



**FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

For

FOX POINTE

A SUBDIVISION OF DELAWARE COUNTY, OKLAHOMA

WHEREAS, the undersigned on February 19, 2008, recorded the Declaration of Covenants, Conditions and Restrictions for Fox Pointe, a subdivision of Delaware County, Oklahoma, in Book 1806, Page 500 in the Delaware County Records (the “**Declaration**”);

WHEREAS, pursuant to Article VI, subsection H of the Declaration, the undersigned has the right to amend the Declaration;

WHEREAS, the undersigned desires to amend the Declaration pursuant to the terms hereof; and

WHEREAS, except as expressly set forth herein, all articles, subsections, subparagraphs, and provisions of the Declaration shall remain in full force and effect.

NOW, THEREFORE, the undersigned hereby amends the Declaration as follows:

1. Article I, subsection G is hereby replaced in its entirety and shall read as follows:

G. Exterior Windows and Doors. Frames and sashes of windows within exterior walls, and doors and door frames within exterior walls, shall be finished wood, metal clad wood, or vinyl clad.

2. Article I, subsection S is hereby replaced in its entirety and shall read as follows:

S. Noxious Activity. No noxious or offensive trade or activity shall be carried out upon any Lot nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood.

4. Article II is hereby replaced in its entirety and shall read as follows:

II. BOAT DOCKS

A. Association Boat Dock. The Declarant hereby establishes and grants an exclusive and perpetual easement, for subsequent conveyance to the Association, over upon and across the waters within and adjoining “Common Area 2” as depicted on the Plat as the shoreline of Lots Twenty-eight (28) and Twenty-nine (29) for the construction and maintenance of a covered boat dock containing five (5) boat slips, with access available via Common Area 2, hereafter referred to as the “Association Boat Dock.” The Declarant hereby reserves, for subsequent assignment to the Association, all docking rights and rights to apply for docking permits, which may be appurtenant thereto and shall apply for all permits necessary for the location and construction of Association Boat Dock. The owners

of Lots Twenty-eight (28) and Twenty-nine (29) shall cooperate with the Declarant in the permitting process to the extent necessary.

The use of the Association Boat Dock is limited to the mooring or parking of water craft by the owners of Lots Fourteen (14) through Twenty-Five (25), their respective guests and invitees. Slips shall be numbered, and the use of One (1) slip shall be assigned to the owners of each of the above described Lots as follows: (i) One (1) slip shall be assigned to the Declarant, (ii) One (1) slip shall be assigned to the owner of Lot Eighteen (18), (iii) One (1) slip shall be assigned to the owner of Lot Nineteen (19), (iv) One (1) slip shall be assigned to the owner of Lot Twenty-Two (22), and (v) One (1) slip shall be assigned to the owner of Lot Twenty-Four (24). The right to use the assigned slip shall be appurtenant to the respective owner's Lot, and the Lots which receive an assigned slip, but not the Lots that are not assigned a slip, shall be subject to assessment by the Association for maintenance of the Association Boat Dock.

B. Boat Docks for Any Lots Not Assigned a Slip. The owners of any lots not assigned a boat slip in the Association Boat Dock may apply to the Grand River Dam Authority (the "GRDA") for a permit for the location of no more than one boat dock within or adjoining their respective Lot (an "Individual Boat Dock") for the mooring or parking of water craft of the owner, his guests and invitees..

C. Restrictions on Use of Boat Docks. Use of the Boat Docks (whether the Association Boat Dock or Individual Boat Docks) shall be subject to rules and regulations established by the Association.

D. Damage to, or Destruction of, the Association Boat Dock. Damage to, or destruction of, any portion of the Association Boat Dock shall be responded to as follows:

1. In the event of damage to, or destruction of, all or a portion of the Association Boat Dock, if insurance proceeds are sufficient to effect total restoration, the Association shall cause the damaged portion of the Association Boat Docks to be repaired and reconstructed substantially as they existed prior to the damage or destruction.
2. If the cost of repair or reconstruction exceeds the insurance proceeds, the Association shall cause the damaged portion of the Association Boat Dock to be repaired or reconstructed, and the difference between the insurance proceeds and the actual cost shall be levied as a special assessment equally against the owners of the Lots with assigned boat slips to the repaired dock for the additional funds required for such repair or reconstruction.

5. Article III is hereby replaced in its entirety and shall read as follows:

III. INTENTIONALLY OMITTED.

6. Article V is hereby replaced in its entirety and shall read as follows:

V. MAINTENANCE RESPONSIBILITIES OF HOMEOWNERS' ASSOCIATION AND OF LOT OWNERS; EASEMENT FOR HOMEOWNERS' ASSOCIATION

A. Association's Maintenance Responsibilities. The Association shall be responsible for maintenance of the Common Areas in the Subdivision including but not limited to the private roads, easements, pathways, and all facilities located thereon. The obligations of the Association shall be paid for by the Association from assessments of the membership as provided for herein. The Association may exercise any right of privilege reasonably necessary to effectuate its rights and responsibilities herein granted.

B. Easement for Association. The Declarant hereby establishes a perpetual exclusive easement for maintenance of any facilities which may be located in the Subdivision for the common use and benefit of the owners of the Lots.

C. Lot Owners' Maintenance Responsibilities. Except as otherwise provided herein, the maintenance of each Lot and all improvements thereon including Individual Boat Docks shall be the sole responsibility of the owner of the Lot. The owner of a Lot shall keep and maintain such Lot free of trash, waste, and debris. If a Lot is not properly maintained, the Association may, upon the affirmative 2/3 vote of the membership, perform such maintenance and assess the owner of the Lot for the cost thereof, which shall be a lien upon the Lot. Except in the case of an emergency, the Association shall afford the owner of the Lot reasonable notice and opportunity to cure the problem prior to undertaking such maintenance. The maintenance of the Association Boat Dock and all facilities located thereon shall be the responsibility of Lot owner(s) to whom a boat slip(s) has been assigned. In the event the Lot owner(s) to whom a boat slip has been assigned fail to maintain and repair the Association Boat Dock, the Association may, in the sole discretion of the Association, be assessed for such maintenance costs pursuant to the terms of Article VI, subsection F hereof. There is hereby established and reserved for future conveyance to the Association an easement for the provision of such maintenance provided in this Article V, subsection C.

7. Article VI, subsection D is hereby replaced in its entirety and shall read as follows:

A. Owners' Easements of Enjoyment. The owners of Lots shall have a general right and easement of use and enjoyment in and to the Common Areas within the Subdivision exclusive of the Association Boat Dock and the owners of the Lots to whom boat slips have been assigned, in addition to a general right and easement of use and enjoyment in and to the general common areas within the Subdivision, shall have a right and easement of the use and enjoyment in and to the boat dock where that Lot's assigned boat slip is located, all subject to the right of the Association to:

- a) charge reasonable fees for the use or enjoyment of any facility situated within the common areas of the Subdivision;
- b) to adopt reasonable rules and regulations for the use of the Common Areas;

- c) to suspend an owner's right to use of the facilities for any period during which any assessment against the owner's Lot remains unpaid;
- d) to suspend an owner's right to use the facilities for the owner's infraction of the Association's published rules and regulations;

8. Article VI, subsection D is hereby replaced in its entirety and shall read as follows:

D. Owners' Easements of Enjoyment. The owners of Lots shall have a general right and easement of use and enjoyment in and to the Common Areas within the Subdivision exclusive of the Association Boat Dock and the owners of the Lots to whom boat slips have been assigned, in addition to a general right and easement of use and enjoyment in and to the general common areas within the Subdivision, shall have a right and easement of the use and enjoyment in and to the boat dock where that Lot's assigned boat slip is located, all subject to the right of the Association to:

- e) charge reasonable fees for the use or enjoyment of any facility situated within the common areas of the Subdivision;
- f) to adopt reasonable rules and regulations for the use of the Common Areas;
- g) to suspend an owner's right to use of the facilities for any period during which any assessment against the owner's Lot remains unpaid; and
- h) to suspend an owner's right to use the facilities for the owner's infraction of the Association's published rules and regulations.

9. Article VI, subsection F.2 is hereby replaced in its entirety and shall read as follows:

2. Amount of Annual Maintenance Assessments. The amount of each owner's annual maintenance assessments shall be equal to the owner's proportionate share of the sum required by the Association as estimated by its Board of Directors to meet its annual expenses, including, but in no way limited to, the following:

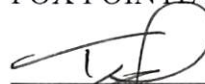
- a) the cost of all operating expenses of the Common Areas and the services furnished to or in connection with the Common Areas; and
- b) the amount of all taxes and assessments levied against the Common Areas; and
- c) the cost of liability and property damage insurance on the Common Areas; and

- d) the cost of utilities and other services which may be provided by the Association for the Common Areas; and
- e) the cost of maintaining, replacing, repairing, and landscaping the Common Areas and the cost of the maintenance the private roads, and pathways in the Subdivision, together with such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith;
- f) with respect to the owners Lots assigned a boat slip, the cost of maintaining, replacing, repairing the Association Boat Dock, and
- g) the cost of funding all reserves accounts established by the Association, including a general operation reserve account equal to not less than ten percent (10%) of the annual estimated or actual expenses of the Association, and a reserve account for replacements;

Executed as of the 28 day of February, 2022.

I-2022-002009 Book 2429 Pg 29
03/04/2022 11:04am Pg 0025-0030
Fee: \$28.00 Doc: \$0.00
Barbara Barnes - Delaware County Clerk
State of OK

FOX POINTE DEVELOPMENT, L.L.C.



By: Toby L. Powell, Manager

STATE OF OKLAHOMA)
) ss:
COUNTY OF TULSA)

Before me, the undersigned, a Notary public in and for said County and State, on this 28 day of February, 2022, personally appeared TOBY L. POWELL, to me known to be the identical person who subscribed the foregoing Declaration and acknowledged to me that he executed same as his free and voluntary act and deed and the free and voluntary act and deed of Fox Pointe Development, LLC, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND and seal of office the day and year last above written.

Tammy J. Hendricks
Notary Public

My Commission Expires: 11-27-2022
My Commission No.: 02019712

