

**GOVERNING DOCUMENTS FOR BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.**

WHEREAS, Texas Property Code § 202.006 requires all dedicatory instruments to be filed in the real property records of each county in which the property to which the dedicatory instruments relate is located.

WHEREAS, the Birmingham Ranch Homeowners' Association, Inc. (the "Association") desires to record the documents set forth below:

NOW, THEREFORE, the Association records the following documents which are attached hereto:

1. Bylaws of Birmingham Ranch Homeowners' Association, Inc. dated January 31, 2011.
2. Certificate of Formation of Birmingham Ranch Homeowners' Association, Inc. filed with the Texas Secretary of State on January 28, 2011.

Recorded this 22 day of DECEMBER 2011 by the Birmingham Ranch Homeowners' Association, Inc.

**BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.**

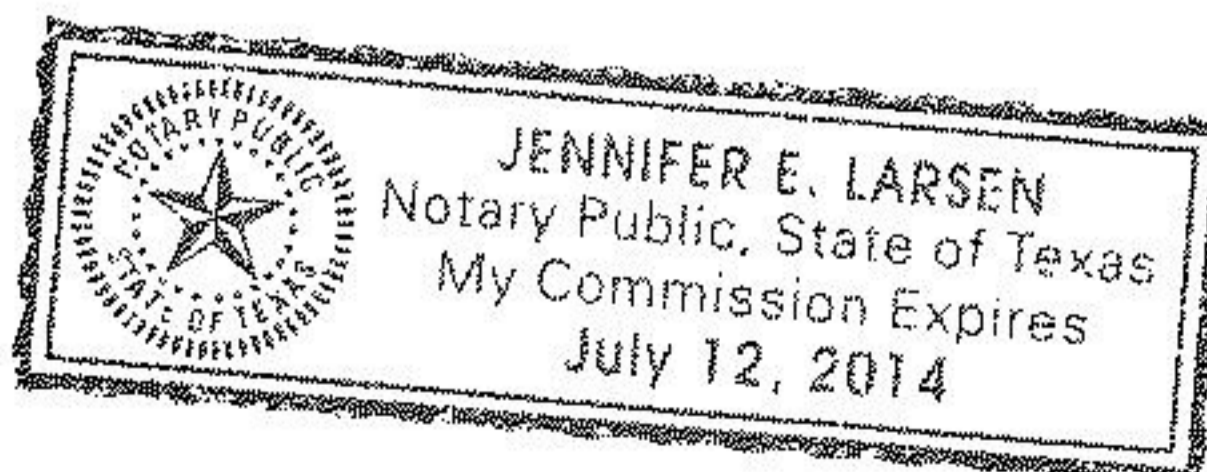
By: [Signature]  
Name: \_\_\_\_\_  
Title: PRESIDENT

STATE OF TEXAS §  
COUNTY OF Dallas §

This instrument was acknowledged before me on the 22nd day of December, 2011, by Grants Manzo, the President for Birmingham Ranch Homeowners' Association, Inc. on behalf of such Association.

[Signature]  
Notary Public in and for State of Texas

[Notary Seal]



BYLAWS  
OF  
BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.  
A TEXAS NON-PROFIT CORPORATION

Organized. Jan. 21, 2011

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**BYLAWS  
OF  
BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.  
A TEXAS NON-PROFIT CORPORATION**

**ARTICLE I  
NAME AND LOCATION**

The name of the association is **BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.** (the "Association"). The Association is a non-profit corporation organized under the Texas Business Organizations Code. The principal office of the Association shall be located at 3838 Oak Lawn Avenue, Suite 1500, Dallas, Texas 75219, but meetings of members and directors may be held at such places within the State of Texas as may be designated by the Board of Directors.

**ARTICLE II  
PURPOSE AND PARTIES**

**Section 2.01. Purpose.** The purpose for which the Association is formed is to govern the Birmingham Ranch subdivision ("Subdivision"), situated in the City of Wylie, County of Collin, State of Texas, which property is described in that certain Declaration of Covenants, Conditions and Restrictions for Birmingham Ranch (as same may be hereafter amended, the "Declaration"), and recorded in the Real Property Records of Collin County, Texas.

**Section 2.02. Parties.** All present or future owners ("Owners") of the lots in the Subdivision ("Lots"), tenants or future tenants of any Lot, or any other person who might use in any manner the facilities of the properties owned, managed or controlled by the Association ("Properties") are subject to the provisions and the regulations set forth in these Bylaws. The mere acquisition, lease or rental of any Lot or the mere act of occupancy of a Lot will signify that these Bylaws are accepted, approved, ratified, and will be complied with.

**ARTICLE III  
DEFINITIONS**

The definitions contained in the Declaration are incorporated herein by reference.

**ARTICLE IV  
MEMBERSHIP AND VOTING RIGHTS**

**Section 4.01. Membership.** Each and every Owner shall automatically be a member of the Association ("Member") without the necessity of any further action on his part, subject to the terms of the Declaration, the Certificate of Formation, these Bylaws, and the rules and regulations with respect to the Properties from time to time promulgated by the Association. Membership shall be appurtenant to and may not be separated from the interest of such Owner in and to any portion of the Lot owned by such Owner. Ownership of any portion of the Lots shall be the sole qualification for being a Member; provided, however, a Member's voting rights may be regulated or suspended as provided in the Declaration, these Bylaws, and/or the rules and

regulations promulgated thereunder. Persons or entities shall be Members by reason of ownership of land dedicated and accepted by the local public authority and devoted to public use and such land shall be owned subject to all of the terms and provisions of the Declaration except that: (i) ownership of land devoted to purposes described in this sentence shall not create any votes in the Members owning such land, and (ii) such non-voting Members shall not be required to pay any assessments other than special individual assessments as described and authorized in the Declaration. No person or entity shall be a Member by reason of ownership of any easement, right-of-way, or mineral interest. In addition, any person or entity that holds an interest in and to all or any part of the Lots merely as security for the performance of an obligation shall not be a Member.

**Section 4.02. Transfer.** Membership may not be severed from the Lots nor may it be in any way transferred, pledged, mortgaged or alienated except upon the sale or assignment of the Owner's interest in all or any part of the Lots and then only to the purchaser or assignee as the new Owner thereof. Membership shall not be severed by the encumbrance by an Owner of all or any part of the Lots. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void and of no further force or effect, and will be so reflected upon the books and records of the Association. Any transfer of the fee title to a Lot shall automatically operate to transfer membership to the new Owner thereof. In the event an Owner should fail or refuse to transfer the membership registered in such Owner's name to the transferee, the Association shall have the right to record the transfer upon its books and records.

**Section 4.03. Voting Rights.** The provisions dealing with voting rights are set forth in the Declaration.

**Section 4.04. Multiple Owner Votes.** Where there are multiple Owners of a Lot it is not intended by any provision of the Declaration or these Bylaws that each of said Owners shall be entitled to cast the votes allocated to such Lot nor may fractional votes be cast. When more than one person or entity owns the interest or interests in and to any Lot, as required for membership in the Association, each and every person or entity shall be a Class A Member, and the votes for any such Lot shall be exercised as they, among themselves, collectively determine and they shall designate one person to cast the votes or execute a written consent, as applicable. The Owners of such Lot will notify the Association, in writing, of the person so designated. Such notice will not be valid unless signed by all Owners of such Lot. The Association shall not be required to recognize the vote or written assent of any such multiple Owners except the vote or written assent of the Owner designated in writing executed by all of such multiple Owners and delivered to the Association.

If such Owners are unable to agree among themselves as to how the one vote per Lot shall be cast, they shall forfeit the right to vote on the matter in question. If more than one person or entity purports to exercise the voting rights with respect to any such Lot on any matter in question, none of such votes shall be counted in tabulating the vote on such matter and such votes shall be deemed void.

**Section 4.05. Suspension of Voting Rights.** The voting rights of any Member may be suspended by the Board for any period during which any assessment levied by the Association remains past due, unless the Member is in good faith contesting the validity or amount of the

Assessment. The voting rights of any Member may also be suspended by the Board for a period not to exceed sixty (60) days for an infraction of the rules and regulations set forth in the Declaration.

**Section 4.06. Quorum, Notice and Voting Requirements.**

(a) Subject to the provisions of Paragraph (d) of this Section, any action taken at a meeting of the Members for which voting requirements are not specifically addressed by the Declaration shall require the assent of the majority of all of the votes of those who are voting in person or by proxy, regardless of class, at a duly called meeting at which a quorum is present. "Majority of all of the votes" shall mean fifty-one percent (51%) or more of the outstanding votes (both classes counted together) held by the Members present in person or by proxy.

(b) The presence at the initial meeting of Members entitled to cast, or of proxies entitled to cast, sixty percent (60%) of the votes of all Owners, regardless of class, shall constitute a quorum for any action except as otherwise provided in the Certificate of Formation, the Declaration or these Bylaws. If the required quorum is not present or represented at the meeting, one additional meeting may be called, subject to the notice requirements set forth below, and the required quorum at such second meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, that no such second meeting shall be held more than sixty (60) days following the first meeting.

(c) Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) but not more than fifty (50) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

(d) As an alternative to the procedure set forth above, any action referred to in this Section may be taken without a meeting if a consent in writing, approving of the action to be taken, shall be signed by all Members or the percentage of Members required by the Declaration to take such action.

(e) In the event of a conflict between these Bylaws, the Declaration and the Certificate of Formation in the notice, voting and quorum requirements for actions to be taken by the Association, the requirements under the Declaration shall control.

**Section 4.07. Annual Meeting.** The first annual meeting of the Members shall be held within one (1) year after the date of incorporation of the Association. Thereafter, annual meeting shall be set by the Board so as to occur not later than ninety (90) days after the close of the Association's prior fiscal year. The time and place of all annual meetings shall be determined by the Board. The Board shall give written notice of the place of holding of the meeting to all Members.

**Section 4.08. Special Meetings.** Special meetings of the Members may be called at any time by the Declarant, by the President, by the Board, or upon the written request for a special meeting from Members who are entitled to vote at least sixty percent (60%) of the outstanding votes of the Members (all classes counted together).

**Section 4.09. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Proxies shall be revocable and shall automatically cease upon conveyance by the Member of his Lot, or upon receipt by the Secretary of the Association of notice of the death or judicially declared incompetence of such Member. Unless otherwise provided in the proxy, no proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided therein, except that the maximum term of any proxy shall be three (3) years from the date of execution.

**Section 4.10. Action Without Meeting By Written Ballot.** Any action which may be taken by the Members at a regular or special meeting, other than the election of directors, may be taken without a meeting if done in compliance with relevant provisions of the Texas Business Organizations Code, the Texas Miscellaneous Corporation Laws Act, and these Bylaws.

#### ARTICLE V BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

**Section 5.01. Number.** The affairs of this Association shall be managed by a Board of not less than three (3) or more than five (5) directors (herein, the "Board"). The number of directors may be changed by amendment of these Bylaws. The members of the initial Board or their successors, shall serve until the first annual meeting of the Members. The Declarant shall have exclusive right in its sole discretion to replace such Directors as may be selected and designated by it, and to select and designate their successor.

**Section 5.02. Term of Office.** At the first duly called meeting at which a quorum is present, the Members, voting regardless of class, shall elect two (2) directors for a term of two (2) years each and one (1) director for a term of three (3) years. At each annual duly called meeting thereafter at which a quorum is present, the Members, voting regardless of class, shall elect to replace those directors whose terms have expired. With the exception of the director elected at the first meeting to serve for a term of three (3) years, all directors shall serve for a term of two (2) years.

**Section 5.03. Removal.** With the prior approval of the Declarant, the entire Board may be removed from office, with or without cause, by a vote of Members holding a majority of the votes.

**Section 5.04. Vacancies.** Vacancies on the Board shall be filled subject to the following provisions:

(a) Vacancies by Death or Resignation. In the event of the death or resignation of a director, a successor director shall be selected by a majority of the remaining members of the Board and shall serve for the unexpired term of such director.

(b) Vacancies by Removal. Vacancies created by the removal of a director shall be filled only by a vote of Members holding a majority of the votes. Such director shall serve for the unexpired term of the removed director.

(c) Vacancies by Increase in Directorships. Any vacancy to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of Members called for that purpose.

**Section 5.05. Indemnification of Officers and Directors.** Except in cases of fraud, willful malfeasance, gross negligence or bad faith of the director or officer in the performance of duties, and subject to the provisions of applicable Texas law, each director and officer shall be indemnified by the Association and the Members against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him or her by judgment or settlement in connection with any proceeding to which he or she may be a party, or may become involved by reason of being or having been a director or officer of the Association. The Association may indemnify its officers and directors to the extent permitted by the Texas Business Organizations Code.

The Association may purchase and maintain insurance on behalf of any director or officer or may enter into other arrangements, such as creating a trust fund, establishing a form of self-insurance, or establishing a letter of credit, guaranty or surety arrangement, in connection with indemnification of directors and officers, provided, however, that in no event shall the grant of a security interest or other lien on the assets of the Association ever be given to secure an indemnity obligation under this Section 5.05.

**Section 5.06. Compensation and Loans.** No director shall receive compensation for any service such director may render to the Association. However, directors shall be reimbursed for actual expenses incurred in the performance of his or her duties of office. No loans may be made by the Association to any officer or director of the Association.

**Section 5.07. Action Without Meeting and Telephone Meetings.** The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors. The Board may hold duly called meetings between directors by conference, telephone or other similar communications equipment by means of which all participants in the meeting can hear each other.

## ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS

**Section 6.01. Nominations.** Nominations for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two or more Members. The Nominating Committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many

nominations for election to the Board as it in its discretion shall determine, but not less than the number of vacancies that are to be filled. Such nominations must be made from Owners or, where such Owner is not an individual person, an officer, director, shareholder, partner or representative of an Owner.

**Section 6.02. Election of Board.** The initial Board shall be set forth in the Certificate of Formation of the Association. The first election of the Board shall be conducted at the first meeting of the Association. All positions on the Board shall be filled at that election. Thereafter, directors shall be elected by Members at the annual meeting. At such elections the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VII MEETINGS OF DIRECTORS

**Section 7.01. Regular Meetings.** Regular meetings of the Board shall be held quarterly at such place within the State of Texas, and at such hour as may be fixed from time to time by resolution of the Board. If the meeting date falls upon a Saturday, Sunday or legal holiday, then that meeting shall be held at the same time on the next day which is not a Saturday, Sunday or legal holiday. Notice of the agenda and place of meeting shall be delivered either personally, by mail, by telephone, telegraph or facsimile communication equipment to the Board members not less than four (4) days prior to the meeting. However, notice of a meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. Attendance in person at a meeting, except where such director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened, shall constitute waiver of notice and such director's consent to the holding of said meeting. Participation by a director in a meeting by telephone or similar communication equipment shall constitute waiver of notice and attendance in person at such meeting.

**Section 7.02. Special Meetings.** Special meetings of the Board shall be held when called by written notice signed by the President or by any two (2) directors other than the President. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be sent to all directors by mail not less than three (3) days prior to the scheduled time of the meeting, provided that notice of the meeting need not be given to Board members who have signed a waiver of notice or a written consent to the holding of the meeting. An officer of the Association shall make reasonable efforts to notify all directors of the meeting by telephone. Attendance in person at a meeting, except where such director attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened, shall constitute waiver of notice and such director's consent to the holding of said meeting. Participation by a director in a meeting by telephone or similar communication equipment shall constitute waiver of notice and attendance in person at such meeting.

**Section 7.03. Quorum.** A majority of the total number of directors constituting the Board shall constitute a quorum for the transaction of business. Every act performed or decision

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.

**Section 7.04. Open Meetings.** All meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board.

**Section 7.05. Executive Session.** The Board may, with approval of a majority of a quorum of the Board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, disciplinary matters, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

**Section 7.06. Action Without Meeting and Telephone Meetings.** The Board may take actions without a meeting if all of its members consent in writing to the action to be taken and may hold duly called meetings between directors by conference telephone or other similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in a meeting shall constitute presence in person at such meeting, except where a person participates in such 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.

If the Board takes an action by unanimous written consent, an explanation of the action taken shall be sent by mail to all directors within three (3) days after the written consent of all directors have been obtained.

## ARTICLE VIII

### GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS

**Section 8.01. Powers and Duties.** The affairs of the Association shall be conducted by the Board. In addition to the powers and duties enumerated in the Declaration or elsewhere herein, and without limiting the generality thereof, the Board, for the mutual benefit of the Members, shall have the powers and/or duties set forth in the Declaration and the following powers and/or duties:

(a) If, as and when the Board, in its sole discretion, deems necessary it may take such action to enforce the terms and provisions of the Declaration, the Certificate of Formation and these Bylaws by appropriate means and carry out the obligations of the Association thereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel and accounting services, the commencement of legal causes of action, the promulgation and enforcement of the Association rules which may include the establishment of a system of fines and/or penalties enforceable as special individual assessments as provided in the Declaration and to enjoin and/or seek legal damages from any Owner for violation of such provisions or rules;

(b) To contract for and maintain such policy or policies of insurance as may be required by the Declaration or as the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members;

(c) To enter into contracts for legal and accounting services, maintain one or more bank accounts, and generally, to have the powers necessary or incidental to the operation and management of the Association;

(d) If, as and when the Board, in its sole discretion, deems it necessary it may, but shall not be obligated to, sue and defend in any court of law on behalf of the Association or one (1) or more of its Members;

(e) To establish and maintain a working capital and/or contingency fund in an amount to be determined by the Board;

(f) To make an unaudited annual report available (within one hundred twenty (120) days after the end of each fiscal year) to each Owner;

(g) Subject to the terms of the Declaration, to adjust the amount, collect and use any insurance proceeds to cover any insured liability of the Association;

(h) To delegate its powers and duties to committees, officers or employees as provided in these Bylaws, employ a manager or other persons and contract with independent contractors or managing agents who have professional experience to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or entity appointed as a manager or managing agent shall be terminable with or without cause on not more than ninety (90) days written notice by the Association and shall have a term of not more than one (1) year with successive one (1) year renewal periods upon the mutual agreement of the parties;

(i) To suspend the voting rights of any Owners who have failed to pay their assessments or who have otherwise violated the Declaration, these Bylaws or the rules and regulations of the Association;

(j) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by twenty-five percent (25%) or more of the outstanding votes of the Members, regardless of class.

(k) To elect the officers of the Association, as provided in these Bylaws;

(l) To fill vacancies on the Board, in accordance with Section 5.04(a) hereof;  
and

(m) Generally, to have the powers necessary or incidental to the operation and management of the Association.

**Section 8.02. Contracts Terminable.** So long as there exists any Class B Memberships, the Board shall not enter into any contracts or agreements unless such contracts or agreements are terminable by the Board upon ninety (90) days prior written notice or less.

**ARTICLE IX  
OFFICERS AND THEIR DUTIES**

**Section 9.01. Enumeration of Officers.** The officers of the Association shall be as follows:

- (a) A President, who shall at all times be a member of the Board;
- (b) A Vice President, who shall at all times be a member of the Board;
- (c) A Secretary, who may or may not be a member of the Board;
- (d) A Treasurer, who may or may not be a member of the Board; and
- (e) Such other officers, who may or may not be members of the Board, as the Board may from time to time by resolution create.

**Section 9.02. Multiple Offices.** The offices of President and Secretary may be held by the same person.

**Section 9.03. Election of Officers.** At its organizational meeting following the incorporation of the Association, the directors shall elect officers. Thereafter, the election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 9.04. Term.** The officers shall be elected annually by the Board and each shall hold office for one (1) year unless an officer shall sooner resign, be removed, or otherwise become disqualified to serve.

**Section 9.05. Special Appointments.** The Board may elect such other officers or appoint such other agents 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 9.06. Resignation and Removal.** Any officer may be removed from office by the Board with or without cause. 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 9.07. Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer.

**Section 9.08. Duties.** The duties of the officers are as follows:

- (a) President. The President shall (i) preside at all meetings of the Board; (ii) see that orders and resolutions of the Board are carried out; (iii) sign all contracts, leases,

mortgages, deeds and other written instruments; provided, however, that any duly authorized officer may sign checks and promissory notes; and (iv) shall perform such other duties as may be required by the Board.

(b) Vice President. The Vice President shall (i) act in the place and stead of the President in the event of the President's absence, inability or refusal to act; and (ii) shall exercise and discharge such other duties as may be required by the Board.

(c) Secretary. The Secretary shall (i) record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; (ii) keep the corporate seal of the Association and affix it on all papers requiring said seal; (iii) serve notice of meetings of the Board and of the Members; (iv) keep appropriate current records showing the Members of the Association together with their addresses; and (v) perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall (i) receive and deposit in appropriate bank accounts all monies of the Association; (ii) disburse such funds as directed by resolution of the Board; (iii) maintain the financial records of the Association; and (iv) perform such other duties of a similar nature as may be required by the Board.

#### ARTICLE X COMMITTEES

The Board shall appoint other committees as deemed appropriate in carrying out its purpose.

#### ARTICLE XI CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the name of the Association.

#### ARTICLE XII BOOKS AND RECORDS

**Section 12.01. Inspection by Members.** The membership register, books of account and minutes of meetings of the Members, of the Board and of committees shall be made available for inspection and copying by any Member or by the Member's appointed representative, at any reasonable time and for a purpose reasonably related to the Member's interest, at the office of the Association or at such other place as the Board may designate.

**Section 12.02. Rules for Inspection.** The Board shall establish reasonable rules with respect to:

(a) Notice to be given to the custodian of the records by the Member desiring to make the inspection;

(b) Hours and days of the week when such an inspection may be made; and

- (c) Payment of the cost of reproducing copies of requested documents.

**Section 12.03. Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical property owned by the Association. The rights of inspection by a director includes the right to make extra copies of documents.

### ARTICLE XIII ASSESSMENTS

The provisions of the Declaration specifically set forth the rights, obligations and liabilities of the Association and its Members relative to the levy, collection and use of assessments and those provisions are incorporated herein by reference for all purposes.

### ARTICLE XIV INDEMNIFICATION

Subject to the provisions of the Texas Business Organizations Code, the Association may indemnify directors, officers, agents and employees as follows:

**1. Extent.**

(a) Statutorily Required Indemnification. The Association shall indemnify its directors and officers against reasonable expenses incurred in connection with a proceeding in which the director or officer is named as a defendant or respondent because he is or was a director or officer of the Association if he has been wholly successful, on the merits or otherwise, in the defense of the proceeding. The Association may, at the direction and in the sole discretion of the Board, pay for or reimburse the director or officer for the payment of his reasonable expenses in advance of the final disposition of the proceeding, provided that the Association receives in writing (i) an affirmation by the director or officer of his good faith belief that he has met the standards of conduct necessary for indemnification under the Texas Business Organizations Code, and (ii) an undertaking by or on behalf of the director or officer to repay the amount paid or reimbursed if it is ultimately determined such standards of conduct have not been met.

(b) Permitted Indemnification. The Association, at the direction of and in the sole discretion of the Board, shall have the right, to such further extent as permitted by law, but not the obligation to indemnify any person who (i) is or was a director, officer, employee, or agent of the Association, or (ii) while a director, officer, employee, or agent of the Association, is or was serving at its request as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise.

2. **Insurance.** The Association may purchase and maintain insurance or another arrangement on behalf of any person who is or was a director, officer, employee, or agent of the corporation or who is or was serving at its request as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise against any liability asserted against him and incurred by him in such a capacity or arising out of his status as such a person, whether or not the Association would have the power to indemnify him against that liability pursuant to the provisions of the Texas Business Organizations Code. Furthermore, the Association may, for the benefit of persons indemnified by the Association, (i) create a trust fund; (ii) establish any form of self-insurance, (iii) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Association; or (iv) establish a letter of credit, guaranty, or surety arrangement.

#### ARTICLE XV AMENDMENTS

These Bylaws or the Certificate of Formation may be amended at a regular or special meeting of the Members by a vote (in person or by proxy) or written consent, as provided in Section 4.06 of these Bylaws; provided, however, until such time as the Declarant shall have agreed in writing, the Association shall not amend these Bylaws or the Certificate of Formation.

Further provided, Declarant, at its sole discretion and without a vote or the consent of any other party, may modify, amend or repeal these Bylaws or the Certificate of Formation: (i) at any time prior to the conveyance of the first Lot; (ii) as necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation or judicial determination; (iii) as necessary to comply with the requirements of the VA, HUD (Federal Housing Administration), FHLMC or FNMA or any other applicable governmental agency or secondary mortgage market entity; or (iv) as necessary to clarify or to correct technical, typographical or scrivener's errors; provided, however, any amendment pursuant to clause (ii), (iii) and/or (iv) immediately above must not have a material adverse effect upon any right of any Owner. Any amendment to these Bylaws or the Certificate of Formation shall be effective upon Recording. Notwithstanding anything to the contrary, for a period of five years from the date hereof, no amendment, modification or repeal of these Bylaws or the Certificate of Formation shall be effective without the written consent of Ryland Homes of Texas, Inc. ("Ryland"). Ryland is a third-party beneficiary of these provisions.

#### ARTICLE XVI MISCELLANEOUS

**Section 16.01. Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.


**Section 16.02. Interpretation.** In the case of any conflict between the Certificate of Formation and these Bylaws, the Articles shall control; in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the case of any conflict

between the Declaration and the laws of the State of Texas governing non-profit corporations, the laws of the State of Texas shall control; provided, however, to the extent reasonably practical, the Certificate of Formation, Bylaws and Declaration shall be construed and interpreted together as consistent and non-conflicting documents, such being the intent thereof.

### CERTIFICATION

I, the undersigned, am the duly elected and acting President of BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC., a non-profit corporation, and I do hereby certify:

That the within and foregoing Bylaws were adopted as the Bylaws of said corporation that the same do now constitute the Bylaws of said corporation, and that they have not been modified, amended nor rescinded.

  
Grant S. Morrow, President

Unofficial Copy



## Office of the Secretary of State

January 31, 2011

Attn: Ronald A. Bradshaw

Carrington, Coleman, Sloman & Blumenthal, L.L.P.  
901 Main Street, Suite 5500  
Dallas, TX 75202 USA

RE: BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC  
File Number: 801377156

It has been our pleasure to file the certificate of formation and issue the enclosed certificate of filing evidencing the existence of the newly created nonprofit corporation.

Nonprofit corporations do not automatically qualify for an exemption from federal and state taxes. Shortly, the Comptroller of Public Accounts will be contacting the corporation at its registered office for information that will assist the Comptroller in setting up the franchise tax account for the corporation. Information about franchise tax, and contact information for the Comptroller's office, is available on their web site at <http://window.state.tx.us/taxinfo/franchise/index.html>. For information on state tax exemption, including applications and publications, visit the Comptroller's Exempt Organizations web site at <http://window.state.tx.us/taxinfo/exempt/index.html>. Information on exemption from federal taxes is available from the Internal Revenue Service web site at [www.irs.gov](http://www.irs.gov).

Nonprofit corporations do not file annual reports with the Secretary of State, but do file a report not more often than once every four years as requested by the Secretary. It is important for the corporation to continuously maintain a registered agent and office in Texas as this is the address to which the Secretary of State will send a request to file a periodic report. Failure to maintain a registered agent or office in Texas, failure to file a change to the agent or office information, or failure to file a report when requested may result in the involuntary termination of the corporation. Additionally, a nonprofit corporation will file documents with the Secretary of State if the corporation needs to amend one of the provisions in its certificate of formation. If we can be of further service at any time, please let us know.

Sincerely,

Corporations Section  
Business & Public Filings Division  
(512) 463-5555  
Enclosure



## Office of the Secretary of State

### CERTIFICATE OF FILING OF

BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.  
File Number: 801377156

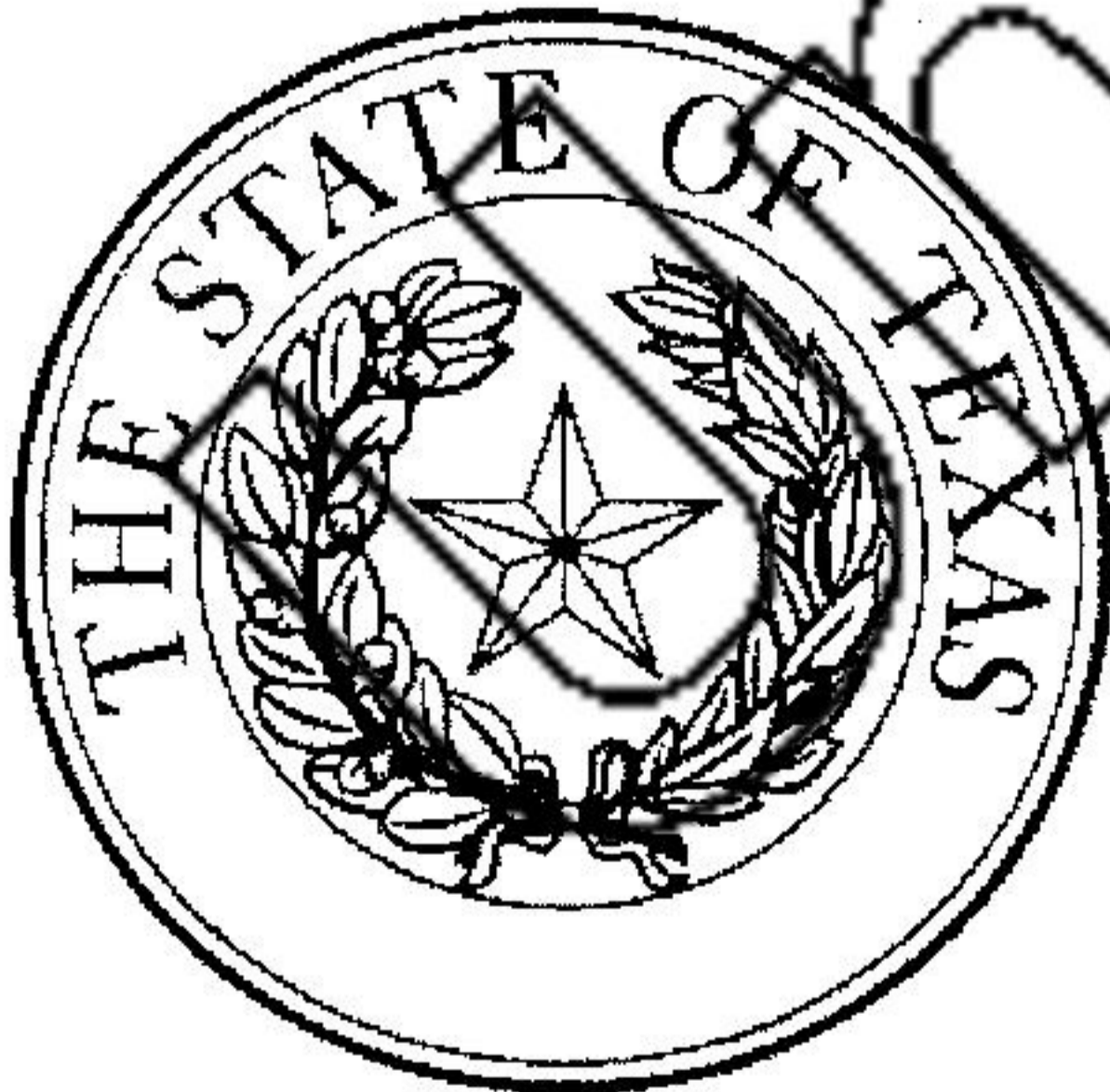
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

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: 01/28/2011

Effective: 01/28/2011



A handwritten signature in cursive script, appearing to read "Hope Andrade".

Hope Andrade  
Secretary of State

FILED  
In the Office of the  
Secretary of State of Texas

JAN 28 2011

ARTICLES OF INCORPORATION  
OF  
BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC.

Corporations Section

The undersigned natural person of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Non-Profit Corporation Act, hereby adopts the following Articles of Incorporation for such corporation:

ARTICLE I

The name of the corporation is BIRMINGHAM RANCH HOMEOWNERS' ASSOCIATION, INC., hereinafter sometimes called the "Association."

ARTICLE II

The Association is a nonprofit corporation.

ARTICLE III

The period of its duration is perpetual.

ARTICLE IV

The purposes for which the Association is organized are to administer the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BIRMINGHAM RANCH, filed or to be filed for record in the Official Public Records of Real Property of Collin County, Texas, as same may be amended from time to time (the "Declaration"), which affects Birmingham Ranch, a residential development in Collin County, Texas (the "Subdivision"), and reference being hereby made thereto for all purposes; to provide for the acquisition, construction, management, maintenance, operation and care of property as provided in the Declaration and, in general, to promote and foster civic pride and high standards of property ownership, development and maintenance in the Subdivision and any addition or additions thereto as may hereafter be brought within the jurisdiction of the Association, and for such purposes to:

- (a) perform all of the duties and obligations of the Association as set forth in the Declaration, which the Association is not precluded by law to exercise and perform;
- (b) cause to be enforced (i) the restrictions and covenants imposed upon all or part of the Subdivision by the Declaration, and (ii) the restrictions and covenants, if any, legally imposed hereafter upon the Subdivision by deed or otherwise;
- (c) to acquire (by gift, deed, lease or otherwise), own, hold, improve, operate, maintain, sell, lease, convey, dedicate for public use, otherwise dispose of and/or alienate real and personal property as the Association may deem necessary or appropriate and/or as provided in the Declaration;

(d) to borrow money, and mortgage, pledge or otherwise encumber, alienate or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred to conduct the lawful affairs of the Association; and

(e) to have and exercise any and all powers, rights and privileges which a corporation organized and existing under the Texas Non-Profit Corporation Act may by law now or hereafter have and exercise;

PROVIDED, HOWEVER, any of the foregoing provisions of this Article IV to the contrary notwithstanding, the Association is organized and shall be operated exclusively for civic and community service and other nonprofit purposes, and no part of any net earnings or other assets of this Association shall inure to the benefit of any Member of the Association or any owner in the Subdivision.

ARTICLE V

The street address of the initial registered office of the Association is Briargrove Place, 17855 North Dallas Parkway, Suite 200, Dallas, Texas 75287, and the name of its initial registered agent at such address is Fred Phillips

ARTICLE VI

The number of directors constituting the initial Board of Directors is three (3), and the names and addresses of the persons who are to serve as the initial directors are:

NAME	ADDRESS	TERM
Grant S. Morrow	3838 Oak Lawn Ave., Suite 1500, Dallas, TX 75219	3 years
Sheri Kuykendall	3838 Oak Lawn Ave., Suite 1500, Dallas, TX 75219	2 years
Linda K. West	3838 Oak Lawn Ave., Suite 1500, Dallas, TX 75219	2 years

The number of Directors may be changed by amendment of the Bylaws of the Corporation, but shall in no event be less than three (3).

ARTICLE VII

The name and street address of the incorporator is:

NAME	ADDRESS
Grant S. Morrow	c/o Graham Mortgage Corp. 3838 Oak Lawn Ave., Suite 1500, Dallas, TX 75219

## ARTICLE VIII

A. Every person who is a record owner of a fee or undivided fee interest in any lot within the Subdivision shall be a member of the Association (a "Member"). The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separate from ownership of any lot that is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for Membership.

B. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant during the Class B Control Period. Class A Members shall be entitled to one vote for each Lot owned. However, when more than one person holds an interest in any Lot, all such persons shall be members, but only one vote in total may be cast per Lot as the Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. The Association shall have no affirmative obligation to take any action to determine which Owner is the person designated to cast the Lot's vote. If the Owners fail to advise the Association of the person designated to cast the Lot's vote, then the Lot's vote shall be suspended if more than one person or entity seeks to exercise it.

Class B. The sole Class B Member shall be Declarant. The Class B Member is entitled to five votes for each Lot owned by the Class B Member. The Class B membership shall cease and be converted to Class A membership upon expiration of the Class B Control Period.

## ARTICLE IX

A. The conditions and regulations of membership in the Association shall be determined and fixed by these Articles and by the Bylaws; provided, however, that no part of the net earnings of the Association shall ever be distributed or shall otherwise inure to the benefit of any Member of the Association (or any owner in the Subdivision).

B. The Association may be dissolved with the written approval of not less than 2/3 of each class of membership as may be more specifically provided in the Bylaws and in accordance with the laws of the State of Texas. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association will be distributed to an appropriate public agency to be used for purposes similar to those for which the Association was created, or shall be granted, conveyed and assigned to a nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

## ARTICLE X

No director of the Association shall be liable to the Association or its Members for monetary damages for an act or omission in the director's capacity as a director, except that this Article does not eliminate or limit the liability of a director for (i) a breach of a director's duty of loyalty to the Association or its Members; (ii) an act or omission not in good faith or that

involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which a director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the director's office; or (iv) an act or omission for which the liability of a director is expressly provided for by statute. If the Texas Miscellaneous Corporation Laws Act or any other statute is amended subsequently to the filing of these Articles of Incorporation to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Association shall be eliminated or limited to the full extent permitted by such statute, as so amended.

Any repeal or modification of the foregoing paragraph by the Members of the Association shall not adversely affect any right or protection of a director of the Association existing at the time of such repeal or modification.

ARTICLE XI

Any action required by the Act to be taken at a meeting of the members or directors of the Corporation or any action that may be taken at a meeting of the members or directors or any committee may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by a sufficient number of members, directors or committee members as would be necessary to take that action at a meeting at which all of the members, directors, or members of the committee were present and voted. The written consent and notice of such shall conform to the requirements of Art. 1396-9.10 of the Act.

IN WITNESS WHEREOF, I have set my hand this 21 day of January, 2011.

*Grant S. Morrow*  
Grant S. Morrow, Incorporator

UNOFFICIAL



Filed and Recorded  
Official Public Records  
Stacey Kemp, County Clerk  
Collin County, TEXAS  
12/30/2011 08:55:22 AM  
\$104.00 DLAIRD  
20111230001410610

*Stacey Kemp*