and Electronic Meetings.** Any action permitted to be taken by the Board may be taken by telephone or electronic methods provided that: (1) each Board member may hear and be heard by every other Board member; (2) except for any portion of the meeting conducted in executive session: (i) all Members in attendance at the meeting may hear all Board members; and (ii) any Members are allowed to listen using any electronic or telephonic communication method used or expected to be used by a participating Board member at the same meeting; and (3) the notice of the Board meeting provides instructions to the Members on how to access the electronic or telephonic communication method used in the meeting. Participation in such a 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.

## ARTICLE VI POWERS AND DUTIES OF THE BOARD

**Section 6.1. Powers.** The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Declaration:

(a) Adopt and publish the Association Rules, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the right of a Member to use of the Association Property during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, or after notice and hearing, for any period during which an infraction of the Association Rules by such Member exists;

(c) Exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Restrictions;

(d) To enter into any contract or agreement with a municipal agency or utility company to provide electric utility service to all or any portion of the Property;

(e) Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

- (f) Employ such employees as they deem necessary, and to prescribe their duties;
- (g) As more fully provided in the Declaration, to:
  - (1) Fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and
  - (2) Foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- (h) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);
- (i) Procure and maintain adequate liability and hazard insurance on Association Property;
- (j) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (k) Exercise such other and further powers or duties as provided in the Declaration or by law.

## ARTICLE VII OFFICERS AND THEIR DUTIES

**Section 7.1. Enumeration of Offices.** The officers of the Association shall be a President and a Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

**Section 7.2. Election of Officers.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 7.3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

**Section 7.4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 7.5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 7.6. Vacancies.** A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7.7. Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to *Section 7.4*.

**Section 7.8. Duties.** The duties of the officers are as follows:

(a) **President.** The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President.** The Vice President, if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board.

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

(d) **Assistant Secretaries.** Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him or her by the Secretary, the President, the Board or any committee established by the Board.

(e) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members.

**Section 7.9. Execution of Instruments.** Except when the Restrictions require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association, including without limitation checks from the Association's bank account. In the absence of Board designation, and unless otherwise provided herein, the President and the Secretary are the only persons authorized to execute instruments on behalf of the Association.

## ARTICLE VIII OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, by resolution adopted by affirmative vote of a Majority of the number of Directors fixed by these Bylaws, designate two or more Directors or Members (with such alternates, if any, as may be deemed desirable) to constitute another committee or committees for any purpose;

ATTACHMENT 2 – BYLAWS  
THE PRESERVE AT HONEY CREEK  
COMMUNITY MANUAL

provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board.

## **ARTICLE IX BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Restrictions shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE X ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration.

## **ARTICLE XI CORPORATE SEAL**

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

## **ARTICLE XII AMENDMENTS**

These Bylaws may be amended by: (i) the Declarant until expiration or termination of the Development Period; or (ii) a Majority vote of the Board of Directors with the advance written consent of the Declarant until expiration or termination of the Development Period.

## **ARTICLE XIII INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Association shall indemnify every Director, Officer, or Committee Member against, and reimburse and advance to every Director, Officer and Committee Member for all liabilities, costs and expenses' incurred in connection with such directorship or office and any actions taken or omitted in such capacity to the greatest extent permitted under the Texas Business Organizations Code and all other applicable laws at the time of such indemnification, reimbursement or advance payment; provided, however, no Director, Officer or Committee Member shall be indemnified for: (a) a breach of duty of loyalty to the Association or its Members; (b) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law; (c) a transaction from which such Director, Officer or Committee Member received an improper benefit, whether or not the benefit resulted from an action taken within the scope of directorship or office; or (d) an act or omission for which the liability of such Director, Officer or Committee Member is expressly provided for by statute.