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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE POSSUM KINGDOM COMMUNITIES

Made and Established on April 5th, 2007



True and correct copy of
original filed in the Palo
Pinto County Clerks Office

4-10-07
Rubie Smith

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE POSSUM KINGDOM COMMUNITIES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE POSSUM KINGDOM COMMUNITIES (this "Declaration") is made this 5th day of April, 2007, by SOUTHERN LAKES & LEISURE, LLC, a Texas limited liability company d/b/a THE HILLS ABOVE POSSUM KINGDOM LAKE (hereinafter referred to as the "Declarant").

Declarant is the fee simple owner of the Property and intends hereby to subject the Property to the mutually beneficial restrictions of this Declaration, which includes a general plan of Improvement for the benefit of the Owners and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Property. In furtherance of such plan, this Declaration provides for the Association to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the Bylaws, the Design Guidelines and the other Governing Documents.

Declarant hereby declares that all of the Property and any additional property subjected to this Declaration by any Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the Property. This Declaration shall be a burden and benefit to and shall be binding upon Declarant, the Association, the Owners and all other parties having any right, title or interest in any portion of the Property, their respective heirs, successors, successors-in-title and assigns:

ARTICLE I DEFINITIONS

As used in this Declaration the following terms shall have the meanings set forth below:

"ACC." The Architectural Control Committee, a committee which has the rights and duties as described in Section 8.4 of this Declaration.

"Access Easement." An easement as more particularly described in Section 9.2 of this Declaration.

"Act." The Texas Residential Property Owners Protection Act, Title 11, Chapter 209 of the Texas Property Code, as amended from time to time.

"Admiral's Club." That certain private recreational club whose membership is reserved to certain Owners and is operated by a Texas nonprofit corporation separate and distinct from the Association.

"Admiral's Club Easement." An easement as more particularly described in Section 9.3 of this Declaration.

"Allocated Interests." The allocation of Common Expenses and voting rights with respect to each Lot, which shall be divided equally among the total number of Lots within the Development, as may be



reallocated in accordance with the Reallocation Percentages as required from time to time pursuant to the provisions of this Declaration.

"Amenities Center." A recreational facility owned or to be owned by the Association for the common use and enjoyment of the Owners, which constitutes a portion of the Common Areas.

"Assessments." The General Assessments, Special Assessments and Individual Assessments, owing to the Association by an Owner or levied against a Lot by the Association.

"Association." Possum Kingdom Property Owners Association, Inc., a Texas nonprofit corporation organized under the TNCL and created for the purposes of and possessing the rights, powers, authority and obligations set forth in the Governing Documents.

"Authority." The Brazos River Authority.

"Authority Regulations." Collectively, the Regulations for Governance of Brazos River Authority Lakes and Associated Lands and any and all other rules and regulations of the Authority, as may be amended from time to time.

"Board of Directors." The Board of Directors of the Association named in the Certificate of Formation and their successors and duly elected and qualified from time to time.

"Bylaws." The bylaws of the Association, adopted by the Board of Directors, as amended from time to time, described on Exhibit C attached to this Declaration.

"Certificate of Formation." The Certificate of Formation of the Association, as filed with the Secretary of State of the State of Texas, as amended from time to time, described on Exhibit B attached to this Declaration.

"Common Areas." All real property (including the Improvements thereon) owned by Declarant or the Association for the common use and enjoyment of the Owners, which includes all real property in the Development except the Lots, the Admiral's Club and the Improvements constructed thereon.

"Common Areas Easement." An easement as more particularly described in Section 9.4 of this Declaration.

"Common Expenses." Expenses for which the Association is responsible, including those related to: (i) maintenance and repair of the Common Areas; (ii) casualty, public liability and other insurance coverages required or permitted to be maintained by the Association under the Governing Documents; (iii) Governmental Impositions levied and assessed against the Common Areas; (iv) utilities relating to the Common Areas; and (v) such other costs and expenses as may be reasonably related to the proper maintenance, care, operation and management of the Common Areas and the administration of the Association.

"Community-Wide Standard." The standard of conduct, maintenance, or other activity generally prevailing throughout the Development, established by the ACC in the Design Guidelines.

"County." Collectively, Palo Pinto County, Texas and Young County, Texas.



"Declarant." Southern Lakes & Leisure, LLC d/b/a THE HILLS ABOVE POSSUM KINGDOM LAKE or any successor, successor-in-title, or assign of Declarant evidenced in a recorded instrument assigning the rights, powers, authority and obligations of Declarant hereunder.

"Declaration." This Declaration of Covenants, Conditions and Restrictions for the Possum Kingdom Communities, and all amendments hereto, which shall be recorded in the Public Records.

"Design Guidelines." The design and construction guidelines and application and review procedures applicable to the Development promulgated and administered by the ACC, which are in Part III of the Rules and are described on Exhibit D attached to this Declaration.

"Development." That certain planned community located in Palo Pinto County and Young County, Texas which is commonly known and referred to as "The Possum Kingdom Communities", which is subject to and governed by the Governing Documents.

"Development Easement." An easement as more particularly described in Section 9.5 of this Declaration.

"Declarant Control Period." The period during which Declarant shall control the operation and management of the Association, which commences on the date of this Declaration and continues until: (i) 60 days after title to 95% of the Lots that may be created in the Development have been conveyed by Declarant to third party purchasers; or (ii) the earlier termination of the Declaration Control Period, as determined by Declarant in its sole discretion.

"Development Period." The 10 year period, which commences on the date of this Declaration, during which Declarant has certain management, development and construction rights pursuant to Article X of this Declaration, such as rights relating to the development, construction, expansion and marketing of the Development and the administration of the Association. The Development Period: (a) is for a number of years and does not require that Declarant own any portion of the Property in the Development; (b) may be different from and longer than Declarant Control Period; and (c) may be terminated by Declarant at any time.

"Drainage Easement." An easement as more particularly described in Section 9.6 of this Declaration.

"Dwelling." An Improvement located on each Lot that is designated for single family residential uses, whether or not such residence is actually occupied, excluding all subordinate buildings, attached to or detached from a Dwelling and ancillary living quarters on a Lot, such as a guest house.

"Flood Easement." An easement as more particularly described in Section 9.7 of this Declaration.

"General Assessment." Assessments levied on all Lots, which are established and collected by the Board of Directors pursuant to Section 7.1 of this Declaration for payment of the Common Expenses and other charges when due.

"Governing Documents." Individually and collectively, the Act, Declaration, Bylaws, Certificate of Formation, the Design Guidelines, the Restrictive Covenants, the Plat and the Rules.



"Governmental Authority." Any and all applicable courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental entity (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"Governmental Impositions." All real estate and personal property taxes, assessments, standby fees, excises and levies, and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time prior to or after the execution hereof, may be assessed, levied or imposed upon the Property, the Common Areas or any Lot by any Governmental Authority.

"Improvements." The Dwellings, the Admiral's Club, the Amenities Center, all guest houses, barns, recreational facilities, pavement, fencing, landscaping and man-made objects of every type, existing or placed on a Lot, Common Area or elsewhere in the Development.

"Individual Assessments." Assessments levied by the Board of Directors against one or more Owners pursuant to Section 7.4 of this Declaration.

"Legal Requirements." The Restrictive Covenants, the Authority Regulations and any other matters of record and any and all then-current judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to any Owner's use and enjoyment of its Lot, Dwelling, the Common Areas or the Development, including zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier, health and environmental laws and regulations.

"Lot." A portion of the Property, including the Improvements thereon, if any, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family, as shown upon the Plat.

"Member." All present and future Owners of any Lot in the Development.

"Mineral Easement." An easement as more particularly described in Section 9.8 of this Declaration.

"Mortgage." Any bona fide indebtedness that is the result of an arm's-length negotiation, that is secured by a first lien or encumbrance upon the Property and/or a Lot.

"Mortgagee." A beneficiary or holder of a Mortgage.

"Owner." One or more Persons owning fee title to any Lot, including Declarant but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

"Past Due Rate." The maximum lawful rate of interest under Texas law or, if no maximum lawful rate exists, the rate of 18% per annum.

"Person." Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other legal entity, including any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing.



"Plat." That certain plat map for Phase One, Section One of the Hills Above Possum Kingdom Lake, was recorded on March 26, 2007 and filed for record in Volume 9, Page 93, Slide 659 of the official plat and map records of the Palo Pinto County, Texas.

"Property." The real property described on Exhibit A, together with all and singular the rights and appurtenances pertaining thereto, including any additional real property that becomes part of the Property, as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of real property in accordance with Article X of this Declaration.

"Public Records." The records of the office of the county clerk of the County where instruments concerning real property are recorded.

"Reallocation Percentage." The allocation of Common Expenses and voting rights with respect to each Lot as set forth on a Supplemental Declaration, shall be divided equally among the total number of Lots within the Development.

"Restrictive Covenants." Collectively, all items filed of record in the Public Records affecting title to the Property.

"Rules." The rules and regulations of the Association initially adopted by the Board of Directors and as amended from time to time, relating to the appearance, use and occupancy of the Property and the Common Areas, described on Exhibit D attached to this Declaration.

"Special Assessment." Assessments established and collected from time to time by the Board of Directors pursuant to Section 7.3 of this Declaration, when due.

"Supplemental Declaration." An instrument filed in the Public Records for the purpose of adding real property to the Development, withdrawing real property from the Development and for such other purposes as are provided in the Governing Documents.

"Temporary Construction Easement." An easement as more particularly described in Section 9.9 of this Declaration.

"TNCL." The Texas Nonprofit Corporation Law, as amended from time to time.

"Utility Easement." An easement as more particularly described in Section 9.10 of this Declaration.

ARTICLE II PROPERTY RIGHTS

Section 2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Areas, which right and easement shall be appurtenant to such Owner's Lot, and shall pass with the title to each Lot. In addition, each Owner shall have the right to the undisturbed and quiet enjoyment of such Owner's Lot. Likewise, each Owner shall have the right to use the easements described in Article IX of this Declaration. Notwithstanding the forgoing, the Owner's right to use and enjoy the Common Areas, its Lot and the easement rights described in Article IX of this Declaration shall be subject to the following:

- (a) The terms and conditions of the Governing Documents;



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(b) Any restrictions or limitations contained in any deed conveying a Lot to an Owner or conveying the Common Areas to the Association;

(c) The Board of Directors' right to regulate or limit use of the Common Areas;

(d) The Board of Directors' right to suspend an Owner's right to use and enjoy any recreational facilities within the Common Areas;

(e) The Board of Directors' right to impose reasonable requirements and charge reasonable admission or other use fees for the use of any recreational facility within the Common Areas;

(f) The Board of Directors' right to permit use of any recreational facilities situated on the Common Area by Persons other than Owners, their families, lessees and guests;

(g) The Board of Directors' right to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(h) Declarant's right to conduct activities within the Common Areas, such as tournaments, charitable events, and promotional events and to restrict Owners from using certain portions of the Common Areas during such activities; and

(i) The Association's right to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes, subject to such conditions, as may be agreed to by the Members.

Section 2.2 **Title to the Common Areas.** Declarant hereby covenants for itself and its successors and assigns, that it will convey to the Association fee simple title to the Common Areas on or before the date that 95% of the Lots that may be created in the Development are sold to third party purchasers. Following said conveyance to the Association, Declarant shall receive reimbursement from the Association or a credit against future Assessments for any prepaid expenses or other amounts paid by Declarant that are attributable to any period of time after the date of such conveyance. The Common Areas shall be conveyed without any express or implied warranties, which such warranties are hereby expressly disclaimed by Declarant.

Section 2.3 **No Partition.** Except as permitted in this Declaration, there shall be no judicial partition of the Common Areas. This **Section 2.3** shall not prohibit the Board of Directors from acquiring and disposing of tangible personal property or from acquiring and disposing of real property which may or may not be subject to this Declaration.

Section 2.4 **Allocation of Common Expenses.** The initial Allocated Interests have been divided equally between the Lots within the Development. If Declarant elects to submit additional real property to the Development, the Allocated Interests of each Owner shall be recalculated in accordance with the Reallocation Percentages pursuant to the provisions of a Supplemental Declaration; provided, however, that such Allocated Interests, as determined by the Reallocation Percentages shall not be effective until the date such additional real property is added to the Development pursuant to a Supplemental Declaration.



ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 3.1 **Generally.** The Association has been incorporated as a nonprofit corporation under the TNCL. In addition to the powers conferred on the Association under the Governing Documents, the Board of Directors, on behalf of the Association, may take all actions authorized by the TNCL. Any and all actions taken by the Association pursuant to this Declaration, the TNCL or the Bylaws is binding on all Owners.

Section 3.2 **Membership and Voting.** Every Owner shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Each member shall be entitled to cast a number of votes equal to such Owner's Allocated Interest with respect to any matter on which members of the Association are entitled to vote. Any matter described in this Declaration or in the Governing Documents as requiring approval by a stated percentage or a majority of the Owners shall be calculated on the basis of the Allocated Interests, unless otherwise required by the Act. In cases where more than one Person owns a fee interest in a Lot, all such Persons shall arrange among themselves for one of their number to exercise the voting rights attributable to such Lot.

Section 3.3 **Suspended Voting Rights.** All voting rights of an Owner may be suspended during any period that such Owner is delinquent in the payment of any Assessment duly established pursuant to this Declaration, or is otherwise in default under the terms of the Governing Documents. Following an Owner's cure of such delinquency or default in full, its voting rights shall be completely reinstated 24 hours after such cure is effectuated.

Section 3.4 **Limitation of Liability of Officers and Directors of the Association.** No officer or director of the Association shall be liable to any Owner of any Lot for any claims, actions, demands, costs, expenses (including attorneys' fees), damages or liability, of any kind or nature, except as otherwise expressly set forth in the Governing Documents and such officers and directors shall be indemnified in accordance with the provisions of the Governing Documents.

Section 3.5 **Right of Action by Owners and the Association; Release.** The Owners, acting collectively or individually, shall have the right to maintain actions against the Association for its willful failure to comply with the provisions of the Act, this Declaration or the Bylaws or its willful failure to perform its duties and responsibilities hereunder; provided, however, except as otherwise provided by the Governing Documents, no other action shall be brought against the Association or its affiliates, parents, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties, by the Owners. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings in the name of any Owner. Subject to the Association's obligations under this Declaration, except as otherwise provided by the Governing Documents, each Owner hereby releases, acquits and forever discharges the Association, and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns and agrees to hold such Persons harmless of and from any and all claims, damages, liabilities, costs and/or expenses (including reasonable attorneys fees) relating to the construction of, repair or restoration of the Common Areas. This release shall release and forever discharge the Association and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns, from all claims and causes of action, whether statutory or under the common law, known or unknown, now accrued, or that arise in the future.



ARTICLE IV
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 4.1 **Function of Association.** Subject to the TNCL, the Board of Directors shall have and exercise all powers and duties necessary for the proper administration of the Development and affairs of the Association including the right to:

- (a) enforce and administer the Governing Documents;
- (b) acquire, own, maintain, operate and control the Common Areas and other real and personal property;
- (c) dedicate portions of the Common Area to any Governmental Authority or private utility provider; and
- (d) establish, levy and collect Assessments as provided in Article VII of this Declaration.

ARTICLE V
MAINTENANCE

Section 5.1 **Maintenance of Common Areas.** The Association shall maintain and repair the Common Areas, including:

- (a) all landscaping and other flora, parks, lakes, ponds, structures, and Improvements, including any entry features, private streets, bike and pedestrian pathways or trails;
- (b) all private streets and roadways;
- (c) the Amenities Center in a state of continuous operation, except for any periods necessary, as determined in the sole discretion of the Board of Directors, to perform required maintenance or repairs;
- (d) certain easements described in Article IX of this Declaration;
- (e) all furnishings, equipment and other personal property of the Association; and
- (f) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members.

Section 5.2 **Maintenance of Other Areas.** The Association may, as a Common Expense, maintain certain areas or Improvements other than the Common Areas, including property dedicated to the public, or provide a level of maintenance related to such property over and above the level being provided by the current owner of such property, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard within the Development. For example, the Association may maintain any fence, wall, entry feature or sign serving to enhance or designate the entry to the Development regardless of whether such Improvements are located within the Common Areas or the Development.

Section 5.3 **Relief from Maintenance Obligations.** The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (a) such maintenance



responsibility is otherwise assumed by or assigned to an Owner or (b) such Property is dedicated to a Governmental Authority unless the Association reserves the right or obligation to perform such maintenance responsibilities.

Section 5.4 **Maintenance Costs.** The cost and expense of such maintenance shall constitute a Common Expense and shall be payable as set forth in Section 7.2 of this Declaration. The Association may establish and maintain an adequate reserve fund for such purposes, to be funded by General Assessments rather than by a Special Assessment; provided, however, that the Association may require Special Assessments for such purposes, in accordance with Section 7.3 of this Declaration. Nothing in this Declaration shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Areas caused by the negligence or misconduct of an Owner or an Owner's occupants or invitees.

Section 5.5 **Failure of Association to Maintain.** If the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, Declarant may, upon not less than ten days' notice and opportunity to cure such failure, cause such maintenance to be performed and, in such event, shall be entitled to reimbursement from the Association for all costs incurred.

Section 5.6 **Limitation of Liability.** The Association shall not be liable: (a) for injury or damage to any Person or property caused by the elements or by the Owner of any Lot or any other Person, or resulting from any utility, rain, snow or ice which may leak or flow from or over any portion of the Common Areas; (b) to any Owner or occupant of any Lot for loss or damage, by theft or otherwise, of any person property which may be stored in or upon any of the Common Areas; or (c) to any Owner or occupant of any Lot for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under Section 5.1 of this Declaration.

Section 5.7 **Owner's Responsibility.** Each Owner shall maintain its Lot, and all Improvements and landscaping thereon in a manner consistent with the Community-Wide Standard and all Governing Documents. With respect to any Lot upon which a Dwelling has not yet been constructed, such maintenance responsibility shall include the removal of all litter and trash on a regular basis. Each Owner shall replace worn and rotted portions of the Improvements on its Lot and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the Improvements to deteriorate in an unattractive manner. Owners shall keep grass, weeds and vegetation in a clean, attractive and well maintained condition. The Owner of each Lot shall, upon occupation of a Dwelling, establish grass front and side yards, maintain such yards in a sanitary and attractive manner and edge the street curbs that run along the property line of the Lot, as well the sidewalks and along all flowerbeds and treewells. Grass, weeds and vegetation on each Lot must be kept mowed at regular intervals so as to maintain the Lot in a neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed from the Lot. No Owner shall permit weeds or grass to grow to a height of greater than 12 inches upon its Lot.

Section 5.8 **Failure of Owner to Maintain.** If any portion of a Lot or any Improvement thereon, in the reasonable judgment of the Board of Directors: (a) constitutes a public or private nuisance; (b) substantially detracts from the appearance or quality of the surrounding Lots, the Common Areas, other areas of the Development or any adjacent land owned by Declarant; or (c) constitutes a breach of any of the terms of the Governing Documents, the Board of Directors may give such Owner written notice thereof and a deadline by which such Owner's Lot or Improvements must be brought into compliance or such breach must be cured and such Owner must, within ten days after receiving such notice, commence to perform the care and maintenance specified in such notice and pursue the same with due diligence to completion. Should any such Owner fail to fulfill this duty and responsibility within



such time period, the Board of Directors shall have the right and power to enter onto such defaulting Owner's Lot and perform the repairs or maintenance without any liability for damages. Such defaulting Owner shall jointly and severally be liable for the cost of such work and shall promptly reimburse the Association for such cost. If such Owner shall fail to reimburse the Association within 30 days after receipt of a statement for such work from the Association, then such costs shall constitute an Individual Assessment. Entry by the Association or its designee under this Section 5.8 shall not constitute a trespass.

Section 5.9 **Standard of Performance.** Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising out of the condition of, property which such they do not own except to the extent that that the Association or an Owner, as applicable, has been negligent in the performance of its maintenance responsibilities.

ARTICLE VI INSURANCE, CASUALTY AND CONDEMNATION

Section 6.1 **Association Insurance.** The Board of Directors shall obtain and continue in effect such types of insurance as required by all applicable Legal Requirements, including the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable Improvements on the Common Areas. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Association shall have the authority to insure any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured Improvements;

(b) Commercial general liability insurance on the Common Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in the aggregate with respect to bodily injury, personal injury, and property damage, provided that should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage;

(e) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the best business judgment of the Board of Directors but not less than an amount equal to one-sixth of the annual General Assessments on all Lots plus reserves in possession of the Association. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation;



(f) Such additional insurance as the Board of Directors, in its best business judgment, determines advisable, which may include flood insurance if any portion of the Common Areas are or shall become located in an area identified by the Federal Emergency Management Agency as an area having special flood hazards, which shall include "blanket" policy of flood insurance on the Common Area must be maintained in the amount of 100% of current "replacement cost" of all affected Improvements and other insured property or the maximum limit of coverage available, whichever is less.

Section 6.2 **Casualty.** The following provisions shall govern if the Common Areas or any part thereof, are damaged or destroyed by fire or other casualty: (a) prompt written notice of any substantial damage or destruction shall be given by the Association to all Owners; (b) the Association shall promptly proceed with the full restoration and repair of such damage or destruction unless (i) repair or replacement would be illegal under any Legal Requirement; or (ii) during the Development Period, Declarant, and after the Development Period, at least 80% of the Allocated Interests, vote not to rebuild; (c) the amount by which such restoration and repair costs exceed collectible insurance proceeds shall be and constitute a Special Assessment payable by the Owners within 60 days of the date notice of such Special Assessment is delivered by the Association, in accordance with Section 7.3 of this Declaration; and (d) any excess insurance proceeds remaining after such restoration and repair, or any insurance or sales proceeds available absent such restoration and repair, shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

Section 6.3 **Condemnation of Common Areas.** The Association shall be the sole representative with respect to condemnation proceedings concerning Common Areas and shall act as attorney in fact for all Owners in such matters. If any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board of Directors acting on the vote of at least 67% of the Allocated Interests and, during the Development Period, the written consent of Declarant) by any Governmental Authority, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds. Such award or proceeds shall be payable to the Association. If the taking or conveyance involves a portion of the Common Area on which Improvements have been constructed, the Association shall restore or replace such Improvements on the remaining property within the Common Area to the extent practical, unless within 60 days after such taking Declarant, during the Development Period, and at least 67% of the Allocated Interests after the Development Period vote not to reconstruct such Improvements. Any such construction shall be in accordance with plans approved by the Board of Directors and the ACC. If the taking or conveyance does not involve any Improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

Section 6.4 **Condemnation of Lots.** If an entire Lot is the subject of a taking such Lot's entire Allocated Interest shall be automatically reallocated to the remaining Lots in proportion to the respective Allocated Interests of those Lots before such taking. If no repair or rebuilding shall be required, or if none be undertaken, the remaining portion of the Lot shall be resurveyed, if necessary, and this Declaration shall be amended to reflect such taking. This Declaration shall in all circumstances be amended to reflect the re-allocated Allocated Interests following the taking. If only a portion of a Lot is subject to a taking, such that the remaining portion of such Lot can practically and lawfully be used for any purpose permitted by this Declaration, the Owner shall be entitled to the award for such taking, and the Allocated Interest of the Unit subject to such taking shall be reduced and the Allocated Interests of the other Lots shall be increased in accordance with the Reallocation Percentage. The Owner of such Lot, at its sole cost and expense, shall promptly repair, restore and rebuild the remaining portions of such Lot as nearly as possible to the condition which existed prior to such taking.



ARTICLE VII ASSESSMENTS

Section 7.1 **Creation of Assessments.** The Board of Directors shall possess the right, power, authority and obligation to establish General Assessments sufficient in its judgment to pay all Common Expenses when due. Such General Assessments so established shall be payable by the Owners when due, as determined by the Board of Directors, and shall be applied to the payment of Common Expenses for which the Association is responsible, including maintenance, repair and care of the Common Areas.

Section 7.2 **Budget.** Prior to the commencement of each fiscal year of the Association, the Board of Directors shall prepare and deliver to each of the Owners a budget. Such budget shall be in sufficient detail so as to inform each Owner of the nature and extent of the Common Expenses anticipated to be incurred in the upcoming fiscal year, and shall be accompanied by a statement setting forth each Owner's share thereof, which shall be determined in accordance with such Owner's Allocated Interests, the date as of which such General Assessments shall commence to be payable and whether such General Assessments shall be payable in monthly, quarterly, semi-annual or annual installments, as may be determined by the Board of Directors. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the General Assessments payable hereunder, and the failure of the Board of Directors to timely deliver such budget shall in no event excuse or relieve an Owner from the payment of the General Assessments contemplated hereby, in which case, each Owner shall pay to the Association an amount equal to such Owner's General Assessment for the prior fiscal year. Any budget prepared and delivered to the Owners as contemplated in this Section 7.2 may be amended as reasonably necessary, and the amount of an Owner's General Assessment may be changed to correspond therewith.

Section 7.3 **Special Assessments.** In addition to the General Assessments contemplated by Section 7.1 of this Declaration, the Board of Directors shall possess the right, power, authority and obligation to establish Special Assessments from time to time as may be necessary or appropriate in its judgment to pay non-recurring Common Expenses relating to the proper maintenance, care, alteration, improvement, replacement, operation and management of the Common Areas and the administration of the Association. Special Assessments shall be payable in such manner and at such times as determined by the Board of Directors, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

Section 7.4 **Individual Assessments.** In addition to General Assessments and Special Assessments contemplated in Section 7.1 and Section 7.3 of this Declaration, the Board of Directors shall possess the right, power and authority to establish or levy Individual Assessments in accordance with the provisions of this Declaration against individual Owners or an Owner's Lot for charges properly borne solely by one or more but less than all the Owners, such as (without limitation) charges for additional services, damages, or fees, including costs incurred by the Association in performing maintenance or repairs on an Owner's Lot to bring such Owner's Lot or Dwelling into conformity with or the provisions of the Governing Documents. Individual Assessments shall be the personal obligation of the Owner against whom the Individual Assessment is assessed, and shall constitute a lien against the Lot in the same manner and with the same consequences as the General Assessment and any duly authorized Special Assessment.

Section 7.5 **Purpose of Assessments.** The Assessments levied by the Board of Directors shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members, and in particular, for the improvement, maintenance and operation of the Common Areas, services and facilities devoted to this purpose and related to the use and enjoyment of the Property by the Members.



Section 7.6 **Reserves.** The Board of Directors may establish and maintain an adequate reserve fund which may be established and maintained, insofar as is practicable, out of General Assessments for Common Expenses.

Section 7.7 **Obligation to Pay Assessments.** Except as provided in Section 7.8 below, each Owner shall be personally obligated to pay its share of all Assessments duly established pursuant to this Declaration to the Association. Unpaid Assessments due as of the date of the conveyance or transfer of a Lot shall not constitute a personal obligation of the new Owner (other than such the new Owner's pro rata share of any reallocation thereof); however, the former Owner shall continue to be personally liable for such unpaid Assessment. No Owner shall be entitled to exemption from liability for the Owner's obligation to pay such Assessments by waiver of the use and enjoyment of its Lot or the Common Areas, by an abandonment of its Lot or by any other action or otherwise. Any Assessment not paid within five days of the date due shall bear interest at Past Due Rate, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of collection, including reasonable attorneys' fees, to the extent permitted under the Act, by suit in a court of competent jurisdiction sitting in the County. It shall be the responsibility of the Board of Directors to collect any such delinquent Assessment, the existence of which shall be made known by written notice delivered to the defaulting Owner and, where requested, to any Mortgagee.

Section 7.8 **Declarant's Obligation to Pay Assessments.** During the Declarant Control Period, Declarant shall be responsible for funding the difference between the Association's actual operating expenses and the General Assessments received from the other Owners. During such time, all Lots owned by Declarant shall not subject to General Assessments. Upon the expiration of the Declarant Control Period, Declarant shall be liable for the full payment of Assessments on all Lots Declarant owns, in the same manner as any other Owner, and shall no longer be obligated to fund the deficit between the Association's actual operating expenses and the Assessments collected by the Association. Nothing in this Declaration, however, shall preclude Declarant from electing to pay Assessments on any Lot it owns during the Declarant Control Period.

Section 7.9 **Assessment Lien and Foreclosure.** ALL SUMS ASSESSED IN THE MANNER PROVIDED FOR IN THIS ARTICLE VII, TOGETHER WITH INTEREST FROM SUCH DUE DATE AT THE PAST DUE RATE AND THE COSTS OF COLLECTION, INCLUDING REASONABLE ATTORNEY'S FEES, ARE SECURED BY A CONTINUING CONTRACTUAL LIEN AND CHARGE ON EACH LOT COVERED BY SUCH ASSESSMENT, WHICH SHALL BIND SUCH LOT AND THE OWNER THEREOF AND ITS HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The aforesaid contractual lien shall attach to the Lot as of the date of the recording of this Declaration and shall be superior to all liens other than (a) a Mortgage on the Lot of an Owner recorded prior to this Declaration or (b) the lien securing real estate taxes. The Association shall have the power to subordinate the aforesaid contractual lien to any other lien. The contractual lien shall be a continuing charge and lien upon each such Lot as a covenant running with the land, and any such Assessments, interest, costs and other charges assessed or charged and remaining unpaid with respect to any Lot shall constitute a lien and encumbrance on such Lot until the same is paid in full. Declarant hereby reserves such a lien upon each Lot in the name of and for the benefit of the Association, and each Owner of each Lot, by acquisition of such Lot, grants to the Association a power of sale in connection with the Association's liens. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. To evidence any unpaid Assessment, the Association may prepare a written notice of unpaid Assessment (the "Notice of Unpaid Assessments") setting forth the amount of the unpaid Assessment, the name of the Owner of the affected Lot, and a description of the affected Lot. Such notice shall be recorded in the real property records of the County. The Association shall record an appropriate release of any recorded Notice of Unpaid Assessments when the amounts referenced therein have been paid. THE LIEN FOR PAYMENT OF ASSESSMENTS MAY BE



ENFORCED BY FORECLOSURE OF THE LIEN UPON THE DEFAULTING OWNER'S LOT BY THE ASSOCIATION SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENTS AS PROVIDED ABOVE EITHER BY JUDICIAL FORECLOSURE OR BY NON-JUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A DEED OF TRUST ON REAL PROPERTY IN ACCORDANCE WITH SECTION 51.002 OF THE TEXAS PROPERTY CODE, AS SUCH MAY BE AMENDED, REVISED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME. In addition, the Association may institute suit against the Owner personally to obtain a judgment for unpaid Assessments. In any foreclosure proceeding, whether judicial or non-judicial, or in any other suit against the Owner, the Owner shall be required to pay the costs, expenses and reasonable attorneys' fees incurred by the Association, except as may be limited by the Act.

Section 7.10 **Commencement of Obligation to Pay Assessments.** Each Owner, other than Declarant, shall be obligated to commence payment of all Assessments against such Lot on the date the Lot is conveyed to the Owner. If such date is other than the first day of a month, then such Owner shall be obligated to pay only a pro rata share of the Assessment against such Lot based on the number of days during such month that the Owner will hold title to the Lot. Nothing contained in this Declaration shall prevent Declarant from collecting from the purchaser of a Lot at closing any expenses, such as insurance premiums, to the extent that Declarant prepaid such expenses on behalf of the Lot being purchased.

Section 7.11 **Notice of Default.** If an Owner defaults in the Owner's monetary obligations to the Association, the Association may notify other lienholders of the default and the Association's intent to foreclose its lien. The Association shall notify any holder of a recorded lien or duly perfected mechanic's lien against a Lot which has given the Association a written request for notification of the Owner's monetary default or the Association's intent to foreclose its lien.

Section 7.12 **Statement of Expenses and Access to Records.** Upon request, the Association shall promptly provide any Owner, contract purchaser or Mortgagee with a written statement of all unpaid Assessments due with respect to such Lot. The Association may impose a reasonable charge for the preparation of such statement to the extent permitted by the Act. The Association shall make available during normal business hours for inspection, upon request by the Owners, Mortgagees, occupants, prospective purchasers and any of their authorized agents, current copies of the books, records and financial statements of the Association (including, if such is prepared, the most recent annual audited financial statement available). Any Owner or Mortgagee may have an audited statement of the Association prepared at its own expense.

Section 7.13 **Alternative Actions.** Nothing contained in this Declaration shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien.

Section 7.14 **Enforcement of Assessments; Owner's Right of Redemption.** All actions taken by the Association with respect to suspending an Owner's right to use the Common Areas, filing suit against an Owner (other than a suit to collect an Assessment or foreclosing under the Association's lien), charging an Owner for property damage, or levying a fine for a violation of the Governing Documents, shall be governed by and shall be in accordance with the Act. An Owner of a Lot purchased by the Association or a third party at a foreclosure sale of the Association's lien for Assessments, may be entitled to redeem such Lot in accordance with Section 209.011 of the Act.

Section 7.15 **Applicability of the Act.** Notwithstanding anything to the contrary in this Article VII elsewhere in this Declaration or in the Governing Documents, any claim against an Owner that is also in the nature of an "enforcement action" under the Act shall be subject to all applicable



provisions of the Act. To the extent of any conflict between the provisions of this Declaration and the provisions of the Act, the Act shall be controlling.

Section 7.16 **Exempt Property.** The following Property shall be exempt from payment of Assessments:

- (a) All Common Areas;
- (b) The Admiral's Club;
- (c) Any property dedicated to and accepted by any Governmental Authority or public utility;
- (d) Any property that is owned by a charitable organization or nonprofit corporation or public agency whose primary purposes include the acquisition and preservation of open spaces for public benefit, and which is held by such agency or organization for such recreational or open space purposes; and
- (e) Any unsold Lots owned by Declarant during the Declarant Control Period.

Section 7.17 **Default Interest Rate; Insufficient Funds; Late Fees.** Except as otherwise provided in the Governing Documents, any Assessment levied upon an Owner which is not paid within 30 days after the date upon which it is due shall bear interest at the Past Due Rate. In addition, if any Owner pays any Assessment to the Association with a check on an account that has insufficient funds, the Board of Directors may, in its sole discretion, demand that all future payments be made by certified check or money order along with imposing a reasonable processing charge. Finally, the Association may charge a delinquent Owner an administrative/late fee in an amount determined by the Board of Directors for each installment due to the Association which is delinquent. Any payment received by the Association shall be applied first to any attorneys' fees and other costs of collection, then to any interest accrued on the late installment, then to any administrative late fee, and then to the delinquent Assessment.

ARTICLE VIII

USE RESTRICTIONS

Section 8.1 **Residential Use.** All Lots shall be used only for single family residential purposes and for ancillary business or home office uses. A business or home office shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the activity limits the number of employees on the premises to not more than two at any given time; provided, further, that there is reasonable parking to accommodate such employees; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other invitees or door-to-door solicitation of residents within the Development; (d) the activity does not increase traffic or include frequent deliveries within the Development; and (e) the activity is consistent with the residential character of the Development and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents within the Development, as may be determined in the sole discretion of the Board of Directors.

Section 8.2 **Use of Common Areas.** Common Areas may be used by Owners and their invitees and licensees only for recreation, exercise, congregation, relaxation, diversion or social interaction. Specifically, the sidewalks and hiking trails shall only be used for walking, jogging or any other means of foot travel. Any portion of the Common Areas designed in a park-like fashion may be



used for meetings, picnicking, exercising, and any other use consistent with the uses allowed in this Article VIII and the Governing Documents.

Section 8.3 Rules. The Board of Directors shall have the power to formulate, publish and enforce reasonable Rules concerning the use and enjoyment of the Common Areas and the Lots. Such Rules shall provide for imposition or fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration. All portions of the Development shall be used in accordance with the Legal Requirements.

Section 8.4 Architectural Control Committee. Declarant has designated certain individuals to comprise the initial ACC, each of whom are generally familiar with the residential and community development design matters and knowledgeable about Declarant's concern for consistent design standards in the Development. Declarant and/or the ACC has prepared the Design Guidelines, which sets forth the duties and obligations of the ACC, as well as certain rules and guidelines with respect to the construction on any Improvements within the Development. The ACC shall have the power and authority to make any such subjective judgments and to interpret the intent and provisions of this Declaration, the Design Guidelines and the other Governing Documents, as the ACC may deem appropriate in its sole discretion. All development of the Lots and construction of Improvements thereon shall be in accordance with the Design Guidelines. During the Development Period, the ACC shall consist of Declarant and Declarant's designees or agents. After the Development Period, the ACC shall be appointed by the Board of Directors.

Section 8.5 Mineral Rights. Portions of the Development shall be subject to certain reservations, leases or conveyances of oil, gas or mineral rights pursuant to one or more deeds or other instruments, which may grant or convey rights to all oil, gas or mineral rights lying on, in or under the Property and surface rights of ingress and egress thereon to third parties. These interests are superior and prior to this Declaration and by accepting title to or an interest in a Lot, each Owner acknowledges the existence of the mineral rights and reservations referenced herein and the rights in favor of the owner and lessees of such mineral interests.

Section 8.6 Use of Other Property. Declarant makes no representation of any kind as to the current or future uses of any property that is located near or adjacent to the Development, whether such property is owned by Declarant or otherwise.

Section 8.7 Authority Use Restrictions. Subject to the Authority Regulations: (i) no Owner may occupy any property owned by the Authority; (ii) no Owner shall be issued any permits for water rights or for construction, dirt work or vegetation removal on any property owned by the Authority; and (iii) no Owner may construct any private on-water facilities on the lake, such as marinas, docks, piers, platforms, duck blinds, mooring buoys or any other improvement prohibited by the Authority Regulations.

ARTICLE IX EASEMENTS

Section 9.1 Generally. Each Owner accepts a deed conveying title to a Lot subject to the easements granted and reserved, as applicable, in Article IX of this Declaration, which easements (and all related rights and obligations related to such easements arising on or after the date of any transfer) shall run with the Property.

Section 9.2 Access Easement. Declarant hereby grants and reserves a perpetual, irrevocable, assignable and non-exclusive Access Easement over, on and across each Lot: (a) for its own benefit, for



the benefit of the ACC and the Association for the maintenance, repair or replacement of the Common Areas or Improvements thereon or accessible therefrom which they are obligated to maintain or review and for the making of emergency repairs therein necessary to prevent damage to the Development or any other Lot; (b) for its own benefit for the exercise of any rights Declarant has reserved in this Declaration; (c) for the benefit of each Owner for the use of a Lot by its Owner, provided no other reasonable means of access exists; (d) the evacuation of all or any part of the Development in the event of an emergency; and (e) such other reasonable purposes as are deemed by the Association or the ACC to be necessary for the performance of their obligations as described in the Governing Documents, including for emergency, security, and safety reasons. Such right may be exercised by the authorized agents, employees and managers of the Association and the ACC, by any member of the Board of Directors and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. The Association and the ACC will endeavor to provide prior notice of entry to an Owner's Lot to the extent practical. The portion of the Lots subject to the Access Easement shall be maintained by the Owners of such Lots in accordance with Section 5.7 of this Declaration, provided that the Association shall be responsible for the maintenance of all areas of the Common Areas subject to the Access Easement.

Section 9.3 Admiral's Club Easement. Declarant hereby grants a perpetual, irrevocable, non-exclusive Admiral's Club Easement on, over and across the Common Areas for its own benefit and for the benefit of each member of the Admiral's Club and the association of the Admiral's Club for ingress to and egress through the Development to the Admiral's Club, together with the non-exclusive right to use and enjoy the Admiral's Club.

Section 9.4 Common Areas Easement. Declarant hereby grants a perpetual, irrevocable, non-exclusive Common Area Easement on, over and across the Common Areas for the benefit of each Owner and the Association for ingress to and egress from its Lot to the Common Areas, together with the non-exclusive right to use and enjoy the Common Areas. Declarant further reserves an irrevocable, non-exclusive easement on, over and across the Common Areas for its own benefit and for the benefit of its successors and assigns and employees and agents, for the purpose of construction of Improvements within the Development, including the right of temporary storage of construction materials on said Common Areas.

Section 9.5 Development Easement. Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Development Easement: (a) for the benefit of the ACC and its designees for ingress and egress at all times on, over and across the Development for the performance of its rights, duties and obligations under this Declaration; and (b) for its own benefit over the Development as may be necessary in conjunction with the orderly development of the Development, including the marketing of Lots and the leasing, planning, construction and management of Improvements thereon. The portion of the Lots subject to the Development Easement shall be maintained by the Owners of such Lots in accordance with Section 5.7 of this Declaration, provided that the Association shall be responsible for the maintenance of all areas of the Common Areas subject to the Development Easement.

Section 9.6 Drainage Easement. Declarant hereby grants and reserves a perpetual, irrevocable, assignable and non-exclusive Drainage Easement over, on and across the Development for its own benefit and for the benefit of all Owners for the flow of surface and subsurface waters across each Lot and to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance, which may be accomplished by: (a) grading and planting or removing vegetation (without liability for replacement or damages) from any area of a Lot which is or may be subject to soil erosion; (b) drainage of natural or man-made water flow and water areas from any portion of the Development; (c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Lot or Common Area; (d) dredging, enlarging, reducing



or maintaining any water areas or waterways within the Development; and (e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Development. No Owner may perform or cause to be performed any act which would alter or change the course of such Drainage Easements in a manner that would divert, increase, accelerate or impede the natural flow of water over and across such easements. More specifically, and without limitation, no Owner may, without written approval of the ACC: (i) alter, change or modify the existing natural vegetation or design of the Drainage Easements in a manner that changes the character of the design or original environment of such easements, alter, change or modify the existing configuration of the Drainage Easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom; (ii) construct, erect or install a fence or other structure of any type or nature within or upon any portion of the Drainage Easement; provided however, fences may be permitted in the event proper openings are incorporated therein to accommodate the natural flow of water over said easement; (iii) permit storage, either temporary or permanent, of any type upon or within such Drainage Easements; or (iv) place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the Drainage Easements, either on a temporary or permanent basis. The portion of the Lots subject to the Drainage Easement shall be maintained by the Owners of such Lots in accordance with Section 5.7 of this Declaration, provided that the Association shall be responsible for the maintenance of all areas of the Common Areas subject to the Drainage Easement.

Section 9.7 Flood Easement. Declarant reserves an irrevocable, non-exclusive Flood Easement on, over and across the Common Areas and Lots adjacent to or within 50 feet of ponds, streams and wetlands for its own benefit and for the benefit of its successors and assigns and employees and agents to: (a) temporarily flood and back water upon and maintain water over such portions of the Development; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the ponds, streams, and wetlands within the Common Areas; (c) maintain and landscape the slopes and banks pertaining to such ponds, streams, and wetlands; and (d) enter upon and across such portions of the Development for the purpose of exercising its rights under this Section 9.7. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters. The portion of the Lots subject to the Flood Easement shall be maintained by the Owners of such Lots in accordance with Section 9.7 of this Declaration, provided that the Association shall be responsible for the maintenance of all areas of the Common Areas subject to the Flood Easement.

Section 9.8 Mineral Easement. Declarant hereby reserves and grants an irrevocable, non-exclusive Mineral Easement over and across the Common Areas and the Lots for its own benefit and for the benefit of all mineral lessees and owners of mineral rights for ingress to and egress from the Development for exploring, developing, and operating for oil, gas and other minerals. Declarant, mineral lessees and owners of mineral rights shall use their best efforts to not unduly interfere with any of the rights of the Owners. The portion of the Lots subject to the Mineral Easement shall be maintained by the Owners of such Lots in accordance with Section 5.7 of this Declaration, provided that the Association shall be responsible for the maintenance of all areas of the Common Areas subject to the Mineral Easement.

Section 9.9 Temporary Construction Easement. Declarant hereby grants and reserves a temporary, assignable and non-exclusive Temporary Construction Easement for its own benefit and for the benefit of each Owner and their contractors, subcontractors, employees and successors over, on and across those portions of the Development for: (a) construction staging for Improvements; (b) pedestrian and vehicular ingress and egress during the construction of such Improvements; (c) performing all work necessary to complete such Improvements; and (d) erecting, maintaining, repairing, and replacing appropriate construction fencing for such Improvements. Each Temporary Construction Easement shall automatically terminate upon completion of construction of an Owner's Dwelling. The portion of the



Lots subject to a Temporary Construction Easement shall be maintained by Person using such Temporary Construction Easement in accordance with Section 5.7 of this Declaration.

Section 9.10 **Utility Easement.** Declarant hereby grants and reserves a perpetual, assignable and non-exclusive Utility Easements over, on and across those portions of the Development as shown on the Plat: (a) for its own benefit and the benefit of utility companies for ingress, egress, installation, replacement, repair, maintenance, use and operation of any and all utility and service lines and service systems, public and private, including, telephone, cable, fiber optic and any other cable or wiring system or any satellite, "broadband", cellular or other wireless communication designed to provide or deliver communication of any form, video or telephone communications, computer access, "Internet" or e-mail access, security monitoring or other services to any Lot; and (b) for its own benefit for the right to grant additional Utility Easements. Declarant reserves the right to retain or transfer title to any and all wires, pipes, conduits, lines, cables, transmission towers or other Improvements installed on or in such easements and to enter into franchise or other agreements with private or public providers of telecommunication type packages that are designed to provide such services to the Development. Declarant hereby reserves for itself, prior to the termination of Development Period, and grants to the Association, after the termination of Development Period, the right to grant such additional easements for purpose of utilities over any portion of the Common Areas as it deems necessary. In addition, Declarant may record an easement agreement or easement relocation agreement in the real property records of the County, specifically locating or relocating any utility easement subsequent to the recordation of this Declaration, and the Owners of each Lot, by acceptance of the deed to a Lot, hereby grant Declarant during Development Period and to the Association thereafter, an irrevocable power of attorney, coupled with an interest, with full power and authority to locate or relocate such utility easements. The portion of the Lots subject to the Utilities Easement shall be maintained by the Owners of such Lots in accordance with Section 5.7 of this Declaration, provided that the Association shall be responsible for the maintenance of all areas of the Common Areas subject to the Utilities Easement.

Section 9.11 **Additional Easements.** Declarant shall have the right, in its sole discretion, to reserve, create and grant easements on the Common Areas, in its own name, during such period as it shall hold title to the Common Areas, or in the name of the Association, if such Common Areas have been conveyed to the Association, for its own benefit, the benefit of the Owners, their tenants and the Association for the use and enjoyment of the Property, without the approval or joinder of any other Person, including the Association, during Development Period. After the expiration of the Development Period, provided Declarant has conveyed the Common Areas to the Association, the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas, such further easements as are requisite for the convenient use and enjoyment of the Development.

Section 9.12 **Liability for Use of Easements.** No Owner shall have a claim or cause of action against Declarant, the Association, the ACC or their agents or employees arising from the exercise or non-exercise of any easement reserved hereunder or shown on the Plat, except in cases of gross negligence or willful misconduct. In exercising the easements granted herein, neither Declarant, the Association nor the ACC shall be liable to any Owner for an action in trespass.

ARTICLE X **DECLARANT'S RIGHTS**

Section 10.1 **Declarant Rights.** Declarant reserves the right to: (a) to market and sell the Lots and to use or place advertising signs, banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as Declarant shall determine; (b) use the Amenities Center for marketing of the Development and to assign such rights to third parties for the purpose of using the Amenities Center in connection with the marketing of the Development; (c) use parking in and through



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4-11-07
Robbie Smith

the Common Areas for such sales purposes; (d) assign its interests to third parties; (e) grant and reserve such easements on the Property as Declarant determines, in its sole discretion, are necessary for the use, enjoyment and development of the Development; (f) construct Improvements and do all things reasonably necessary or convenient for the completion thereof; (g) alter, subtract from, or designate additional portions of the Development as Common Areas, regardless of whether Declarant owns such portions of the Property, and (h) maintain on the Property without expense appropriate parking facilities for the employees of Declarant's agents and contractors. Declarant's aforesaid reserved rights shall exist at all times during the Development Period and no charge shall be made with respect thereto.

Section 10.2 **Commencement of Assessments.** During the initial construction and development of the Development, Declarant may elect to postpone the Association's initial levy of General Assessments until a certain number of Lots are sold to third party purchasers. Declarant will determine when the Association shall levy the first General Assessments against the Lots; until the, Declarant shall be responsible for all operating expenses of the Association.

Section 10.3 **Transfer or Assignment.** Any or all of the special rights and obligations of Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. Upon any such transfer, Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Public Records.

Section 10.4 **Additional Covenants.** No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements or similar instrument affecting any portion of the Development without: (a) Declarant's prior written consent during the Development Period; or (b) the prior written consent of the Association thereafter. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect.

Section 10.5 **Governmental Interests.** During the Development Period, Declarant may designate sites within the Development for public or quasi-public facilities. No membership approval shall be required for such designation. The sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant.

Section 10.6 **Annexation by Declarant.** During the Development Period, Declarant may, in its sole discretion and from time to time, unilaterally, subject to the provisions of this Declaration to any other real property. Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing such real property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Nothing in this Declaration shall be construed to require Declarant to develop any of the such real property made subject to this Declaration or to limit the uses thereon to single family residential purposes. No real property may be annexed within the Development without the prior written consent of Declarant.

Section 10.7 **Withdrawal of Property.** Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the Property from the terms and conditions of this Declaration. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not Declarant. If the property is Common Area, the Association shall consent to such withdrawal.



Section 10.8 Amendment. This Article X shall not be amended during the Development Period without the prior written consent of Declarant.

ARTICLE XI
GENERAL PROVISIONS

Section 11.1 Duration. Unless terminated or amended as permitted herein, the provisions of this Declaration shall run with and bind the Property and will remain in effect perpetually to the extent permitted by all Legal Requirements.

Section 11.2 Amendment. Declarant has the exclusive right to unilaterally amend this Declaration for the purposes set forth in Section 10.6 of this Declaration. Such amendment shall not require the authorization or consent of the Members or the Board of Directors. No amendment may affect Declarant's rights under this Declaration without Declarant's prior written consent, which must be part of the recorded amendment. This Section 11.2 may not be amended without Declarant's prior written consent. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent of at least 67% of the Allocated Interests.

Section 11.3 Notices. All notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered properly given if (a) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (b) by delivering same in person to the intended addressee; (c) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee; or (d) by prepaid telegram, telex, or telefacsimile to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the addresses of Declarant and the Association shall be as set forth below, the address of each Owner shall be the address of the Lot; provided, however, that any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 30 days' notice to the Association in the manner set forth herein:

Declarant: Southern Lakes & Leisure, LLC.
6043 W. I-20
Arlington, Texas 76017

The Association: Possum Kingdom Property Owners Association
6043 W. I-20
Arlington, Texas 76017

Notwithstanding the foregoing, any notice required to be given under the Act shall be governed by the notice provisions contained therein.

Section 11.4 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.



Section 11.5 **Enforcement**. Subject to the provisions of Section 11.10 of this Declaration, the Association, or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 11.6 **Conflicts**. If any of the provisions of the Governing Documents shall be in conflict with the provisions of the TNCL or the Act, the provisions of such statutes shall control. If a conflict exists between the provisions of the Governing Documents, the Governing Documents shall control in the following order:

- (a) The Restrictive Covenants;
- (b) The Declaration;
- (c) The Certificate;
- (d) The Bylaws;
- (e) The Design Guidelines; and
- (f) The Rules.

The provisions of the Governing Documents embody the entire final documentation to which the Development and any Owners will be subject in relation to the Development and supersede any and all agreements, representations, and understandings, whether written or oral, between Declarant and the Owners.

Section 11.7 **Dispute Resolution**. It is the intent of the Association and Declarant to encourage the amicable resolution of disputes involving the Development and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Development, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the Bylaws, the Rules or the Certificate of Formation through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board of Directors may adopt alternative dispute resolution procedures. Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation subject to any limitations set forth elsewhere herein and in the Bylaws.

Section 11.8 **Exculpation**. It is expressly understood and agreed that nothing contained in this Declaration shall be interpreted or construed as creating any liability whatsoever, directly or indirectly, against Declarant or any of its officers, members, managers, employees, agents or attorneys, or any of its or their heirs, executors, legal representatives, successors or assigns (collectively the "Declarant Related Parties"), for monetary relief or damages. In particular, and without limiting the generality of the foregoing, if any proceeding shall be brought to enforce the provisions of this Declaration, the party instituting such proceeding shall not be entitled to take any action to procure any money judgment against any of Declarant Related Parties.

Section 11.9 **Use of the Term "THE HILLS ABOVE POSSUM KINGDOM LAKE"**. No Person shall use the term "THE HILLS ABOVE POSSUM KINGDOM LAKE" or any logo of THE



HILLS ABOVE POSSUM KINGDOM LAKE or any derivative in any printed or promotional material without Declarant's prior written consent. However, Owners may use the term "THE HILLS ABOVE POSSUM KINGDOM LAKE" in printed or promotional matter where such term is used solely to specify that particular property is located within THE HILLS ABOVE POSSUM KINGDOM LAKE and the Association and any other community association located in THE HILLS ABOVE POSSUM KINGDOM LAKE shall be entitled to use the term "THE HILLS ABOVE POSSUM KINGDOM LAKE" in its name.

Section 11.10 **Compliance.** Every Owner and occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 11.5 or Article VII of this Declaration. All provisions of the Governing Documents governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned. Fines may be levied against Owners or occupants. If a fine is first levied against an occupant and is not paid timely, the fine may then be levied against the Owner. Any Owner may extend his or her right of use and enjoyment to the Members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board of Directors. An Owner who leases its Lot shall be deemed to have assigned all such rights appurtenant to its Lot to the occupant of such Lot; provided, however, the Owner shall remain responsible for payment of all Assessments and other charges.

Section 11.11 **Governing Law.** THIS DECLARATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY ACTION BROUGHT IN CONNECTION WITH THIS DECLARATION SHALL BE IN PALO PINTO COUNTY, TEXAS OR YOUNG COUNTY, TEXAS.

Section 11.12 **Headings.** The headings herein are for reference purposes only and shall not affect the meaning or interpretation of this Declaration.

Section 11.13 **Gender; Plurals.** Words of any gender used in this Declaration shall be held and construed to include any other gender; words used in this Declaration in the singular shall be held and construed to include the plural, and vice versa, as the context may require.

Section 11.14 **Binding Effect.** Each of the covenants, conditions, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every Person acquiring any part of the Development, it being understood that such covenants, conditions, restrictions and agreements are not for the benefit of the Owner of any Lot except Lots in the Development.

Section 11.15 **Counting of Days.** As used herein and in the Governing Documents, all references to "days" shall refer to calendar days, provided, however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

ARTICLE XII MORTGAGEE PROVISIONS

Section 12.1 **Notice Provisions.** All Mortgagees shall be entitled to receive the following notices in writing from the Association exercising rights affecting that Mortgagee's borrower's rights under this Declaration or affecting the Mortgagee's rights, as the case may be, which notice shall be sent promptly following the occurrence of the applicable event:



(a) notice of default by the Owner (the beneficial interest in which Lot is held by that Mortgagee) in the performance of such Owner's obligations arising under the Governing Documents or delinquency in the payment of Assessments or charges owed by such Owner which remains uncured for a period of 60 days after notice thereof.

(b) notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained hereunder by the Association.

(c) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot securing the Mortgagee's lien.

(d) 60 days' notice prior to the Association instituting any foreclosure action on any Lot.

(e) 30 days' notice prior to the effective date of any proposed material amendment to this Declaration or the Plat.

(f) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

Section 12.2 **Cure Rights.** Any Mortgagee shall have the right, but not the obligation, at any time prior to the termination of this Declaration, and without payment of any penalty, to do any act or thing required of such Mortgagee's borrower hereunder; and to do any act or thing which may be necessary or proper to be done in the performance and observance of the agreements, covenants and conditions of such Owner hereof. All payments so made and all things so done and performed by any Mortgagee will be effective to prevent a default under this Declaration as the same would have been if made, done and performed by Declarant or any Owner instead of by said Mortgagee. Any event of default under this Declaration which in the nature thereof cannot be remedied by Mortgagee will be deemed to be remedied if: within 30 days after receiving written notice from the non-defaulting party setting forth the nature of such event of default, or prior thereto the Mortgagee shall have: (a) acquired the property owned by the defaulting party (the "Acquired Property") or commenced foreclosure or other appropriate proceedings in the nature thereof, and shall thereafter diligently prosecute any such proceedings, (b) fully cured any default in the payment of any monetary obligations owed the non-defaulting party hereunder within such 30 day period and shall thereafter continue to perform faithfully all such non-monetary obligations which do not require possession of the Acquired Property; and (c) after gaining possession of the Acquired Property following a foreclosure or deed in lieu thereof, the Mortgagee performs all future obligations of the defaulting party hereunder as and when the same are due.

Section 12.3 **No Invalidity of Mortgage Lien.** No violation of this Declaration by, or enforcement of this Declaration against, any party will affect, impair, defeat or render invalid the lien of any mortgage that secures any Priority Lien Indebtedness.

Section 12.4 **Mortgagee Requirements.** The Association agrees to cooperate reasonably with any requesting party in regard to the satisfaction of requests or requirements by a Mortgagee; provided, however, such cooperation shall be at the sole cost and expense of the requesting party, and provided, further, that no party shall be deemed obligated to accede to any request or requirement that materially and adversely affects its rights under this Declaration.

Section 12.5 **Unpaid Assessments.** Each Person holding a Mortgage secured by any Mortgage encumbering any Lot, which Person obtains title to such Lot pursuant to judicial foreclosure, or



the powers provided in such Mortgage, or a deed in lieu of foreclosure, will take title to such Lot free and clear of any claims for unpaid Assessments against such Lot which accrued prior to the time such Person acquires title to such Lot, except as otherwise set forth in Section 7.7 of this Declaration.

Section 12.6 Books and Records. All Mortgagees, upon written request, shall have the right to (a) examine the books and records of the Association, including current copies of the Governing Documents and financial statements, during normal business hours; (b) receive written notice of all meetings of the Owners and (c) designate in writing a representative to attend all such meetings.

Section 12.7 Priority of Rights. No provision of this Declaration will be construed or applied to give any Owner priority over any rights of any Mortgagee in the case proceeds or awards are not applied to restoration but are distributed to the Owners in the case of a casualty loss or taking of a Lot.

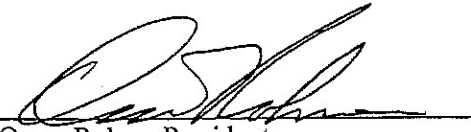
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IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 5th day of April, 2007.

SOUTHERN LAKES & LEISURE, LLC d/b/a THE
HILLS ABOVE POSSUM KINGDOM LAKE

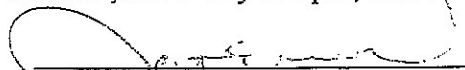
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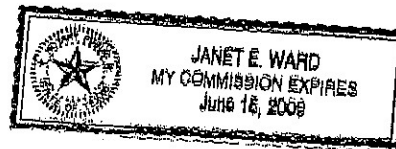

Oscar Rohne, President

THE STATE OF TEXAS }
COUNTY OF PALO PINTO }

BEFORE ME, the undersigned authority, on this day personally appeared **OSCAR ROHNE**, known to me to be the person and officer of Southern Lakes & Leisure, LLC, d/b/a THE HILLS ABOVE POSSUM KINGDOM LAKE whose name is subscribed to the foregoing instrument, acknowledged and executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 5th day of April, 2007.


Notary Public, State of Texas



My Commission Expires:
6/15/2009



Doc Bk
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Vol
1431

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EXHIBIT A

Property

Exhibit A – Property



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4-11-01
Robbie Smith

Being a tract of land situated in the D. C. Coffman Survey, A-1531; S.P. R.R. Co. Survey, A-421; T. W. Moore Survey, A-1652; W. Metcalf Survey, A-1188 and the C. T. R.R. Co. Survey, A-140 all within Palo Pinto County, Texas, said tract being a portion of tracts deeded to Possum Kingdom Corp. per document recorded in Volume 1373, Page 40 and Volume 1408, Page 263 of the Official Public Records of Palo Pinto County, Texas, said tract being more particularly described by metes and bound as follows:

BEGINNING at a set "+" cut in the concrete base of fence post being the accepted southeast corner of the D. C. Coffman Survey, A-1531, said set "+" in the concrete base of fence post also being the southeast corner of said tract deeded to Possum Kingdom Corp. per said Volume 1408, Page 263 of said Official Public Records; from said set "+" cut in concrete base of fence post a found 3 inch steel fence corner post bears South 50 degrees 31 minutes 40 seconds West, a distance of 0.63 feet;

THENCE North 61 degrees 20 minutes 10 seconds West, along the south line of said tract deeded to Possum Kingdom Corp. per said Volume 1408, Page 263 of said Official Public Records passing a found 6 inch steel fence corner post at 259.26 feet and continuing along the south line of said tract deeded Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and in all the north line of a tract deeded to William H. Hinkson per document recorded in Volume 584, Page 573 of the Deed Records of Palo Pinto County, Texas for a total distance of 1826.83 feet to a found 1/2 inch iron rod;

THENCE South 29 degrees 59 minutes 06 seconds West, along the common line of said Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and said Hinkson tract, a distance of 424.14 feet to a found 3 inch steel fence corner post;

THENCE North 59 degrees 47 minutes 38 seconds West, continuing along the south line of said tract deeded Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and the north line of a tract deeded to Mary Lorene Lowe as recorded in Volume 633, Page 544 of said Deed Records, passing a found 1/2 inch capped iron rod (Lawson Land Surv) being the northwest corner of said Mary Lorene Lowe tract also being the northeast corner of a tract deeded to a Travis Delbert Bridges as recorded in Volume 1118, Page 603 of said Deed Records at 1115.44 feet and continuing along said south line of said tract deeded Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and along the north line of said tract deeded to a Travis Delbert Bridges as recorded in Volume 1118, Page 603 of said Deed Records passing a found 1/2 inch capped iron rod (Lawson Land Surv) being the northwest corner of said Travis Delbert Bridges tract also being the northeast corner of a tract deeded to a Travis Bridges and Kay Bridges as recorded in Volume 1127, Page 484 of said Official Public Records at 2121.14 feet and continuing along said south line of said tract deeded Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and the north line of said tract deeded to Travis Bridges and Kay Bridges and along the north line of a tract deeded to a Delbert Oran Bridges as recorded in Volume 1118, Page 609 of said Official Public Records for a total distance of 3808.06 feet to a found 1/2 inch capped iron rod (Lawson Land Surv) being the accepted southwest corner of said S.P. R.R. Co. Survey, A-421;

THENCE South 30 degrees 19 minutes 56 seconds West, along the common line of said tract deeded Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and said tract deeded to a Delbert Oran Bridges, a distance of 238.86 feet to a found 1/2 inch capped iron rod (Lawson Land Surv);

THENCE North 60 degrees 02 minutes 17 seconds West, along the common line of said tract deeded Possum Kingdom Corp. per said Volume 1373, Page 40 of said Official Public Records and said tract deeded to a Delbert Oran Bridges and a tract deeded to a Therese Bridges Berry as recorded in Volume 1118, Page 600 of said Official Public Records, a distance of 579.55 feet to a set 5/8 inch capped iron rod (BHB INC);

THENCE North 32 degrees 48 minutes 02 seconds East, leaving said common line, a distance of 1966.36 feet to a set 5/8 inch capped iron rod (BHB INC);



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4-11-07
Robbie Smith

THENCE North 67 degrees 50 minutes 54 seconds West, a distance of 15.93 feet to a set 5/8 inch capped iron rod (BHB INC) being on the southerly R.O.W. line of State Highway No. 16 (a 120' right of way);

THENCE North 67 degrees 09 minutes 20 seconds East, along said southerly R.O.W. line, a distance of 765.58 feet to a found 1/2 inch iron rod, said found 1/2 inch iron rod being the beginning of a curve to the left along said southerly R.O.W. line whose chord bears North 64 degrees 56 minutes 10 seconds East, a distance of 381.44 feet and having a radius of 5789.57 feet;

THENCE Northeasterly, along said southerly R.O.W. line through a central angle of 03 degrees 46 minutes 32 seconds, an arc length of 381.51 feet to a found 1/2 inch iron rod for the end of said curve to the left;

THENCE North 63 degrees 35 minutes 21 seconds East, continuing along said southerly R.O.W. line, a distance of 608.43 feet to a found 1/2 inch iron rod, said found 1/2 inch iron rod being the beginning of a curve to the right along said southerly R.O.W. line whose chord bears North 64 degrees 23 minutes 05 seconds East, a distance of 316.66 feet and having a radius of 11399.16 feet;

THENCE Northeasterly, along said southerly R.O.W. line through a central angle of 01 degrees 35 minutes 30 seconds, an arc length of 316.67 feet to a found 1/2 inch iron rod for the end of said curve to the right;

THENCE North 64 degrees 47 minutes 55 seconds East, continuing along said southerly R.O.W. line, a distance of 210.47 feet to a found 1/2 inch iron rod;

THENCE North 88 degrees 07 minutes 51 seconds East, leaving said southerly R.O.W. line of State Highway No. 16 (a 120' right of way), a distance of 613.59 feet to a found 1/2 inch iron rod;

THENCE North 71 degrees 50 minutes 29 seconds East, a distance of 175.78 feet to a set 5/8 inch capped iron rod (BHB INC);

THENCE South 61 degrees 19 minutes 20 seconds East, a distance of 732.65 feet to a set 5/8 inch capped iron rod (BHB INC);

THENCE North 74 degrees 09 minutes 45 seconds East, a distance of 1514.02 feet to a set 5/8 inch capped iron rod (BHB INC);

THENCE North 87 degrees 53 minutes 51 seconds East, a distance of 1006.40 feet to a set 5/8 inch capped iron rod (BHB INC);

THENCE South 80 degrees 03 minutes 13 seconds East, a distance of 641.71 feet to a set 5/8 inch capped iron rod (BHB INC);

THENCE South 76 degrees 32 minutes 22 seconds East, a distance of 931.31 feet to a set 5/8 inch capped iron rod (BHB INC) being on the east line of said D. C. Coffman Survey, A-1531 and also being on the east line of said tract deeded to Possum Kingdom Corp. per said Volume 1408, Page 263 of said Official Public Records;

THENCE South 29 degrees 33 minutes 02 seconds West, along said east line of the D. C. Coffman Survey, A-1531 and also along said east line of said tract deeded to Possum Kingdom Corp. per said Volume 1408, Page 263 of said Official Public Records, a distance of 5711.55 feet to the POINT OF BEGINNING and containing 26,760,694 square feet or 614.341 acres of land.



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Pinto County Clerks Office

4-11-07
Robbie Smith

Doc 00003021 Bk OR

Vol 1431

Ps 171

EXHIBIT B

Certificate of Formation



4-11-09
Rabbin Smith

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Roger Williams
Secretary of State

Office of the Secretary of State

CERTIFICATE OF FILING OF

Possum Kingdom Property Owners Association
File Number: 800798530

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: 04/05/2007

Doc 00003021 Bk OR Vol 1431 Ps 172

Effective: 04/05/2007



A handwritten signature of Roger Williams in black ink.

Roger Williams
Secretary of State



True and correct copy of
original filed in the Palo
Pinto County Clerks Office

4-11-07
Rabbin Smith

Come visit us on the internet at <http://www.sos.state.tx.us/>

Phone: (512) 463-5555
Prepared by: Debi Mojica

Fax: (512) 463-5709
TID: 10306

Dial: 7-1-1 for Relay Services
Document: 166070480002

FILED
In the Office of the
Secretary of State of Texas

APR 05 2007

**CERTIFICATE OF FORMATION
OF
POSSUM KINGDOM PROPERTY OWNERS ASSOCIATION**

Corporations Section

I, the undersigned natural person over the age of eighteen, acting as organizer of a nonprofit corporation under the Texas Nonprofit Corporation Law (the "TNCL"), adopt the following Certificate of Formation (this "Certificate of Formation") for the POSSUM KINGDOM PROPERTY OWNERS ASSOCIATION:

**ARTICLE I
NAME**

The name of the Association is Possum Kingdom Property Owners Association.

**ARTICLE II
DEFINITIONS**

"Act." The Texas Residential Property Owners Protection Act, Title 11, Chapter 209 of the Texas Property Code, as amended from time to time.

"Allocated Interests." The allocation of common expenses and votes with respect to each Lot, as described in the Declaration.

"Assessments." All assessments or other charges levied by the Association, as more fully described in the Declaration.

"Association." The Possum Kingdom Property Owners Association, Inc., a Texas nonprofit corporation, and for the purposes of Article 9(a) of this Certificate of Formation, also includes any domestic or foreign successor entity of the Association in a merger, consolidation, or other transaction in which the liabilities of the predecessor are transferred to the Association by operation of law and in any other transaction in which the Association assumes the liabilities of the predecessor but does not specifically exclude liabilities that are the subject matter of Article IX of this Certificate of Formation.

"Board of Directors." Those individuals serving as Directors as appointed by Article XI of this Certificate of Formation and their successors as duly elected and qualified from time to time.

"Bylaws." The Bylaws of the Association.

"Development." The Possum Kingdom Communities, located in Palo Pinto County and Young County, Texas.

"Declaration." The Declaration of Covenants, Conditions and Restrictions for the Possum Kingdom Communities, recorded in the Real Property Records of Palo Pinto County and Young County, Texas.

"Director." A member of the Board of Directors, and for the purposes of Article IX of this Certificate of Formation, any individual who is or was a director of the Association and any individual who, while a director of the Association, is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic association, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.



"Governmental Authority." Any and all applicable courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental entity (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"Lot." An individual residential lot within the Development that is designated for separate ownership or occupancy, which is more particularly described in the Declaration.

"Member." A member of the Association.

"Official Capacity." (a) When used with respect to a Director, the office of Director in the Association; and (b) when used with respect to an individual other than a Director, the elective or appointive office in the Association held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the Association; but (c) both (a) and (b) above do not include service for any other foreign or domestic association or any partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise.

"Owner." One or more Persons owning fee title to any Lot, including Declarant but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

"Person." Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association, any other legal entity, including any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Proceeding." Any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative or investigative, any appeal in such an action, suit, or proceeding and any inquiry or investigation that could lead to such an action, suit or proceeding.

"Rules." The rules and regulations of the Association initially adopted by the Board of Directors and as amended from time to time, as more fully described in the Declaration.

"Texas Law." The laws of the State of Texas, including the Act, as amended from time to time.

ARTICLE III NONPROFIT CORPORATION

The Association is a nonprofit corporation.

ARTICLE IV DURATION

The duration of the Association shall be perpetual.

ARTICLE V PURPOSES

The Association is organized to act as the Association of owners of each Lot in the Possum Kingdom Communities located in Palo Pinto County and Young County, Texas, in accordance with the Declaration, the Bylaws, and Texas Law, including the Act, as each may be amended from time to time.

In furtherance of its purposes, the Association shall have the following powers which, unless indicated otherwise by this Certificate of Formation, the Declaration, the Bylaws, or Texas Law, may be exercised by the Board of Directors:



(a) all rights and powers conferred upon nonprofit corporations by Texas Law in effect from time to time;

(b) all rights and powers conferred upon property owners' associations by Texas Law, including the Act, in effect from time to time, provided, however, that the Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings in the name of any Owner; 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 Texas Law.

ARTICLE VI MEMBERSHIP

The Association shall be a non-stock membership corporation. The Declaration and Bylaws shall determine the number and qualifications of Members of the Association, the voting rights and other privileges of membership and the obligations and liabilities of Members. Cumulative voting is not allowed.

A Member of the Association shall be considered to be a "Member in Good Standing" and eligible to vote if such Member:

(a) has, at least ten days prior to the taking of any vote by the Association, fully paid all Assessments that are due and payable, as such Assessments are provided for under the Declaration;

(b) has not received any notice of unpaid Assessments that has been filed by the Association against the Lot owned by such Member; and

(c) has discharged all other obligations to the Association as may be required of a Member, as an Owner of a Lot under the Declaration, Bylaws or Regulations.

The Board of Directors shall have sole authority for determining the good standing status of any Member and shall make such determination prior to a vote being taken by the Association on any matter. The Board of Directors shall have the right and authority, in its sole discretion, to waive the requirement set forth in Article VI(a), (b) and (c) of this Certificate of Formation, and as to Article VI(a) of this Certificate of Formation, may require only that such payment be made at any time before such vote is taken if the Board of Directors shall determine, in the Board of Directors judgment, that extenuating circumstances exist which have prevented prior payment. Any Member not conforming with the provisions of this Article VI shall be declared by the Board of Directors not to be a Member in Good Standing and shall not be entitled to vote on matters before the Association until such time as Member in Good Standing status is attained and so declared by the Board of Directors.

Members in Good Standing holding 51% of the aggregate votes entitled to be cast by all Members represented at a meeting of the Members in person or by a legitimate proxy in a form approved by the Board of Directors, shall constitute a quorum for voting on matters brought before the Members (a "Quorum"). Except as otherwise provided by Texas Law, the Declaration, this Certificate of Formation or the Bylaws, the vote of Members in Good Standing holding, in the aggregate, a majority of the votes entitled to be cast by the Members in Good Standing present or voting by legitimate proxy at a called meeting at which a Quorum is present (the "Majority Vote of the Members") shall be the act of the Members. Any matter described in this Certificate of Formation or in the Governing Documents as requiring approval by a stated percentage or a Majority Vote of the Members shall be calculated on the basis of the Allocated Interests, unless otherwise required by the Act. Notice



requirements for all actions proposed to be taken by the Association which require an approval by a vote of the Members shall be given as set forth in the Bylaws, as such may be amended from time to time.

ARTICLE VII MANAGEMENT OF THE ASSOCIATION

The management and affairs of the Association shall be vested in the Board of Directors, except for those matters expressly reserved to others in the Declaration and Bylaws. The Bylaws shall determine the number and qualification of Directors, the term of office of Directors, the methods of electing, removing, and replacing Directors and the methods of holding a meeting of the Board of Directors.

ARTICLE VIII LIABILITY; CONDUCT OF DIRECTORS AND OFFICERS

No Member, Director, officer or representative of the Association shall be personally liable for debts or liabilities of the Association. A Director or officer is not liable to the Association, any Member or any other person for an action taken or omission made or mistake in judgment by the Director or officer in such person's capacity as a Director or officer, whether negligent or otherwise, unless the Director or officer's conduct was not exercised: (a) in good faith; (b) with ordinary care; and (c) in a manner that the Director or officer reasonably believed to be in the best interest of the Association. The liability of officers and Directors of the Association shall, to the fullest extent permitted by law, be limited by the Charitable Immunity and Liability Act of 1987, Chapter 84, Texas Civil Practice and Remedies Code, as amended.

ARTICLE IX INDEMNIFICATION OF DIRECTORS, OFFICERS AND OTHER AUTHORIZED REPRESENTATIVES

(a) General Indemnification. The Association shall indemnify an individual who was, is or is threatened to be made a named defendant or respondent in any Proceeding because the individual is or was a Director against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses (including court costs and attorneys' fees) actually incurred by the individual in connection with a Proceeding only if it is determined in accordance with Article IX of this Certificate of Formation that the individual: (i) conducted himself or herself in good faith; (ii) reasonably believed: (a) in the case of conduct in such individual's Official Capacity as a Director, that his conduct was in the Association's best interests; and (b) in all other cases, that his conduct was at least not opposed to the Association's best interests; and (iii) in the case of any criminal Proceeding, had no reasonable cause to believe that his conduct was unlawful.

(b) Personal Interest or Liability. A Director shall not be indemnified by the Association as provided in Article IX(a) of this Certificate of Formation for obligations resulting from a Proceeding: (i) in which the Director is found liable on the basis that personal benefit was improperly received by him, whether or not the benefit resulted from an action taken in the individual's official capacity as a Director; or (ii) in which the individual is found liable to the Association, except to the extent permitted in Article IX(d) of this Certificate of Formation.

(c) Final Judgment Required. The termination of a Proceeding by judgment, order, settlement, or conviction or on a plea of nolo contendere or its equivalent is not of itself determinative that the individual did not meet the requirement set forth in Article IX(a) of this Certificate of Formation. An individual shall be deemed to have been found liable in respect of any claim, issue or matter only after the individual shall have been so



adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom or after such judgment becomes final and non-appealable.

(d) Limits on Indemnification. If the individual is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the individual, the indemnification described in Article IX(a) of this Certificate of Formation: (i) is limited to reasonable expenses actually incurred by the individual in connection with the Proceeding including court costs and attorneys' fees; and (ii) shall not be made in respect of any Proceeding in which the Person shall have been found liable for willful or intentional misconduct in the performance of his or her duty to the Association.

(e) Determination of Indemnification. A determination of indemnification under Article IX(a) of this Certificate of Formation must be made: (i) by a majority vote of a Quorum of Directors who at the time of the vote are not named defendants or respondents in the Proceeding; (ii) if such a Quorum cannot be obtained, by a majority vote of a committee of the Board of Directors, designated to act in the matter by a majority vote of all Directors, consisting solely of two or more Directors who at the time of the vote are not named defendants or respondents in the Proceeding; or (iii) by special legal counsel selected by the Board of Directors or a committee of the Board of Directors by vote as set forth in this Article IX(e)(ii) or (ii) of this Certificate of Formation or, if such a Quorum cannot be obtained and such a committee cannot be established, by a majority vote of all Directors.

(f) Authorization and Determination of Reasonableness of Expenses. Authorization of indemnification and determination as to reasonableness of expenses (including court costs and attorneys' fees) must be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification, and determination as to reasonableness of expenses (including court costs and attorneys' fees) must be made in the manner specified by Article IX(e)(iii) of this Certificate of Formation for the selection of special legal counsel. A provision contained in this Certificate of Formation, the Bylaws, a resolution of the Board of Directors or an agreement that makes mandatory the indemnification described in Article IX(a) of this Certificate of Formation shall be deemed to constitute authorization of indemnification in the manner required herein, even though such provision may not have been adopted or authorized in the same manner as the determination that indemnification is permissible.

(g) Success in a Proceeding. The Association shall indemnify a Director against reasonable expenses (including court costs and attorneys' fees) incurred by him in connection with a Proceeding in which he is a named defendant or respondent because he is or was a Director if he has been wholly successful on the merits or otherwise, in the defense of the Proceeding.

(h) Court Determination of Indemnification. If, upon application of a Director, a court of competent jurisdiction determines, after giving any notice the court considers necessary, that the Director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he has met the requirements set forth in Article IX(a) of this Certificate of Formation or has been found liable in the circumstances described in Article IX(b) of this Certificate of Formation, the Association shall indemnify the Director to such further extent as the court shall determine; but if the individual is found liable to the Association or is found liable on the basis that personal benefit was improperly received by the individual, the indemnification shall be limited to reasonable expenses (including court costs and attorneys' fees) actually incurred by the individual in connection with the Proceeding.

(i) Advancing Director Expenses. Reasonable expenses (including court costs and attorneys' fees) incurred by a Director who was, is, or is threatened to be made a named defendant or respondent in a Proceeding may be paid or reimbursed by the Association in advance of the final disposition of the Proceeding and without



the determination specified in Article IX(e) of this Certificate of Formation or the authorization or determination specified in Article IX(f) of this Certificate of Formation, after the Association receives a written affirmation by the Director of his good faith belief that he has met the standard of conduct necessary for indemnification under this Article IX and a written undertaking by or on behalf of the Director to repay the amount paid or reimbursed if it is ultimately determined that he has not met that standard or it is ultimately determined that indemnification of the Director against expenses (including court costs and attorneys' fees) incurred by him in connection with that Proceeding is prohibited by Article IX(d) of this Certificate of Formation. A provision contained in this Certificate of Formation, the Bylaws, a resolution of the Board of Directors, or an agreement that makes mandatory the payment or reimbursement permitted under this Article IX(i) shall be deemed to constitute authorization of that payment or reimbursement.

(j) Repayment of Expenses by Director. The written undertaking required by Article IX(i) of this Certificate of Formation must be an unlimited general obligation of the Director but need not be secured. It may be accepted without reference to financial ability to make repayment.

(k) Witness Expenses. Notwithstanding any other provision of this article, the Association may pay or reimburse expenses (including attorneys' fees) incurred by a Director in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

(l) Officer Indemnification. An officer of the Association shall be indemnified by the Association as and to the same extent provided for a Director by Article IX(a), Article IX(f), Article IX(g) and Article IX(h) of this Certificate of Formation and is entitled to seek indemnification under those Sections to the same extent as a Director. The Association may indemnify and advance expenses (including court costs and attorneys' fees) to an officer, employee or agent of the Association to the same extent that it may indemnify and advance expenses (including court costs and attorneys' fees) to Directors under this Article IX.

(m) Indemnification of Others. The Association may indemnify and advance expenses (including court costs and attorneys' fees) to individuals who are not or were not officers, employees, or agents of the Association but who are or were serving at the request of the Association as a Director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic association, partnership, joint venture, sole proprietorship, trust or other enterprise to the same extent that it may indemnify and advance expenses (including court costs and attorneys' fees) to Directors under this Article IX.

(n) Advancing Expenses for Others. The Association may indemnify and advance expenses (including court costs and attorneys' fees) to an officer, employee, agent, or individual identified in Article IX(m) of this Certificate of Formation and who is not a Director to such further extent, consistent with law, as may be provided by this Certificate of Formation, the Bylaws, general or specific action of the Board of Directors or contract or as permitted or required by common law.

(o) Insurance Authorized. The Association may purchase and maintain insurance or another arrangement on behalf of any individual who is or was a Director, officer, employee or agent of the Association or who is or was serving at the request of the Association as a Director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic association, 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 under this Article IX. Without limiting the power of the Association to procure or maintain any kind of insurance or other arrangement, the Association may, for the benefit of individuals indemnified by the Association: (i) create a trust fund; (ii) establish any form of self-insurance; (iii) secure its indemnity obligations 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 agreement. The insurance or other arrangement may be procured, maintained or established within the Association or with any insurer or other individual deemed appropriate by the Board of Directors, regardless of whether all or part of the stock or other securities of the insurer or other Person are owned in whole or part by the Association. In the absence of fraud, the judgment of the Board of Directors as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other Person participating in an arrangement shall be conclusive, and the insurance or arrangement shall not be voidable and shall not subject the Directors approving the insurance or arrangement to liability, on any ground, regardless of whether Directors participating in the approval are beneficiaries of the insurance or arrangement. Notwithstanding the provisions of this Article IX(o) in the event of any conflict between the provisions of this Article IX(o) and the provisions of the Declaration, the provisions of the Declaration shall control.

(p) Indemnification Prohibited. Notwithstanding any provision of this Article IX to the contrary, no indemnification shall be authorized by or provided under this Article IX for any act in violation of any Legal Requirements.

ARTICLE X INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Association is 6043 W. I-20, Arlington, Texas 76017. The name of the initial registered agent at the office is Oscar Rohne.

ARTICLE XI BOARD OF DIRECTORS

The qualifications, manner of selection, duties, terms and other matters relating to the Board of Directors shall be provided in the Bylaws. The initial Board of Directors shall consist of three persons. The initial Board of Directors shall consist of the following persons at the following addresses:

<u>NAME OF DIRECTOR</u>	<u>STREET ADDRESS</u>
Oscar Rohne	6043 W. I-20, Arlington, Texas 76017
Ray Hawrylak	6043 W. I-20, Arlington, Texas 76017
Jennifer Campbell	6043 W. I-20, Arlington, Texas 76017

ARTICLE XII WINDING UP AND TERMINATION

Winding up of the Association may be accomplished only by resolution adopted by the Board of Directors which is approved by the Members in Good Standing holding in the aggregate 100% of Allocated Interests eligible to be cast by the Members in Good Standing present or voting by legitimate proxy at a called meeting at which a Quorum is present. Upon a termination of the Association, all assets, both real and personal, of the Association shall be applied and distributed in accordance with the provisions of Section 22.304 of the TNCL, as amended.



ARTICLE XIII
ACTION WITHOUT MEETING OF DIRECTORS

An action approved by unanimous written consent of the Board of Directors has the effect of an approval by unanimous vote of the Directors at a meeting.

ARTICLE XIV
INCORPORATOR

The name and address of the organizer is:

Lorin Williams Combs
Winstead Sechrest & Minick P.C.
5400 Renaissance Tower
1201 Elm Street
Dallas, Texas 75270

ARTICLE XV
AMENDMENT

This Certificate of Formation shall not be amended without the approval of the Declarant.

IN WITNESS WHEREOF, I have hereunto set my hand this the 5th day of April, 2007.


Lorin Williams Combs, Organizer



EXHIBIT C

Bylaws



BYLAWS
OF
POSSUM KINGDOM PROPERTY OWNERS ASSOCIATION



True and correct copy of
original filed in the Palo
Pinto County Clerks Office

4-11-07
Calvin Smith

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4-11-22
Robbie Smith

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BYLAWS
OF
POSSUM KINGDOM PROPERTY OWNERS ASSOCIATION

ARTICLE I

NAME, PRINCIPAL OFFICE, AND DEFINITIONS

Section 1.1 Name. The name of the corporation is POSSUM KINGDOM PROPERTY OWNERS ASSOCIATION (the "Association"), a Texas nonprofit corporation.

Section 1.2 Principal Office. The principal office of the Association shall be located in the State of Texas. The Association may have such other offices, either within or outside the State of Texas, as the Board of Directors may determine or as the affairs of the Association may require.

Section 1.3 Registered Agent. The Association shall have and continuously maintain in the State of Texas a registered agent whose office is identical with such registered office, as required by the TNCL. The registered office may be, but need not be, identical to the principal office in the State of Texas, and the registered office may be changed from time to time by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 2.1 Definitions. The following terms shall have the meanings set forth below:

"Act." The Texas Residential Property Owners Protection Act, Title 11, Chapter 209 of the Texas Property Code, as amended from time to time.

"Board of Directors." Those individuals serving as Directors pursuant to Article IV of these Bylaws and their successors as duly elected and qualified from time to time.

"Code." The Internal Revenue Code of 1986, as amended.

"Declaration." The Declaration of Covenants, Conditions and Restrictions for the Possum Kingdom Communities, and all recorded amendments thereto.

"Director." A member of the Board of Directors.

"Manager." Any professional manager or management company with whom the Association contracts for the day-to-day management of the Development or the administration of the Association.

"Member." All present and future Owners of any Lot in the Development.



"Member in Good Standing." Has the meaning set forth in the Certificate of Formation.

"Minute Book." The minute book of the Association, which shall contain the minutes of all annual and special meetings of the Members of the Association and the Board of Directors and all resolutions of the Board of Directors.

"President." The officer of the Association having the duties described in Section 5.4 of these Bylaws.

"Quorum." Has the meaning set forth in the Certificate of Formation.

"Secretary." The officer of the Association having the duties described in Section 5.6 of these Bylaws.

"TNCL." The Texas Nonprofit Corporation Law, as amended from time to time.

"Treasurer." The officer of the Association having the duties described in Section 5.7 of these Bylaws.

"Vice President." The officer of the Association having the duties described in Section 5.5 of these Bylaws.

Any capitalized term that is not defined in this Section shall have the meaning set forth in the Declaration.

Section 2.2 Interpretation. In the event of a conflict of interpretation between the provisions set forth in these Bylaws and the Declaration, the Declaration shall govern. If the Code is hereafter amended or changed, both the Declaration and these Bylaws shall be interpreted in a manner which conforms to the provisions of the Code with respect to nonprofit entities, it being the intention to preserve the status of the Association as a *bona fide* nonprofit entity.

ARTICLE III

ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

Section 3.1 Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the Owners of Lots within any additional real property made subject to the Declaration and these Bylaws, which such rights, privileges and obligations as may be specified in such Supplemental Declaration and any corresponding amendment to these Bylaws.

Section 3.2 Place of Meetings. All annual and special meetings of the Members shall be held at the principal office of the Association or at another suitable and convenient place permitted by law and fixed by the Board of Directors from time to time and designated in the notices of the meetings.

Section 3.3 Annual Meetings. The first annual meeting of the Members shall be held within one year of its formation. Thereafter, annual meetings of the Members shall be held in March each year on a date as shall be fixed by the Board of Directors by written notice to the Members. The Members may transact any business that may properly come before the meeting.



Section 3.4 **Notice of Annual Meetings.** The Secretary shall mail notices of annual meetings to each Member directed to the most recent post office address provided to the Association by such Member, as shown on the records of the Association, by regular mail, postage prepaid. This notice shall be mailed not less than ten or more than 60 days before the date of the meeting and shall state the date, time and place of the meeting, the purpose or purposes thereof and the items on the agenda, including the specific nature of any proposed amendment or change to the Governing Documents.

Section 3.5 **Special Meeting.** A special meeting of the Members of the Association may be called by the President, a majority of the Directors, or upon presentation to the Secretary of a petition stating the specific purpose of the special meeting, which petition has been signed by Members in Good Standing having not less than [51%] of the aggregate votes entitled to be cast at such meeting.

Section 3.6 **Notice of Special Meetings.** The Secretary shall mail notice of any special meeting of the Members of the Association to each Member in the manner provided in Section 3.4 of these Bylaws. The notice shall state the same items required by Section 3.4 of these Bylaws for notices of annual meetings. No business shall be transacted at any special meeting except as stated in the notice thereof.

Section 3.7 **Waiver of Notice.** Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof, unless a specific objection as to the lack of proper notice is given at the time the meeting is called to order. Attendance at a meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

Section 3.8 **Agenda.** The agenda at all meetings of the Members shall include: (a) roll call; (b) proof of notice of meeting or waiver of notice; (c) approval of the minutes of the preceding meeting; (d) reports of officers and committees; (e) election of Directors, if applicable; (f) unfinished business; (g) new business; and (h) adjournment.

Section 3.9 **Adjournment of Meetings.** If any meeting of the Association cannot be held because a Quorum is not present, Members in Good Standing representing 51% of the votes represented at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the time the original meeting was called. At the reconvened meeting, if a Quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.7 of these Bylaws.

Section 3.10 **Membership and Voting.** Every Owner shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Each member shall be entitled to cast a number of votes equal to such Owner's Allocated Interest with respect to any matter on which members of the Association are entitled to vote. Any matter described in these Declaration or in the Governing Documents as requiring approval by a stated percentage or a majority of the Owners shall be calculated on the basis of the Allocated Interests, unless otherwise required by the Act. In cases where more than



one Person owns a fee interest in a Lot, all such Persons shall arrange among themselves for one of their number to exercise the voting rights attributable to such Lot. Membership of a Member in the Association shall automatically terminate when such Member ceases to be an Owner; provided, however, that such termination shall not release or relieve such Member from any liability or obligation under the Declaration that was incurred during such Member's period of ownership of a Lot.

Section 3.11 **List for Voting.** The Secretary shall be responsible for maintaining, at the principal office of the Association, an updated list of Members and their last known addresses as provided by each Member in such form and containing such other information as required by the TNCL. The list shall also show opposite each Member's name the address of the Lot owned. The list shall be revised by the Secretary to reflect changes in the ownership of the Lots occurring prior to the date of the annual or special meeting. The list shall be open to inspection by all Members and other Persons lawfully entitled to inspect the list during regular business hours up to the date of the annual or special meeting. The Secretary shall also keep current and retain custody of the Minute Book.

Section 3.12 **Proxies.** Votes may be cast by written proxy or by ballot. Written proxies may be submitted by United States mail, delivered to the office of the Association, delivered directly to the Secretary or delivered in such other manner as directed by the Association. A proxy vote shall be defined as a written vote submitted by a Member which either states the specific vote of the Member with respect to the issues, resolutions or election being voted on by the Members at the annual or special meeting or which is written permission for the Board of Directors or a specific Director to exercise the Member's vote as the Board of Directors or the specific Director sees fit. A proxy shall be valid for the meeting specified in the proxy or any valid continuation of such meeting. Each proxy shall be revocable unless otherwise expressly provided therein to be irrevocable. No proxy will be valid after 11 months from the date of its execution unless otherwise provided therein. A Member may not revoke a proxy except by giving actual written notice of revocation to the Person presiding over the meeting.

Section 3.13 **Quorum.** Quorum requirements with respect to any matter on which Members are entitled to vote and affirmative votes required for Member acts are set forth in the Certificate of Formation.

Section 3.14 **Action Without a Meeting.** Any action which may be taken by the vote of 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 TNCL. If an action is taken without a meeting, the Secretary shall distribute a written ballot to every Member entitled to vote on the matter. The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the Association. Approval by written ballot shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the Quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the proposal at a regular or special meeting authorizing the action.

ARTICLE IV

BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

Section 4.1 **Governing Body; Composition.** The affairs of the Association shall be



governed by a Board of Directors, each of whom shall have one equal vote. Each Director shall be a Member. No Owner shall be eligible to serve as a Director if any Assessment for such Owner's Lot is delinquent. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided, that no Member may have more than one such representative on the Board of Directors at a time.

Section 4.2 **Number of Directors.** The affairs of the Association shall be governed by the Board of Directors. The initial Directors shall be three in number and shall be those Directors named in the Certificate of Formation. Declarant shall have the right to appoint and remove members of the Board of Directors until the termination of the Declarant Control Period. If Declarant voluntarily surrenders the right to appoint and remove members of the Board of Directors prior to the termination of the Declarant Control, Declarant may require that specified actions of the Board of Directors be subject to Declarant approval until the expiration of the Declarant Control Period.

Section 4.3 **Nomination and Election Procedures.** Persons 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 of a written petition of nomination bearing the genuine signatures of at least five other Members; or

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

Section 4.4 **Election and Term of Office.** The nominee, or nominees, as the case may be, receiving the highest number of votes shall be elected to the Board of Directors. Except as otherwise set forth herein and in the Declaration, each Director will serve a term of two years and may serve an unlimited number of consecutive terms. The number of Directors may be changed by amendment of these Bylaws, but may not be less than three. A Director takes office upon his election or appointment and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The Directors shall serve without compensation for such service.

Section 4.5 **Removal of Directors and Vacancies.** Except with respect to Directors appointed by Declarant during the Declarant Control Period (which vacancies shall be filled by Declarant), if the office of any Director shall become vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, 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. 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.

Section 4.6 **Removal of Directors by Members.** Except with respect to Directors appointed by Declarant during the Declarant Control Period (the removal of which shall only be caused by Declarant), Directors may be removed, with or without cause, by a vote of at least 51% of the Allocated Interests at a special meeting of the Members duly called for this purpose, notice



of which meeting shall be given to all Directors.

Section 4.7 Organizational Meetings. No later than 20 days following each of (a) the filing of the Certificate of Formation; (b) the termination of the Declarant Control Period; and (c) each annual meeting of the Members, the Board of Directors shall hold a regular meeting for the purposes of organization, election of officers and transaction of other business. Notice of this meeting shall be given to all Directors in accordance with Section 4.8 of these Bylaws, except for the initial meeting, which shall be called by Declarant.

Section 4.8 Regular Meetings. All meetings of the Board of Directors shall be held at the principal office of the Association or at any other place or places designated at any time by resolution of the Board of Directors or by written consent of all of the Directors. Any meeting of the Board of Directors may be held by any means of remote electronic communication, including electronic, telephonic, videoconferencing or the internet if each person entitled to participate in the meeting consents to the meeting being held by means of that system, provided that each Director may communicate concurrently with every other Director, and any such meeting may involve consideration of any action, including any action involving a vote on a fine, damage assessment, appeal from a denial of architectural control approval, or suspension of a right of a particular Member before the Member has an opportunity to attend a meeting of the Board of Directors to present the Member's position on the issue. Notice of regular meetings of the Board of Directors shall be given to each Director personally, by telegram, telephone, electronic mail, facsimile or by United States mail, with postage prepaid, directed to him at his last known post office address, phone number, facsimile number or electronic mail address, as the same appears on the records of the Association, at least ten but not more than 40 days before the date of the meeting. This notice shall state the date, time, place and purpose of the meeting.

Section 4.9 Special Meetings of the Board of Directors. Special meetings of the Board of Directors may be called by the President on his own accord or by the President or the Secretary upon the written request of any two Directors on three days prior notice to each Director personally, by telegram, telephone, electronic mail, facsimile or by United States mail, with postage prepaid, directed to him at his last known post office address, phone number, facsimile number or electronic mail address, as the same appears on the records of the Association.

Section 4.10 Waiver of Notice. With respect to any meeting of the Board of Directors, whether regular or special, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to giving the required notice. All written waivers shall be filed in the Minute Book of the Association or made a part of the minutes of the meeting. Participation by a Director at any meeting of the Board of Directors shall likewise constitute a waiver by him of the required notice, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the grounds that the meeting has not been lawfully called or convened. If all Directors are present at any meeting of the Board of Directors, no notice of the meeting shall be required and any business may be transacted at the meeting except as prohibited by law or these Bylaws.

Section 4.11 Consent in Writing. Any action by the Board of Directors, including any action involving a vote on a fine, damage assessment, or suspension of a right of a particular Member before the Member has an opportunity to attend a meeting of the Board of Directors to present the Member's position on the issue, may be taken without a meeting if all of the Directors shall unanimously consent in writing to the action. Such written consent shall be filed in the Minute Book. Any action taken by such written consent shall have the same force and effect as a



unanimous vote of the Directors.

Section 4.12 **Records.** The Board of Directors shall cause a complete record of all of its acts and the corporate affairs of the Association to be kept and to present a general report thereof to the Members at each annual meeting of the Members of the Association or at any special meeting of the Members of the Association where a general report is requested in writing by one-third of the Members entitled to vote.

Section 4.13 **Quorum of Board of Directors.** At all duly convened meetings of the Board of Directors, at least 51% of the Directors must be present to constitute a Quorum for the transaction of business, except as otherwise expressly provided in these Bylaws. The vote of a majority of the Directors present at the meeting at which a Quorum is present shall be the act of the Board of Directors.

Section 4.14 **Open Meetings.** Meetings of the Members and the Board of Directors shall be open to all Members. Subject to applicable law, the Board of Directors shall have the right to adjourn a meeting and reconvene in private, closed executive session to consider any actions involving personnel, pending litigation, contract negotiations, or enforcement actions, or upon the request of an affected party, or to consider matters that are confidential in the opinion of the Board of Directors; provided, however, the Board of Directors shall announce the general nature of the business to be considered in such executive session prior to adjourning the meeting.

Section 4.15 **Powers.** Subject to the Governing Documents, the Board of Directors shall have and exercise all powers and duties necessary for the proper administration of the affairs of the Association. In the performance of its duties as the governing body of the Association, subject to limitations set forth in the Declaration, the Board of Directors shall have all powers set forth in the Act (except as otherwise provided in the Governing Documents), and in addition to those powers and duties set forth in the Act, the Certificate of Formation and the Declaration, the Board of Directors shall have the powers and duties enumerated below. Each Director individually and the Board of Directors collectively shall perform the duties and powers of the Board of Directors in good faith as a fiduciary of the Association, in a manner which the Director believes to be in the best interest of the Association and with the care of a person of ordinary prudence under similar circumstances, including reasonable inquiry, skill and diligence.

Section 4.16 **Duties.** The duties of the Board of Directors shall include:

(a) preparing and adopting, in accordance with related provisions of the Declaration and these Bylaws, an annual budget establishing each Owner's share of the Common Expenses;

(b) determining the Common Expenses and any other charges comprising the operating expenses of the Association, establishing the amount of General Assessments, as the same may increase or decrease, and assess the same against the Members in accordance with the provisions of the Declaration and these Bylaws;

(c) levying and collecting, in addition to General Assessments, Special Assessments in amounts which the Board of Directors deems proper, whenever the Board of Directors is of the opinion it is necessary to do so in order to meet increased operating or maintenance costs or additional capital expenses or because of emergencies subject to the limitations specified in the Declaration;



(d) providing for the operation, maintenance, management, insurance, cleaning, sanitation, renewal, replacement, care and upkeep of the Common Areas and all property, real or personal, of the Association;

(e) collecting delinquent Assessments against any Lot and the Owner thereof, whether by suit or otherwise and to abate any nuisance and enforcing the terms of the Declaration and the observance of the Rules by injunction or other legal action or means which the Board of Directors may deem necessary or appropriate;

(f) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(g) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the Board of Directors' best business judgment, in depositories other than banks;

(h) establishing operating, escrow and other accounts in the name of the Association as the Board of Directors may deem appropriate from time to time;

(i) maintaining the Common Areas;

(j) maintaining a reserve fund out of General Assessments;

(k) contracting for repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;

(l) making and enforcing compliance with the Rules relative to the operation, use and occupancy of the Property, including, but not limited to, penalties to be levied for violations of these Bylaws, the Declaration and the Rules which the Board of Directors shall adopt, and to amend the same from time to time as and when approved by appropriate resolutions which shall be binding on the Owners and occupants of the Lots, their successors in title and assigns. A copy of the Rules and copies of any amendments thereto shall be delivered or mailed to each Owner or occupant of a Lot promptly upon the adoption thereof.

(m) obtaining and carrying property and liability insurance and fidelity bonds, as provided herein and/or in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(n) paying the costs of all services rendered to the Association;

(o) keeping books with detailed accounts of the receipts and expenditures of the Association in accordance with generally accepted accounting principles;

(p) causing a complete review of the books and accounts of the Association to be made by a competent independent public accountant at the end of each fiscal year and at any other time or times deemed necessary;



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(q) using and expending any sums collected from General Assessments and Special Assessments for the operation, maintenance, renewal, care and upkeep of the Common Areas;

(r) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section VIII of these Bylaws;

(s) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Development;

(t) indemnifying Declarant, a director, officer or ACC or committee member, or former director, officer or ACC or committee member of the Association to the extent such indemnity is required or permitted under the TNCL or the Governing Documents;

(u) assisting in the resolution of disputes between Owners and others without litigation as may be set forth herein and/or in the Declaration;

(v) paying all taxes and assessments levied or assessed against any property that may be owned by the Association, exclusive of any taxes or assessments levied against any Member or otherwise properly chargeable to the Member; and

(w) establishing a form of estoppel certificate acceptable to the Association for delivery to prospective Lot purchasers and lenders.

The duties imposed on and powers granted to the Board of Directors by this Section shall not be amended so as to reduce, eliminate or expand any duties or powers of the Board of Directors without the affirmative vote of 67% of the Allocated Interests of the Members voting at the meeting called to consider such amendment.

Section 4.17 Powers:

(a) employing and dismissing personnel of the Association, and purchasing or arranging for those services, machinery, equipment, tools, materials and supplies as, in the opinion of the Board of Directors, may from time to time be necessary for the proper operation and maintenance of the Common Areas;

(b) entering into contracts for professional management of the Development and the Association, at such prices and upon such terms as may be determined by the Board of Directors, to perform those duties and services which the Board of Directors may lawfully delegate;

(c) employing or retaining and receiving advice from professional counsel and consultants, including, but not limited to, landscape architects, architects, engineers, planners, biologists, lawyers and accountants, which the Board of Directors may deem necessary for any proper purposes of the Association, and fix the compensation for professional advice or services, including, but not limited to, those hereinbefore or hereinafter referred to in these Bylaws. The Board of Directors shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following: (i) one or more officers or employees of the Association whom the Board of Directors reasonably believes to be reliable and competent in the matter presented; (ii) counsel, public accountants or other Persons as to the matters which the Board of Directors reasonably believes to be within the professional or expert competence of this Person;



and (iii) a committee of the Board of Directors duly designated in accordance with law, as to matters within its designated authority, which committee the Board of Directors reasonably believes to merit confidence. The Board of Directors shall not be considered to be acting in good faith if it has knowledge concerning the matter in question that would cause this reliance to be unwarranted;

(d) naming as a trustee, on behalf of the Association, the Association's authorized representative, including any trustee with which the Association may enter into any insurance trust agreement or any successor to this trustee (each of which shall be referred to herein as the "Insurance Trustee"), to be given exclusive authority to negotiate losses under any policy providing property insurance coverage. The Association or any Insurance Trustee or substitute Insurance Trustee designated by the Association shall have the exclusive power to act as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, execution of releases of liability and the execution of all documents and the performance of all other acts necessary to accomplish these purposes;

(e) establishing depositories for the funds of the Association with the bank or banks as shall be designated from time to time by the Board of Directors and in which monies of the Association shall be deposited. Withdrawal of monies shall be only by check signed by those Persons who are authorized by the Board of Directors to sign checks on behalf of the Association;

(f) investing monies of the Association in any investments which the Board of Directors deems to be reasonably prudent;

(g) borrowing and repaying monies and give notes, mortgages or other security upon the terms which are deemed reasonable by the Board of Directors;

(h) acquiring by purchase, gift, annexation or lease, real or personal property, if, at any time in the future, the Board of Directors deems it to be proper and not inconsistent with the terms hereof to do so;

(i) granting and reserving easements, leases, licenses or concessions where necessary or desirable for utilities, routes of ingress and egress, or any other purpose, over the Common Areas; and

(j) doing all things incidental and necessary to the accomplishment of the foregoing.

Section 4.18 **Management.** If the Board of Directors determines that it is in the best interest of the Association to hire a Manager for the Development to facilitate management of the Development and/or the administration of the Association, the Board of Directors may delegate to a Manager responsibility for matters of a routine nature, renewable by agreement of the parties thereto for successive one year periods only, and shall be subject to termination by either party with or without cause and without payment of a termination fee upon not more than 30 days prior written notice. After a Manager has been appointed, no decision by the Association to manage its own affairs without a Manager shall be effective unless and until approved by the affirmative vote of 67% of the Allocated Interests of the Members voting at the meeting called to consider such matter with the written consent of not less than 51% of the Mortgagees.

Section 4.19 **Management Certificate.** The Association shall record in the County a certificate, signed and acknowledged by an officer of the Association stating:



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4-11-07
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- (a) the name of the Development;
- (b) the name of the Association;
- (c) the location of the Development;
- (d) the recording data for the Declaration;
- (e) the mailing address of the Association, or the name and mailing address of the Person managing the Association; and
- (f) other information the Association considers appropriate.

A new certificate shall be recorded within 30 days after the Association receives notice of a change in any of the information listed in this Section 4.19.

Section 4.20 Accounts and Reports. The following management standards of performance shall be followed unless the Board of Directors by resolution specifically determines otherwise:

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by a member of the Board of Directors or the Manager from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise;
- (e) any financial or other interest which a member of the Board of Directors or the Manager may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;
- (f) commencing at the end of the fiscal quarter in which the first Lot is sold and closed, financial reports shall be prepared for the Association each fiscal quarter (such financial statements shall include an income statement reflecting all income and expense activity for the preceding period on a cash or accrual basis and may include such other reports as deemed necessary by the Board of Directors);
- (g) an annual financial report shall be made available to all Members within 120 days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board of Directors determines; provided, however, upon written request of any holder, guarantor or insurer of any first Mortgage on a Lot, the Association shall provide an audited financial statement; and
- (h) all financial reports shall be kept at the principal office of the Association for at



least three years after the closing of each fiscal year.

Section 4.21 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12 month period, exceeds or would exceed ten percent of the budgeted gross expenses of the Association for that fiscal year, the Board of Directors shall obtain the approval of Members representing at least 67% of the total Allocated Interests prior to borrowing such money.

ARTICLE V

OFFICERS

Section 5.1 Officers. The officers of the Association shall be a President, one or more Vice Presidents, a Secretary and Treasurer. The same individual may not hold the offices of President and Secretary. The Secretary may be eligible to hold the office of Treasurer. The President and Treasurer must also be Directors. The Secretary need not be a Director.

Section 5.2 Election and Term of Office. Except as set forth herein, the officers of the Association shall be elected annually by the Board of Directors at the organizational meeting held pursuant to Section 4.7 of these Bylaws and shall hold office until their successors are elected or appointed by the Board of Directors; provided that each officer may be removed, either with or without cause, whenever in the best interest of the Association, and his successor elected by the affirmative vote of a majority of the Directors at any annual or special meeting of the Board of Directors called for that purpose. The President and Secretary shall each serve for a term of two years and the remaining officers shall serve for a term of one year. The Board of Directors may, from time to time, appoint other officers who, in its judgment, are necessary. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the Association. Any resignation shall take effect as of the date of the receipt of this notice or any later time specified therein; unless specified therein, the acceptance of a written resignation shall not be necessary to make it effective.

Section 5.3 Removal and Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled by election by the affirmative vote of a majority of the Directors at any annual or special meeting of the Board of Directors called for that purpose.

Section 5.4 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members of the Association and the Board of Directors. The President shall have the general powers and duties usually vested in the office of the president of a community association, including the power to appoint committees from time to time as he may deem appropriate to assist in the conduct of the affairs of the Association, provided, however, no such committee shall have the right to exercise the full authority of the Board of Directors. The President shall be an ex-officio member of all standing committees, if any. The President shall execute deeds, contracts and other instruments, in the name and on behalf of the Association and under its corporate seal when a seal is required, except when these documents are required or permitted by law to be otherwise executed, and except when the signing and execution thereof shall be delegated by the Board of Directors to another officer or agent of the Association.



Section 5.5 Vice President. In the absence of the President or in the event of the President's inability or refusal to act, a Vice President shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all of the restrictions upon the President. Any Vice President shall have only such powers and perform only such duties as the Board of Directors may from time to time prescribe or as the officers may from time to time delegate.

Section 5.6 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members of the Association and record all votes and the minutes of all meetings and proceedings, including resolutions, in the Minute Book. The Secretary shall perform the same duties for any committees when required. The Secretary shall have charge of the Minute Book, the records of the Association and any papers which the Board of Directors shall direct the Secretary to keep; shall perform all duties incident to the office of Secretary, including sending notices of meetings to the Members, the Directors and members of any committees, and shall perform any other duties which may be prescribed by these Bylaws or by the Board of Directors or the President. The Secretary shall also have custody of the corporate seal and shall affix the same to any instrument requiring it when authorized by the Board of Directors and shall attest or certify the same when appropriate. The Secretary shall keep, or cause to be kept, at the principal office of the Association, a membership register showing the following: (a) the names and addresses of all Directors; (b) the names and addresses of all Members as provided by the Members; (c) the Lot that is owned by each Member; and (d) the vote of each Member. The Secretary shall prepare, execute and cause the recordation of amendments to the Declaration on behalf of the Association except when the preparation, execution and recordation thereof shall be delegated by the Board of Directors to another officer or agent of the Association. Nothing shall prohibit the functions of the Secretary to be delegated to an agent of the Association provided this delegation is approved by resolution of the Board of Directors. The delegation of the duties of the Secretary shall not relieve the Secretary from any responsibility related to overseeing and reviewing any duties performed by the agent.

Section 5.7 Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies, checks and other valuable effects in the name of and to the credit of the Association in those depositories which may be designated from time to time by the Board of Directors. The Treasurer shall disburse the funds of the Association, as the Treasurer may be ordered to do from time to time by the Board of Directors or by the President, and shall render to the President and the Directors at the regular meetings of the Board of Directors, or whenever they or either of them shall require, an account of his transactions as Treasurer and of the financial condition of the Association. Nothing shall prohibit the functions of the Treasurer to be delegated to an agent of the Association provided this delegation is approved by resolution of the Board of Directors. The delegation of the duties of the Treasurer shall not relieve the Treasurer from any responsibility related to overseeing and reviewing any duties performed by the agent.

Section 5.8 Compensation. The officers of the Association shall serve without compensation except that they shall be entitled to reimbursement for all expenses reasonably incurred in the discharge of their duties.



ARTICLE VI

ANNUAL BUDGETS AND ASSESSMENTS

Copies of the proposed budget setting forth the proposed annual Common Expenses, proposed reserves and proposed Assessments for the next fiscal year of the Association shall be prepared by the Board of Directors and distributed to all Members at least 30 days prior to the beginning of each fiscal year of the Association and shall be available to all Members for inspection during regular business hours at the Association's office. If the proposed budget is subsequently amended before the Assessments are made, a copy of the amended budget shall also be distributed and made available for inspection. Reserve funds shall include reasonable amounts to be credited, allocated or accumulated for replacement of those Common Areas that require replacement, renovation or rehabilitation periodically. Subject to the provisions of the Declaration, nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time and in its sole discretion, to levy a Special Assessment in the event that the budget as originally adopted shall appear to be insufficient to pay the cost of the operation or management of the Property or in the event of emergencies.

ARTICLE VII

ASSOCIATION BOOKS AND RECORDS

The Association shall keep or cause to be kept (a) detailed financial records of the Association in sufficient detail to enable the Association to prepare a resale certificate in accordance with the provisions of the Act; (b) the name and mailing address of each Owner of a Lot; (c) voting records, proxies and correspondence relating to all amendments to the Declaration; and (d) the minutes of all meetings of the Members of the Association and the Board of Directors. All books and records of the Association shall be available for inspection by the Owners, Mortgagees, and their respective agents and representatives, during normal business hours. All books and records of the Association shall be kept in accordance with generally accepted accounting principals, consistently applied, and shall be audited at least once a year by an independent certified public accountant. If requested in writing by a Member or Mortgagee, the Association shall furnish such requesting Member or Mortgagee copies of the audited financial statements of the Association within 90 days following the end of each fiscal year of the Association. The Board of Directors shall further make available for the inspection by Members, Mortgagees, and their respective agents and representatives, during normal business hours, the current version of the Governing Documents and all other documents affecting the Association, the Owners, or the Property, as well as all amendments thereto and revisions thereof. Declarant shall furnish copies of the information set forth in this Section to the Association on the date the first Lot is conveyed to an Owner. For purposes of this paragraph, "available" shall mean available for inspection, upon reasonable advance request of not less than 24 hours, during regular business hours at the office of the Association or the office of a Manager of the Association. The cost of any copies shall be reimbursed to the Association at a rate set by the Board of Directors.

ARTICLE VIII

WINDING UP AND TERMINATION

Upon winding up of the Association, the real and personal property of the Association shall be distributed pursuant to the provision of the Certificate of Formation or, if no such provision is



made, distributed to one or more organizations which are exempt from taxation under Section 501(c)(3) of the Code.

ARTICLE IX

MISCELLANEOUS

Section 9.1 **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless the Board of Directors shall determine otherwise.

Section 9.2 **Amendments by Board of Directors.** These Bylaws may be amended from time to time by the affirmative vote of 51% of the Directors present at a meeting of Directors at which a Quorum is present. Members must be given notice of any meeting of the Directors for the purpose of amending the Bylaws not less than ten or more than 20 days preceding the date of the meeting. Any such notice shall include the specific amendment or other change proposed to be made to these Bylaws.

Section 9.3 **Amendments by Declarant.** Pursuant to Article X of the Declaration, Declarant may amend these Bylaws at its sole discretion and without the approval of the Board of Directors or the Members, during the Development Period.

Section 9.4 **Construction.** Number and gender as used in these Bylaws shall extend to and include both singular and plural and all genders as the context and construction require.

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True and correct
original filed in
Pinto County Cl.
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Adopted as of April 5th, 2007.

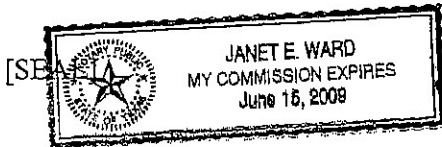
J. Campbell
Secretary of the Association

STATE OF TEXAS §

§

COUNTY OF PALO PINTO §

This instrument was acknowledged before me on the 5TH day of APRIL, 2007, by Jennifer Campbell, Secretary of **POSSUM KINGDOM PROPERTY OWNERS ASSOCIATION, INC.**, a Texas nonprofit corporation, on behalf of said corporation.



[Signature]
Notary Public, State of Texas

My Commission Expires:
6/15/2009

JANET E WARD
Printed or Typed Name of Notary



EXHIBIT D

Rules

4575009v.11 45385/7



RULES AND DESIGN GUIDELINES FOR

**THE POSSUM KINGDOM COMMUNITIES
("DEVELOPMENT")**

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**ADOPTED BY
BOARD OF DIRECTORS**

**PART III
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**ADOPTED BY
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APRIL 5TH, 2007



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PART I

GENERAL PROVISIONS

Part I and Part II of these Rules are established by the Board of Directors ("Board of Directors") of the Association and Part III of these Rules are established by the ACC effective as of April 5th, 2007, pursuant to the rule-making and rule-enforcement authority granted to the Board of Directors and the ACC, respectively.

These Rules are in addition to the provisions of the Declaration and the Bylaws. In the event of a conflict among the Governing Documents, the order of governing authority shall be as follows: the Restrictive Covenants, the Declaration, Certificate of Formation, Bylaws, the Design Guidelines and then the remaining provisions of these Rules (lowest). The Board of Directors and the ACC are empowered to interpret, enforce, amend, and repeal Part I and Part II of these Rules and the Design Guidelines, respectively.

A. DEFINITIONS

The following terms are defined for use in these Rules and those capitalized terms not expressly defined herein have the same meaning as defined in the Declaration:

"ACC." The Architectural Control Committee, a committee which has the rights and duties as described Part III of these Rules.

"Accessory Building." A subordinate building located on a Lot, either attached to or detached from a Dwelling, including ancillary living quarters, such as a guest house.

"Amenities Center." A recreational facility owned or to be owned by the Association for the common use and enjoyment of the Owners, which contains a swimming pool and clubhouse and constitutes a portion of the Common Areas.

"Association." Possum Kingdom Property Owners Association, Inc., a Texas nonprofit corporation, organized under the TNCL and created for the purposes and possessing the rights, powers and authority set forth in the Governing Documents.

"Community-Wide Standard." The standard of conduct, maintenance, or other activity generally prevailing throughout the Development. Such standard shall initially be established by the ACC pursuant to the Design Guidelines.

"Declaration." The Declaration of Covenants, Conditions and Restrictions for the Possum Kingdom Communities, and all recorded amendments thereto.

"Design Guidelines." The design and construction guidelines and application and review procedures applicable to the Development as a whole or specific sections within the Development promulgated and administered by the ACC, as described in Part III of these Rules.

"Earth Tones." A color scheme that draws from a color palette of browns, tans, greys, greens and reds, which are muted and flat in an emulation of the natural colors found in dirt and rocks.



"Facilities." Any recreational facilities owned or to be owned by the Association that are located in the Development including the Amenities Center, the Pavilion, the boat launch, and all parks and outdoor trails.

"Front Line." Any boundary line of a Lot which is adjacent to a public or private road and which the front of proposed Improvements face.

"Manager" or "Management Office." The management staff in the Development's management office who are employees of the Association or its managing agent.

"Owner." One or more Persons owning fee title to any Lot, including Declarant but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

"Pavilion." An outdoor pavilion area owned or to be owned by the Association for the common use and enjoyment of the Owners, which constitutes a portion of the Common Areas.

"Plans." All site plans or drawings with respect to a Lot showing all existing or proposed Improvements, floor plans and elevations of all faces of proposed Improvements, descriptions of exterior construction materials, proposed landscaping and a description of the nature, kind, shape, height, materials and location of the same, together with such other information as the ACC deems necessary.

"Posted Rules." Rules and signs posted by the Association at any time on the Property from time to time.

"Rules." These Rules and Design Guidelines, and the Posted Rules and Temporary Rules.

"Temporary Rules." Notices communicated to the Owners by the Association from time to time or at any time which rules are seasonal or temporary in nature or notices of change affecting the use of the Development.

"Tenant." Any Person having the right to occupy a Lot pursuant to a lease or other occupancy agreement granted by an Owner, to the extent allowed by the Governing Documents.

B. COMPLIANCE

1. Compliance. Each Owner will comply with the provisions of the Governing Documents and any other policies or Rules adopted by the Board of Directors or the ACC to supplement the Governing Documents, as any of these may be revised from time to time. Additionally, each Owner shall be responsible for ensuring compliance with the Governing Documents by all Persons using or occupying such Owner's Lot, including its guests, visitors, agents, employees and invitees. If a Rule requires, prohibits or permits conduct by an "Owner" or "Tenant," each of those terms shall be deemed to include the other, and applies to all persons for whom an Owner or Tenant is responsible.

2. Additional Rules. Each Owner must comply with the Posted Rules and the Temporary Rules. The Posted Rules and the Temporary Rules are incorporated into these Rules by reference.

3. Waiver. Circumstances may warrant waiver or variance of Part I or Part II of these Rules. To obtain a waiver or variance, an Owner must make written application to the Board of Directors. The Board of Directors will consider such request and respond to the Owner in accordance with the Governing Documents. If the application is approved, the waiver or variance must be in writing, and may be conditioned or otherwise limited.



4. Right to Enforce. The Association has the right to enforce Part I and Part II of these Rules against any Person on within the Development.

C. OBLIGATIONS OF OWNERS

1. Safety. Each Owner is solely responsible for such Owner's own safety and for the safety, well-being and supervision of such Owner's guests and any person within Development to whom the Owner has a duty of due care, control, or custody.

2. Damage. Except as otherwise provided in the Governing Documents, an Owner is responsible for any loss or damage the Owner causes to its own Lot, other Lots, the Common Areas or the personal property of other Owners.

3. Insurance. An Owner assumes full risk and sole responsibility for placing such Owner's personal property in or on the Common Areas. Each Owner is solely responsible for insuring such Owner's Improvements and personal property on its Lot. The Association recommends that all Owners and Tenants purchase and maintain appropriate insurance coverage on their personal belongings, vehicles and Lots.

4. Risk Management. An Owner may not permit anything to be done or kept in its Lot, or the Common Areas that is illegal or that may result in the cancellation or increase in any insurance premiums paid by the Association or any other Owner in connection with the Development.

5. Reimbursement for Enforcement. Each Owner shall promptly reimburse the Association on demand for any expense incurred by the Association to enforce the Governing Documents against such Owner or its Lot.

6. Reimbursement for Damage. Except as otherwise provided in the Governing Documents, each Owner shall promptly reimburse the Association on demand for the cost of damage caused by the negligent or willful conduct or omission of such Owner.

D. LEASES

1. Term and Conditions of Lease. Except for those Lots owned and leased by Declarant, which are not subject to these restrictions on leasing, an entire Lot (but not less than an entire Lot) may be leased for private residential purposes only and may not be leased for a term of less than one year.

2. Written Leases. Each lease of a Lot must be in writing and must be fully executed by the Owner and the Tenant.

3. Subject to Documents. The mere execution of a lease for a Lot or occupancy (for any period of time) subjects a Tenant to all pertinent provisions of the Governing Documents to the same extent as if Tenant were an Owner; provided that, notwithstanding the foregoing or any provision of the lease between Owner and a Tenant, the Owner shall not be relieved of any obligation under the Governing Documents and shall remain primarily liable thereunder. The Owner is responsible for providing a Tenant with the Governing Documents and notifying the Tenant of any changes therein. The Association may send notices of violations by a Tenant to both the Tenant and to the Owner of the Lot Occupied by the Tenant. Whether or not it is so stated in the lease, a Tenant's violation of the Governing Documents is deemed to be a material default of the lease for which Owner has all available remedies at law or equity.



4. Landlord Owners. Owners of Tenant-occupied Lots are advised to stay informed of and to comply with federal and state laws and local ordinances regulating residential rental properties and relations between landlords and tenants. The Association has no duty to notify Owners about landlord/tenant laws and ordinances.

5. Tenant Communications. Owners shall instruct their Tenants to channel all communications (including non-emergency repair requests) through the Owner. Owners will further instruct their Tenants that the Association does not manage or repair the Lots, and that the Tenant should not contact the Association (except as may be required by the Governing Documents or to report emergencies that are within the Association's scope of responsibility pursuant to Governing Documents).

E. GENERAL USE AND MAINTENANCE OF LOT

1. Use. Except for those Lots owned by Declarant, each Lot must be used solely for private residential use, and may not be used for any commercial or business purposes. This restriction does not prohibit an Owner from using the Lot for personal, business, or professional purposes, provided that: (a) such use is incidental to the Lot's residential use; (b) such use conforms to all applicable Legal Requirements; (c) there is no external evidence of such use; and (d) such use does not entail excessive visits to the Lot by the public, employees, suppliers, or clients. The use of all Lots shall be in accordance with the Governing Documents.

2. Annoyance. An Owner may not use a Lot in a way that: (a) annoys other Owners; (b) reduces the desirability of the Development as a residential community; (c) endangers the health or safety of other Owners; or (d) violates any law or any provision of the Governing Documents.

3. Right of Entry. The Association may enter a Lot in case of an emergency originating in or threatening the Lot, whether or not the Owner is present at the time. This right of entry may be exercised by directors, officers, agents, and employees, and by all police officers, firefighters, and other emergency personnel in the performance of their respective duties.

4. Combustibles. Except for those products sold for exclusive use as household cleaning products or used in the operation of lawnmowers or other equipment, an Owner may not store or maintain explosives or other combustible materials anywhere on the Property, including within its Lot.

5. Report Malfunctions. An Owner shall immediately upon discovery, report to the Association any leak, break, or malfunction in any portion of the Property which the Association has a duty to maintain. An Owner who fails to promptly report a problem may be deemed negligent and may be liable for any additional damage caused by the delay.

6. Compliance with Laws. EACH OWNER SHALL PROMPTLY AND FULLY COMPLY WITH ANY AND ALL LEGAL REQUIREMENTS WITH RESPECT TO THE OCCUPANCY AND USE OF ITS LOT.

F. GENERAL USE AND MAINTENANCE OF COMMON AREAS

1. Intended Use. Each area within the Development may be used only for its intended and obvious purpose. For example, walkways, paths, sidewalks and driveways are used exclusively for purposes of access and emergency egress.

2. Landscaping. No one shall harm, mutilate, alter, litter, uproot or remove any of the landscaping work on or within the Common Areas, or place or affix any planters, statues, fountains,



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ornamental objects or artificial plants upon any portion of the Common Areas without the prior written consent of the Association. Digging, planting, pruning, and climbing in any landscaped areas within the Common Areas are expressly prohibited.

3. Courtesy. Each Owner will endeavor to use the Common Areas in a manner calculated to respect the rights and privileges of other Owners and other users of the Property. Each Owner will refrain from conduct that may reasonably be expected to inconvenience, embarrass, or offend the average Owner in the Development and other users of the Property.

4. Code of Conduct. Owners will conduct themselves in a civil manner when dealing with the Association's officers, directors, committee members, employees, contractors, agents, and other Owners. In return, the Owners are due the same courtesy and civility. The following actions are expressly prohibited: (a) verbal abuse; (b) insults and derogatory name-calling; (c) cursing; (d) aggressive or threatening behavior; (e) hostile touching or physical contact; (f) sexual harassment; (g) posting correspondence on the doors of directors and officers; and (h) phone calls that are designed, by their tone, time, or frequency, to harass or intimidate. No person has the right to abuse another, or the duty to tolerate abuse.

5. Association Employees. Owners may not instruct, direct, or supervise the Association's employees and agents, unless directed to do so by the Board of Directors. Owners may not interfere with the performance of duties by the Association's employees, and will refrain from monopolizing the time or attention of the Association's employees.

6. No Hiring of Employees. The employees and agents of the Association are not permitted or authorized to render personal services to Owners. The Owners will not request or encourage employees or agents to violate this provision.

7. Communications among Owners. The Association bears a duty to balance the right of members to communicate with each other against the desire of the Owners and Tenants to be free of uninvited solicitations and misleading communications. To achieve that balance, oral and written communications that are intended for delivery to more than one Owner are subject to this section.

(a) Without the Board of Directors' prior written permission, Owners may not communicate with others in a manner that may give the impression of having been approved or sanctioned by the Association. In communicating with other Owners, the issuer should identify himself and state that the communication has not been sanctioned by the Association.

(b) Without the Board of Directors' prior written permission, a person may not distribute handbills or hand-deliver written communications to mailboxes, Lot doors, or car windshields.

(c) Without the Board of Directors' prior written permission, a person may not solicit information, endorsements, or money from Tenants, except via the U.S. mail.

8. Annoyance. Owners will avoid doing or permitting anything to be done that will annoy, harass, embarrass, or inconvenience other Owners, their guests, or the Association's employees and agents.

9. Noise and Odors. Each Owner will exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb other Owners.



10. Reception Interference. Owners will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, or electronic reception on or about the Development.

11. Vehicles. Automobiles and non-commercial trucks and vans shall be parked only in garages or in the driveways serving the Lots unless otherwise approved by the ACC; provided, however, Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. Such vehicle shall be considered a nuisance and may be removed from the Development. Recreational vehicles, such as motor homes, boats, jet skis or other watercraft, trailers, other towed vehicles, motorcycles, "all terrain" vehicles, minibikes, scooters, go-carts, golf carts, campers, commercial trucks and commercial vans may not be parked on a driveway or other area of a Lot that is visible from the street.

12. Firearms. The discharge of firearms is prohibited within the Development. The term "firearms" includes "B-B" guns, pellet guns, and firearms of all types. The Board of Directors may impose additional fines and exercise other enforcement remedies in the Governing Documents to enforce this restriction, but shall not be obligated to exercise self-help to prevent any such discharge.

13. Hunting. Hunting of any kind shall be prohibited within the Development. This includes the hunting of animals by firearms, bowhunting, traps, slingshots or other means of harming, targeting or entrapping wildlife or domesticated animals.

14. Dirt Bikes. Dirt bikes and similar two-wheeled motorized vehicles are forbidden on all roads and other Common Areas within the Development and may only be used on Lots.

15. Incidental Bodies of Water. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within or adjacent to the Development. In addition, the Association shall not be responsible for maintaining, increasing or decreasing the water level within any lake or other water body or removing vegetation from any lake or other water body.

16. Resolution by Arbitration. All disagreements between an Owner and the Association as a representative of another Owner, with regard to whether or not noises, odors or particular conduct are loud, disturbing, objectionable or otherwise annoying as contemplated in Part I and Part II of these Rules shall be resolved in accordance with the terms of the Declaration.

G. USE OF FACILITIES

1. Access to Facilities. The Association may, in its sole and absolute discretion, designate the hours of access to the Facilities, as well as restrict the use thereof, by requiring pre-scheduling and limiting the amount of time available to each Owner to ensure fair access. The use of the Facilities is subject to compliance with these Rules. Persons using the Facilities must, at all times, respect the rights and privileges of others using the Facilities.

2. Amenities Center. The Amenities Center consists of a clubhouse, swimming pool and pavilion. The clubhouse is available to Owners by reservation as described below

3. Guests. Except for Tenants, a non-Owner may not use the Facilities unless accompanied at all times by an Owner. Each Owner agrees to assume all responsibility for the care, safety and well-being of such Owner's guest or invitee relating to the use of the Facilities. The right of an Owner to share the use of the Facilities with such Owner's guests or invitees is at all times subject to the immediate



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termination by the Board of Directors if the Governing Documents are violated, or if such termination is deemed by the Board of Directors to be in the Association's best interests.

4. Number of Guests. Owners of a Lot, collectively may not have more than four guests using the Amenities Center. By reservation through the Manager, functions involving a larger number of guests may be permitted in the Amenities Center, provided, however, that the number of guests in the Amenities Center shall at all times comply with the all Legal Requirements and the maximum occupancy standards set forth therein. Reserved functions must be confined to the clubhouse, and the host Owner must ensure that such Owner's guests do not use the other facilities.

5. Age Restrictions for Health and Safety. In addition to the general requirement that the use of the Amenities Center by minors or legal incompetents be with the knowledge and consent of their parent or guardian, no person under the age of 14 years may be permitted in or around the Amenities Center at any time unless accompanied by a parent or legal guardian.

6. Animals Prohibited. Other than assistance animals allowed by Legal Requirements, no animals or pets are permitted in the Amenities Center at any time.

7. Disturbances Prohibited. No loud sounds or boisterous conduct is permitted in the Amenities Center at any time. No use of a radio, television, CD player or similar device is permitted in the Amenities Center unless used with headphones so that others are not disturbed, except that such devices may be permitted to be used at a reserved function in the clubhouse or the pool area as long as other Owners are not disturbed.

8. Glass Containers Prohibited. Containers made of glass are not permitted at any time in the swimming pool area.

9. Suspension of Privileges. The Board of Directors may suspend use of the Facilities by any Owner or guest who violates these Rules and the Design Guidelines in relation to the Facilities more than two times within a 12-month period. The length of the suspension will be determined solely by the Board of Directors, taking into consideration the facility in question and the nature and frequency of the violations. Notice of such suspension will be delivered in writing and will entitle the suspended Facilities user to a hearing before the Board of Directors.

10. Suspension for Nonpayment. The Board of Directors may suspend use of the Facilities by an Owner or by the occupants of that Owner's Lot for any period during which Assessments against that Lot are unpaid.

11. Additional Rules for Swimming Pool. In addition to the Rules and Posted Rules at the swimming pool, the following rules will condition any use of the swimming pool: (a) customary swimming attire must be worn in the swimming pool; (b) street clothes, cutoffs, underwear and nude bathing are not allowed in the pool; (c) pool furniture may not be removed from the swimming pool area; (d) running, rough play, wrestling, excessive splashing and loud behavior are prohibited in the pool area; (e) no person under the age of 14 years may be permitted in or around the swimming pool except pursuant to paragraph 5 above; and (f) children who are not toilet trained are not permitted in the swimming pool.

12. Reservation of the Clubhouse. In addition to the above Rules, including age and guest limitations, the following rules will condition use of the clubhouse:

(a) Reservation. The clubhouse may be reserved through the Association for a specific date not more than 60 days prior to such date. Advance notice of at least one week



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should be given for any reservation. Owners are limited to a total of two reservations per month. The Association may charge a fee for the reservation and use of the clubhouse in addition to the refundable deposit.

(b) Use or Function. In connection with a reservation, the Association may require the Owner to describe the purpose for which the clubhouse will be used. The right of Owners to reserve the clubhouse for private use is subject to the right of the Board of Directors to prohibit or condition certain uses or functions or to require additional security deposits.

(c) Cleaning. An Owner who has exclusive use of the clubhouse must restore the clubhouse to a neat and clean condition within two hours after the end of the period reserved or no later than 8:00 a.m. the next day following an evening use. The Association shall have the right to require a deposit in connection with an Owner's reservation of the clubhouse, and if the condition of such clubhouse is not satisfactory upon Manager's inspection, the cost of cleaning or repair will be deducted from such deposit. A minimum deduction by the Association for cleaning or repairs may be set by the Board of Directors.

13. Release. Although all Owners, guests and invitees may be required to sign releases of liability releasing and holding harmless the Association, Board of Directors and employees from any and all liability, claims, losses, and actions arising out of or in connection with the use of any of the Facilities, the mere use of such Facilities, in and of itself, by any person shall constitute a full and complete release and indemnification of the Association, Board of Directors, employees and Manager arising out of and in connection with any such activities. **THE ASSOCIATION EXPRESSLY DISCLAIMS AND DISAVOWS ANY AND ALL REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF FITNESS OR SAFETY FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY OF THE FACILITIES OR ANY EQUIPMENT ASSOCIATED WITH THE FACILITIES.**

14. Risk. Each Owner uses the Facilities and other Common Areas at such Owner's own risk. The Facilities is unattended and unsupervised. Each Owner is solely responsible for such Owner's own safety and that of such Owner's guests. The Association disclaims any and all liability or responsibility for property damage, injury or death occurring from use of the Facilities.

H. HEALTH AND WELL-BEING

For the health, well-being and enjoyment of all Owners, the following limitations and restrictions will be observed, in addition to any Rules, Posted Rules and other warnings or notices that may be posted at the Facilities.

1. Supervision of Minors. For their own well-being and protection, persons who are legally incompetent or younger than 14 years must be under the general control and supervision of their parents or guardians at all times while on the Development. A person under 14 years may not be left unattended in the Development at any time.

EACH OWNER AND OCCUPANT OF A LOT AND THEIR RESPECTIVE LESSEES, INVITEES, LICENSEES, AND GUESTS SHALL BE RESPONSIBLE FOR THEIR OWN PERSONAL SAFETY AND SECURITY ON THEIR LOT AND WITHIN THE DEVELOPMENT. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE DEVELOPMENT DESIGNED TO MAKE THE DEVELOPMENT SAFER THAN IT OTHERWISE MIGHT BE. NEITHER THE ASSOCIATION, DECLARANT, THE



BOARD OF DIRECTORS, THE MANAGER, NOR THE ACC SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE DEVELOPMENT, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SECURITY SYSTEM OR MEASURE, INCLUDING ANY MECHANISM OR SYSTEM FOR LIMITING ACCESS TO THE DEVELOPMENT, CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS AND ALL OCCUPANTS OF ITS LOT THAT NEITHER THE ASSOCIATION, DECLARANT, THE BOARD OF DIRECTORS, THE MANAGER NOR THE ACC ARE INSURERS OR GUARANTORS OF SECURITY WITHIN THE DEVELOPMENT, AND THAT EACH PERSON USING THE DEVELOPMENT ASSUMES ALL RISKS OF PERSONAL INJURY AND LOSS OR DAMAGE TO PROPERTY, INCLUDING LOTS AND THE CONTENTS OF LOTS, RESULTING FROM ACTS OF THIRD PARTIES.

I. TRASH DISPOSAL

1. General Duty. Owners will endeavor to keep the Development clean and will dispose of all refuse in receptacles for that purpose and may not litter Common Areas.
2. Hazards. Trash may not be left anywhere on the Common Areas other than in the designated receptacles. Owners may not place lighted or smoldering items, including cigarettes, in such designated trash receptacles. Owners may not store trash inside or outside its Lot in a manner that may permit the spread of fire, odors, or seepage, or encouragement of vermin.

J. PETS AND ANIMALS

1. Subject to Legal Requirements. All pets must conform to any applicable animal control ordinances and Legal Requirements.
2. Permitted Pets. Permitted pets include domesticated dogs, cats, rabbits and caged birds. There shall be no more than four adult dogs per household. Dogs must be kept in a kennel, dog run, or fenced in area that confines such dogs to that area. Pets shall not be permitted to run loose within the Development. If required by any Legal Requirement, any such pet(s) must be appropriately vaccinated and licensed through the Governmental Authority.
3. Large Animals. Owners may maintain horses, mules and cows on Lots five acres or greater in size once residential dwelling is constructed. Such animals shall be limited in number to one animal per acre owned by an Owner but only if such Lots are fenced with fencing capable of containing such animals.
4. Prohibited Animals. No Owner may keep a dangerous or exotic animal, trained attack dog, or any other animal determined by the Board of Directors in its sole discretion to be a potential threat to the well-being of people or other animals.



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5. Leashes. Pets must be leashed or carried while in Common Areas. No pet may be leashed to a stationary object on the Common Areas. No pet is allowed, at any time, in the Amenities Center.

6. Disturbance. Pets must be kept in a manner that does not disturb another Owner's rest or peaceful enjoyment of its Lot or the Common Areas. No pet may be permitted to bark, howl, whine, yap, yip, screech or make other loud noises for extended or repeated periods of time.

7. Damage. Owners are responsible for any property damage, injury, or disturbance such Owner's pet may cause or inflict on the Common Areas and must compensate any person injured or otherwise damaged by such Owner's pet. An Owner who keeps a pet on its Lot is deemed to indemnify and agrees to hold harmless Declarant, the Board of Directors, the Association, the ACC and other Owners and Tenants, from any loss, claim, or liability of any kind or character whatever resulting from any action of such Owner's pet or arising by reason of keeping or maintaining the pet on such Lot.

8. Dog Walk and Pooper Scooper. Owners are responsible for the removal of pet's wastes from the Common Areas. The Board of Directors may levy a fine against a Lot and its Owner each time feces or urine are discovered on the Common Areas and attributed to an animal in the custody of such Owner.

9. Removal. If an Owner or such Owner's pet violates these Rules, or if a pet creates a nuisance, unreasonable disturbance, or noise, the Owner or person having control of the animal may be given a written notice by the Board of Directors to correct the problem. After the first written warning, a fine in the amount of at least \$50 shall be levied for all future violations. If violations occur repeatedly, the Owner, upon written notice from the Board of Directors, may be required to remove the pet. Each Owner agrees to permanently remove the violating animal of such Owner from the Development within ten days after receipt of such removal notice from the Board of Directors.

10. Complaints. Any complaints about pets or Owners violating these Rules shall be made in writing to the Manager or Association and identify the type of infraction, the date of infraction, and must be signed by the witness to the infraction.

11. Compliance. Pets with a physical handicap or, to the extent permitted by applicable Legal Requirements, Owners who have a physical handicap which would prevent them from complying with these Rules, must receive a variance by the Board of Directors or Manager.

K. MISCELLANEOUS

1. Right to Hearing. Prior to commencement of the mediation and arbitration process in Section 11.7 of the Declaration, an Owner may request in writing a hearing by the Board of Directors regarding an alleged breach of these Rules by the Owner or any person for whom the Owner is responsible. The Board of Directors will schedule a hearing within ten days after receiving the Owner's written request. At the hearing, the Board of Directors will consider the facts and circumstances surrounding the alleged violation. The Owner may attend the hearing in person, or may be represented by another person or written communication.

2. Mailing Address. An Owner who receives mail at an address other than the address of such Owner's Lot is responsible for maintaining with the Association such Owner's current mailing address. An Owner who changes such Owner's name or mailing address must notify the Association in writing within 15 days after the change. Notifications of change of name or change of address should be clearly marked as such. All notices required to be sent to Owners by the Governing Documents will be



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sent to an Owner's most recent address as shown on the records of the Association. If an Owner fails to provide a forwarding address, the address of that Owner's Lot is deemed effective for purposes of delivery.

3. No Waiver. The failure of the Association to enforce a provision of these Rules does not constitute a waiver of the right of the Association to enforce such provision in the future.

4. Severability. If any term or provision of these Rules is held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding will not affect any other term or provision of these Rules.

5. Amendment of Rules. Except for the Design Guidelines, these Rules are subject to being revised, replaced, amended or supplemented by the Board of Directors. Upon any such revision, a copy of the revisions will be delivered to each Owner. Owners are urged to contact the Association to verify the Rules currently in effect on any matter of interest. These Rules will remain effective until ten days after the Association delivers to an Owner of each Lot notice of amendment to or revocation of these Rules. The notice may be published and distributed in an Association newsletter or other community-wide publication.

6. Other Rights. These Rules are in addition to all rights of the Association under the other Governing Documents and all applicable Legal Requirements.

PART II

RULES GOVERNING COLLECTION AND FINING

A. COLLECTION RULES AND PROCEDURES

To the extent permitted by applicable Legal Requirements:

1. Due Date. An Owner will timely and fully pay all Assessments in accordance with the provisions of the Declaration when due.

2. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of a Lot becomes delinquent, it remains delinquent until paid in full. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees and other reasonable costs and attorneys' fees incurred by the Association in collecting the delinquency.

3. Late Fees and Interest. If the Association does not receive full payment of an Assessment by 5:00 p.m. on the fifth calendar day following the due date, the Association may collect interest at the Past Due Rate until the delinquency is paid in full.

4. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send one or more written notices of nonpayment to the defaulting Owner stating the amount delinquent. Such delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies under the Governing Documents or state law at the sole cost and expense of the defaulting Owner.



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5. Collection by Association's Attorney. After giving the Owner notice of the delinquency, the Association may refer the delinquent account to an attorney for collection. In that event, the defaulting Owner will be liable to the Association for its legal fees and expenses.
6. Collection Agency. The Board of Directors may employ or assign the delinquency to one or more collection agencies.
7. Notification of Mortgagee. The Association may notify the Owner's Mortgagee of the default in payment of any Assessment.
8. Notification of Credit Bureau. The Association may file a report on the defaulting Owner with one or more credit reporting services.
9. Notice of Lien. The Association shall cause a notice of the Association's assessment lien against the Lot to be publicly recorded. A copy of the notice of lien will be sent to the defaulting Owner, and may be sent to its Mortgagee.
10. Right to Accelerate. If an Assessment is payable in installments and if an Owner defaults in the payment of any installment, the Association may declare such Assessment in default and accelerate the due date on all remaining installments of that Assessment.
11. Notice to Owner. A Special Assessment or Individual Assessment payable in installments may be accelerated only after the Association gives the Owner at least 15 days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not cured within such notice period.
12. No Duty to Reinstate. Following acceleration of an Assessment payable in installments, the Association has no duty to reinstate the installment program upon payment by the Owner of any delinquent installment.
13. Foreclosure of Lien -- Nonjudicially. The Board of Directors may instruct an attorney, officer or agent of the Association to notify the defaulting Owner of the Association's intent to foreclose its assessment lien, to post the Lot for sale at public auction, and to conduct a public auction of the Lot in accordance with the Governing Documents and all other requirements of state law.
14. Foreclosure of Lien -- Judicially. The Association may file suit against the Owner for judicial foreclosure of the Association's assessment lien. This action may be combined with a claim against the Owner for recovery of a money judgment.
15. Suit Against Owner. Whether or not the Association forecloses the Association's assessment lien, the Board of Directors may elect to file suit to recover delinquent Assessments against the defaulting Owner and the Owner shall be personally liable for any judgment obtained by the Association.
16. Possession Following Foreclosure. If the Association purchases the Lot at public sale, the Board of Directors may immediately institute appropriate actions to recover possession of the Lot.
17. Application of Payments. All payments received by the Association may be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose: (a) collection costs and attorneys fees; (b) fines; (c) reimbursable expenses; (d) late charges and interest; (e)



delinquent Special Assessments or Individual Assessments; (f) delinquent General Assessments; (g) current Special Assessments or Individual Assessments; and (h) current General Assessments.

18. Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.

19. Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payments to which the payor attaches conditions or directions contrary to the Board of Directors' policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Lot's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payor. A payment that is not refunded to the payor within 30 days after being deposited by the Association may be deemed accepted. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations or the Association's right to apply payments pursuant to any rights herein granted.

20. Notice of Payment. If the Association receives full payment of the delinquency after recording a notice of lien, the Association will cause a release of notice of lien to be publicly recorded, a copy of which will be sent to the Owner; provided, however, the Owner prepays the reasonable cost of preparing and recording the release.

21. Notification of Credit Reporting Agency. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to that credit reporting service.

22. Limited Right of Redemption. If the Association buys a Lot at the non-judicial foreclosure sale of its assessment lien, the Association's ownership of such Lot is subject to a right of redemption by the Owner, as provided by the Declaration.

23. Waiver. Properly levied collection costs, late fees, and interest may not be waived by the Board of Directors, unless a majority of the Board of Directors determines that extraordinary circumstances warrant an adjustment to the account, in which case the adjustment must be described in detail in the minutes of the Board of Directors' meeting. Because of the potential for inadvertently effecting a waiver of the provisions of this policy, the Board of Directors will exercise extreme caution in granting adjustments to an Owner's account.

B. FINING RULES AND PROCEDURE

1. Policy. The Association uses fines to discourage violations of the Governing Documents and to encourage present and future compliance when a violation does occur, not to punish violators or generate revenue for the Association.

2. Owners Liable. An Owner is liable for fines levied by the Association for violations of the Governing Documents whether the Owner commits the violation or Tenants, guests or other invitees of such Owner commit the violation. Regardless of who commits the violation, the Association will direct its communications to the Owner, although the Association may also send copies of its notices to the actual violator.

3. Violation Notice. Before levying a fine, the Association will give the Owner a written violation notice and an opportunity for a hearing. The Association's written violation notice will contain



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the following items: (a) the date the violation notice is mailed or prepared; (b) a description of the violation; (c) a reference to the rule being violated; (d) a description of the action required to cure the violation; (e) the amount of the fine; (f) a statement that not later than the 30th day after the date of the violation notice, the Owner may request a hearing before the Board of Directors to contest the fine; and (g) the date the fine attaches or begins accruing.

4. New Violation. If the Owner was not given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months, the notice will state a specific date by which the violation must be cured to avoid the fine, if the violation is ongoing or continuous. If the violation is not ongoing, but is instead sporadic or periodic, the notice must state that any future violation of the same rule may result in the levy of a fine.

5. Repeat Violation. In the case of a repeat violation, the notice will state that, because the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months, the fine attaches from the date of the violation notice.

6. Right to Hearing. Prior to commencement of the mediation and arbitration process in Section 11.7 of the Declaration, an Owner may request in writing a hearing by the Board of Directors regarding the alleged breach of the Governing Documents. The Board of Directors has ten days after receiving the Owner's request for a hearing to give the Owner notice of the time, place and date of the hearing. The hearing must be scheduled for a date within 45 days from the date the Association receives the Owner's request and should be scheduled to provide a reasonable opportunity for both the Board of Directors and the Owner to attend. The Owner's request for a hearing suspends only the levy of a fine. The hearing will be held in a closed or executive session of the Board of Directors. At the hearing the Board of Directors will consider the facts and circumstances surrounding the violation and the Owner may attend in person, or may be represented by another person or written communication.

7. Committee of Board of Directors. The Board of Directors may appoint a committee comprised solely of directors to serve as the Board of Directors at violation hearings. The Board of Directors will be bound by the decision of such committee. Such a committee may be appointed on an ad hoc basis.

8. Levy of Fine. Within 30 days after levying the fine, the Association must give the Owner notice of the levied fine. If the fine is levied at the hearing at which the Owner is actually present, the notice requirement will be satisfied if the Board of Directors announces its decision to the Owner at the hearing; otherwise, the notice must be in writing.

9. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation and should be uniform for similar violations of the same provision of the Governing Documents.

10. Type of Levy. If the violation is ongoing or continuous, the fine may be levied on a periodic basis beginning on the start date. If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.

11. Collection of Fines. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Association may not charge interest or late fees for unpaid fines.



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12. Amendment of Policy. These fining rules will remain effective until ten days after the Association delivers, or causes to be delivered, to an Owner of each Lot notice of amendment to or revocation of these Rules. The notice may be published and distributed in an Association newsletter or other community-wide publication.

PART III

ARCHITECTURAL CONTROL AND DESIGN GUIDELINES

Each Owner, by accepting a deed to its Lot acknowledges that Declarant has a substantial interest in ensuring that all structures and Improvements within the Development enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell or lease any portion of the Development or other real property owned by Declarant. Therefore, the Declarant has established the ACC to be responsible for administration of the Design Guidelines and review of all applications for construction and modifications permitted hereunder. The ACC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the ACC in having any application reviewed by architects, engineers or other professionals.

A. ADMINISTRATION AND PROCEDURES

1. The ACC. During the Development Period, the ACC shall consist of Declarant, Declarant's designees or agents, who shall serve at Declarant's discretion. During such time, Declarant shall have full authority to designate and appoint a successor in the event of the death, resignation or removal by Declarant of any member of the ACC. Upon the expiration of the Development Period, or the earlier termination thereof, the Board of Directors shall appoint the members of the ACC, who may consist of one or more members of the Board of Directors. At all times, the ACC shall consist of at least three members.

2. Standards. The ACC shall have the responsibility to develop a Community-Wide Standard for the Development and shall have sole discretion with respect to taste, design standards and other guidelines and restrictions to ensure compliance with the Community-Wide Standard. One objective of the ACC is to prevent unusual, radical, curious, odd, bizarre, peculiar or irregular structures from being built within the Development. The ACC may from time to time adopt such procedural and substantive rules, to the extent not in conflict with the Governing Documents, as it may deem necessary or proper for the performance of its duties, including any additional Design Guidelines and publish and promulgate bulletins regarding such additional Design Guidelines, which shall be fair, reasonable and uniformly applied and shall carry forward the spirit and intention of the Community-Wide Standard and the Governing Documents. The ACC shall have the authority to adopt Design Guidelines which may be applicable to only specific sections within the Development.

3. Submission of Plans to ACC. No Dwelling or other Improvements, including Accessory Buildings, landscaping, building, fences, signs, walls, decks, patios or other structures may be placed, erected, installed or made upon any Lot, nor shall any exterior addition to or change or alteration be made until the Plans, with a \$200 fee (the "Application Fee"), are submitted to and approved by the a majority of the members of the ACC. Plans shall be submitted to the ACC at least 30 days prior to the commencement of any construction or modification. The ACC is authorized to request the submission of samples of proposed construction materials and to hire professional consultants to assist in the reviewing an Owner's Plans. The ACC shall have the power and authority to make any such subjective judgments



and to interpret the intent and provisions of the Design Guidelines and the Governing Documents, as the ACC may deem appropriate in its sole discretion.

4. Approval of Plans. The ACC shall review the Plans and shall notify an Owner in writing of its approval or disapproval. If the ACC fails to approve or disapprove such Plans within 30 days after the same has been submitted to it, such Plans will be deemed to have been approved by the ACC. Any disapproval shall set forth the elements disapproved and the reason or reasons. The judgment of the ACC in this respect in the exercise of its sole and absolute discretion and shall be final and conclusive, and the Owner may revise the Plans (if disapproved) and resubmit them for approval. No construction, alteration, change or modification shall commence on an Owner's Lot until approval of the ACC is obtained.

5. Appeal of Final Decision. Any Owner may appeal the final decision of the ACC by submission of a written request therefor to the Board of Directors within 10 business days the Owner's receipt of such decision. Such written notice must include the set of Plans and all other information submitted to the ACC by the Owner in connection with the review process, along with a written statement by the Owner justifying approval of its Plans. The Board of Directors shall schedule a special meeting within 30 days of receipt of such written notice from the appealing Owner, which may, but need not be, attended by the Owner or the ACC, where it will consider the position advanced by the Owner and the final decision of the ACC. Within 10 business days after such hearing, the Board of Directors must vote to uphold the final decision of the ACC or approve the Plans as submitted by the Owner to the ACC; the Board of Directors shall have no discretion to recommend or approve modifications to the Plans. A vote of not less than 2/3% of the directors of the Board of Directors shall be necessary to reverse the final decision of the ACC. Such vote of the Board of Directors shall be final and binding on the Owner and the ACC as of the date it is rendered and shall not be subject to the arbitration provisions of the Declaration. Each Owner shall be responsible for paying the costs incurred by the Board of Directors for its review of the Plans regardless of whether such Plans are approved, including any costs incurred by the Board of Directors in employing professional consultants to assist in the reviewing such Owner's Plans.

6. Unauthorized Changes. If an Owner makes unauthorized changes to its Lot or Improvements in a manner unsatisfactory to the ACC, the ACC shall have the right, through its agents and employees, to: (i) enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the Dwelling and any other Improvements erected thereon or remove any prohibited items from such Lot, or (ii) seek enforcement of the Owner's obligations under the Governing Documents in a court of competent jurisdiction located in the County. The ACC, its agents and employees shall have the right to remove any Improvement not complying with these Design Guidelines and in so doing, shall not be liable and are expressly relieved from any liability for trespass or other tort in connection therewith or rising from such removal. The cost of such exterior maintenance and the costs and attorney's fees incurred by the ACC in the enforcement of the rights under these provisions shall be added to and become a part of the Assessments to which such Lot is subject, to the extent permitted by the Act. In addition to the foregoing, the ACC shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of the Design Guidelines.

7. ACC Liability. Neither the Declarant, the Association, the Board of Directors, the ACC nor any employees, officers, directors or members thereof shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by the Design Guidelines by reason of mistake of judgment, negligence or nonfeasance arising out or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors in or omissions from the plans and specifications submitted to the ACC shall be the responsibility of the Owner of the Lot to which the Improvements relate, and the ACC shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general



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provisions of these Design Guidelines, any Legal Requirements or the common law, whether the same relate to lot lines, building lines, easements or any other issue. Similarly, no approval by the ACC of any plans and specifications shall be deemed or construed as a representation or warranty by the ACC that such plans and specifications comply with any applicable city codes, state statutes or other applicable laws, codes or ordinances. **THE OWNER, MAKING OR CAUSING TO BE MADE SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS, AGREES, AND SHALL BE DEEMED TO HAVE AGREED, FOR SUCH OWNER, TO HOLD THE ACC, THE ASSOCIATION, DECLARANT AND ALL OTHER OWNERS HARMLESS FROM AND TO INDEMNIFY THEM FOR ANY LIABILITY OR DAMAGE TO THE PROPERTY RESULTING FROM SUCH ADDITIONS, ALTERATIONS OR IMPROVEMENTS. ANY OTHER OWNER SUBMITTING PLANS HEREUNDER, BY DISSEMINATION OF THE SAME, AND ANY OWNER, BY ACQUIRING TITLE TO THE SAME, AGREES NOT TO SEEK DAMAGES FROM THE ACC, ARISING OUT OF THE ACC'S REVIEW OF ANY PLANS HEREUNDER. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE ACC SHALL NOT BE RESPONSIBLE FOR REVIEWING, NOR SHALL ITS REVIEW OF ANY PLANS BE DEEMED APPROVAL OF, ANY PLANS FROM THE STANDPOINT OF THE STRUCTURAL SAFETY, SOUNDNESS, WORKMANSHIP, MATERIALS, USEFULNESS, CONFORMITY WITH BUILDING OR OTHER CODES OR INDUSTRY STANDARDS OR COMPLIANCE WITH THE GOVERNING DOCUMENTS AND ALL LEGAL REQUIREMENTS. FURTHER, EACH OWNER AGREES TO INDEMNIFY AND HOLD THE ACC AND ITS RESPECTIVE OFFICERS AND EMPLOYEES HARMLESS FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, DAMAGES, EXPENSES OR LIABILITIES WHATSOEVER, ARISING AS A RESULT OF THE REVIEW OF ANY PLANS HEREUNDER.**

8. Certificate. Upon written request of an Owner, the ACC shall furnish a certificate concerning or certifying (if true) the approval of such Owner's plans and specifications, and if applicable, the grant of any deviation hereunder.

9. Variance. Circumstances may warrant waiver or variance of the Design Guidelines. To obtain a waiver or variance, an Owner must make written application to the ACC and the ACC will consider such request and respond to the Owner within 30 days. If the application is approved, the waiver or variance must be in writing, and may be conditioned or otherwise limited. If the ACC fails to approve or disapprove of an Owner's written application for a waiver within 30 days after the date of submission, such waiver shall be deemed approved.

10. No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

11. Amendment. The Design Guidelines may not be amended without the Declarant's written consent during the Development Period. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

12. Single Family Residential Construction. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Dwelling per each Lot to be used for single family residential purposes. All Dwellings and Accessory Buildings must be approved in writing by the ACC prior to being erected, altered or placed on the Lot. The term "Dwelling" does not include single or double wide or other manufactured homes, and said manufactured homes are not permitted within the Development.



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13. Minimum Size/Height Restrictions. The total air-conditioned habitable area of a Dwelling, as measured to the outside of exterior walls but excluding open porches, garages, breezeways, patios and detached Accessory Buildings, shall be not less than: (i) 2,000 square feet in size for one story Dwellings; or (ii) 2,400 square feet in size for two story Dwellings, provided that the first story of such Dwelling is at least 1,600 square feet in size. All guest houses on a Lot must have a minimum of 1,000 square feet of total air-conditioned habitable area. No Dwelling or Accessory Building may exceed 35 feet in height.

14. Landscape Plans. Landscape and irrigation plans are required to be prepared and submitted to the the ACC. These plans shall show the size, type, locations, and spot elevations of all existing trees to be preserved or to be removed (as the case may be) and all proposed landscape elements. Those Lots for which an irrigation system is required or proposed shall be designed such that there is no overspray onto adjacent yards, streets or Common Areas. Landscaping installed without the review and approval of the ACC is subject to removal if determined to be out of character with the natural settings that exist throughout the Development.

15. Utility Easements. As described in the Declaration, each Lot shall be subject to one or more Utility Easements. In general, there will be a 20 foot easement along the Front Line of each Lot, and a 5 foot easement along the side line and rear line of each Lot. No improvements, including fences, may be constructed within such easement areas.

16. Fences. All walls and fences constructed on a Lot must be approved by the ACC prior to construction and must not exceed six feet in height; provided that fencing constructed within the interior of a Lot that is behind a perimeter wall or fence shall not require the prior approval of the ACC. All fencing must be in Earth Tones and must blend with the natural environment. Fences constructed of white plastic or galvanized chain link are prohibited, as are fences that obstruct natural views within the Development. Lots two acres or less are permitted to fence along the Front Line, however all fencing shall be located behind the Utility Easement and must be made of wrought iron or masonry that matches or compliments the Dwelling on the Lot. All fences on lakefront Lots must have see-through fencing.

17. Roof. Acceptable roof materials shall include slate, clay tile, metal and composition materials where the type, weight, quality, and color have been approved by the ACC. Other materials must be specifically approved by the ACC. All roofs and roofing materials shall be in Earth Tones which complient the exterior color of the Dwelling.

18. Satellite Dishes and Antenna. The ACC shall not prohibit the installation, maintenance or use of antennae used to receive video programming as described in the Over-the-Air Reception Devices Rule adopted by the Federal Communications Commission. An Owner shall be permitted to install or maintain video antenna, including direct-to-home satellite dishes less than one meter in diameter, TV antenna and wireless cable antenna on its Lot, subject to reasonable safety rules established by the ACC from time to time.

19. Exterior Lighting. Landscape uplights are effective for accentuating plant material and other features. Except for holiday season lights (which are appropriate from Thanksgiving through the first week of January). Light fixtures and standards should be chosen to blend into and enhance the Lot it is illuminating. Spillage of light or glare from one property to another should be avoided. Light shields and timer/sensor systems should be used in areas where spill-over is a potential problem. No high or low pressure sodium light shall be permitted.

20. Masonry. At least 80% of the exterior of a Dwelling must be covered with glass, natural wood, brick, stucco, natural stone or other as may be permitted by the ACC. All masonry used is subject



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to specific ACC approval concerning color, style, and texture. Exposed plain concrete surfaces, excluding flatwork and pavement, aluminum, asbestos siding, vinyl siding, plywood siding, or masonite siding are prohibited.

21. Exterior Dwelling Materials. Dwellings shall not be adorned with stylistic ornamentation or details that are out of character with the image of the Development. All painted Improvements and other painted structures (where the paint color and texture were originally approved by the ACC) on each Lot shall be repainted by the Owner(s) thereof at their own expense as often as is reasonably necessary to ensure the attractiveness and aesthetic quality of such Improvement. The subsequent approval of the ACC for such repainting shall not be required so long as neither the color scheme nor the arrangement of the colors of any Improvements, nor the color of any paint thereon is materially altered. The ACC shall have the right to review and approve exterior screen doors, storm doors and security gates and bars as exterior residential materials.

22. Mechanical Equipment. All utility meters, propane tanks, equipment, garbage receptacles, air conditioning compressors, transformers, swimming pool pumps and filters, etc. must be visually screened (so as not to be visible from any Lot, street or other Common Area). All electrical wiring services must be located underground.

23. Garbage. All garbage cans shall be located or screened so as to be concealed from view of streets and adjacent Lots. All rubbish, trash and garbage shall be placed in appropriate containers at a designated location as directed by the ACC from time to time and regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris, rubbish, trash or garbage, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake within the Development, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff. Each Owner must maintain a dumpster on its Lot during construction of a Dwelling or Accessory Building for the disposal of all construction debris. No insulation wrappers may be discarded or left on a Lot unless within a dumpster. If an Owner fails to keep its Lot free of construction debris during construction of a Dwelling or Improvements thereon, the ACC may elect to clean such Owner's Lot and use the Application Fee to offset the fees and expenses incurred with respect to such maintenance.

24. Accessory Buildings. An Accessory Building may not be built until construction of the appurtenant Dwelling has commenced. With respect to Lots of two acres or less, the exterior of all Accessory Buildings, excluding barns, must match color of the exterior of the appurtenant Dwelling. Barns may only be constructed on Lots five acres or greater in size and must be located at least 150 feet from the Front Line of the Lot and construction must be behind residential dwelling. The exterior of all barns must have V-groove boards with a baked-on paint finish in Earth Tones that compliant the exterior color of the Dwelling.

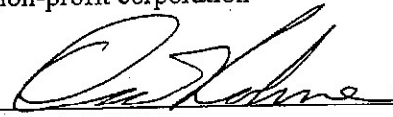
25. Driveways. All driveways leading from a street within the Development into a Lot must be at least 20 feet in length. The initial 20 feet of a driveway extending from a street into a Lot must be paved in concrete or asphalt; provided that such driveway may be constructed of any material after the initial 20 foot area. The end of each driveway must slope into the street. Driveway culverts must be installed and will be of sufficient size to afford proper drainage of ditches. A driveway culvert must not be less than twelve inches in diameter. The driveway above the culvert should be constructed such that the driveway is at least six inches below the outside edge of the main roadway. Drainage culvert installation is subject to the inspection and approval of the applicable Governmental Authorities and must be installed prior to any construction on the Lot. All natural drain patterns must remain opened and must not be blocked by ponds or dams.



Adopted by the Board of Directors on April 5th, 2007 pursuant to that certain Consent in Lieu of Directors' Meeting, executed by all members of the Board of Directors.

SIGNED this 5th day of April, 2007.

Possum Kingdom Property Owners Association, Inc.
a Texas non-profit corporation

By: 

Name: OSCAR ROHNE

Title: PRESIDENT



True and correct copy of
original filed in the Palo
Pinto County Clerks Office

4-16-07
Rebecca Smith

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Bobbie Smith
COUNTY CLERK

ON: Apr 11:2007 AT 01:25P

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Recordings

Document Number: 00003021
Total Fees : 364.00

Receipt Number - 75791
By:
Ray Gann, Deputy

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COUNTY CLERK'S OFFICE
ON APRIL 11, 2007 AT 01:25P
BY BOBBIE SMITH
COUNTY CLERK

Deborah L. Ladd
COUNTY CLERK



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original filed in the Palo
Pinto County Clerks Office
4-11-07
Bobbie Smith