

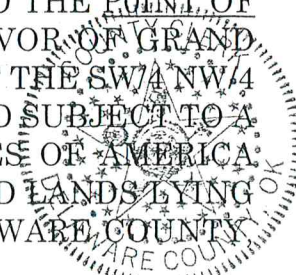
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

for
FOX POINTE
A SUBDIVISION OF DELAWARE COUNTY, OKLAHOMA

Fox Pointe Development, L.L.C., an Oklahoma limited liability company, (hereafter the "Declarant") being the sole owner of the following described real property situated in Delaware County, Oklahoma, to-wit:

PROPERTY DESCRIPTION:

A TRACT OF LAND LOCATED IN A PART OF LOT 10 AND THE NE/4 SE/4 SW/4 AND THE NW/4 OF SECTION 4, TOWNSHIP 23 NORTH, RANGE 22 EAST, DELAWARE COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT 483.9 FEET NORTH OF THE SE CORNER OF THE NE 10.0 ACRES OF SAID LOT 10; THENCE N81°07'W 245.2 FEET; THENCE N78°19'W 173.5 FEET; THENCE N88°15'W 138.5 FEET; THENCE S66°03'W 101.0 FEET; THENCE S03°20'W 149.0 FEET; THENCE S19°24'E 171.5 FEET; THENCE S21°11'E 179.7 FEET; THENCE S19°33'E 127.5 FEET; THENCE S40°34'E 55.0 FEET; THENCE S85°08'E 454.6 FEET TO A POINT IN THE EAST BOUNDARY OF THE SOUTH 20.0 ACRES OF LOT 10, AND 158.4 FEET SOUTH OF THE NE CORNER THEREOF; THENCE S00°09'E ALONG SAID EAST BOUNDARY A DISTANCE OF 140.9 FEET TO A POINT 361.5 FEET NORTH OF THE SE CORNER THEREOF; THENCE S80°57'W 255.5 FEET; THENCE S59°23'W 101.0 FEET; THENCE S20°45'W 58.5 FEET; THENCE S0°37'E 199.0 FEET; THENCE S16°00'E 92.0 FEET; THENCE S65°36'E 88.5 FEET; THENCE S86°26'E 260.2 FEET TO A POINT IN THE EAST BOUNDARY OF THE SAID NE/4 SE/4 SW//4; THENCE NORTH ALONG SAID EAST BOUNDARY 125 FEET TO THE NE CORNER OF THE SAID NE/4 SE/4 SW/4; THENCE EAST 687.5 FEET ALONG THE SOUTH BOUNDARY OF THE SAID NW/4 SE/4 TO A POINT ON THE SOUTH AND WEST LINE OF ROCK CABIN DRIVE, AS SHOWN ON RECORDED PLAT OF HOLIDAY HILL; THENCE ALONG SAID DRIVE N19°25'W 333.7 FEET; THENCE N22°43'W 327.7 FEET; THENCE N54°52'W 128.0 FEET; THENCE N68°33'W 194.0 FEET; THENCE S84°13'W 147.6 FEET TO A POINT WHERE ROCK CABIN DRIVE INTERSECTS WITH THE WEST BOUNDARY LINE OF THE NW/4 NW/4 SE/4; THENCE NORTH ALONG SAID WEST BOUNDARY OF SAID NW/4 NW/4 SE/4 (BEING THE SAME AS THE EAST BOUNDARY OF LOT 10) TO THE POINT OF BEGINNING, SUBJECT TO A FLOWAGE EASEMENT IN FAVOR OF GRAND RIVER DAM AUTHORITY COVERING ALL THAT PORTION OF THE SW/4 NW/4 SE/4 LYING BELOW ELEVATION 750' SEA LEVEL DATUM AND SUBJECT TO A FLOWAGE EASEMENT IN FAVOR OF THE UNITED STATES OF AMERICA COVERING ALL THAT PORTION OF THE ABOVE DESCRIBED LANDS LYING BELOW ELEVATION 757' SEA LEVEL DATUM, ALL IN DELAWARE COUNTY, OKLAHOMA. AND ANY AND ALL EASEMENTS OF RECORD,



has caused the above described land to be surveyed, staked, platted and subdivided into lots, private streets and common areas in conformity with the plat recorded in the records of the Clerk of Delaware County, Oklahoma in Book 1806 at Pages 20 through 31 (hereafter the "Plat") and has entitled and designated the subdivision "FOX POINTE," a subdivision of Delaware County, Oklahoma (hereafter the "Subdivision" or "Fox Pointe"). The lots depicted upon the Plat shall be hereafter referred to collectively as the "Lots" and individually as a "Lot."

The Declarant desires now to establish restrictions for the purpose of providing for the orderly development of the Subdivision and conformity and compatibility of improvements of the Lots.

The Declarant, therefore, hereby imposes the following covenants, conditions, restrictions and easements which shall be applicable to the Subdivision and shall be covenants running with the land, binding upon the Declarant, its successors and assigns, and shall be enforceable as hereafter set forth.

I. BUILDING AND USE RESTRICTIONS

Use of the Lots within the Subdivision shall be subject to the following covenants, conditions and restrictions:

A. Use. The use of the Lots within the Subdivision shall be limited to use for detached single family residences and purposes only.

B. Easements and Building Setback Lines. Each Lot within the Subdivision is subject to the following easements and building setback lines:

- 1) five (5) foot utility and drainage easement along side lot lines;
- 2) twenty (20) foot utility easement along the front lot line;
- 3) thirty (30) foot rear building setback line;
- 4) ten (10) foot side building setback lines;
- 5) twenty-five (25) foot front building setback line;
- 6) flowage easement in favor of U.S.C.O.E. to 757 foot NGVD Datum.

C. Fences. Any fencing constructed within a Lot shall be constructed of wrought iron and shall be no greater than five (5) feet in height. The location and design of all fencing shall be a discretionary determination of the Architectural Committee, exercised as a required part of the plan review of each Lot.

D. Roof Height and Pitch. The roof height and roof pitch of each residence within the Subdivision must take into consideration the views of the Lake from the various properties within the Subdivision and is subject to approval by the



Architectural Committee as a required part of the plan review of each Lot.

E. Floor Area. The residence within a Lot shall have a minimum of 1,800 square feet of living area. The computation of square feet of living area shall exclude drives, patios, garages, open space, courtyards, and breeze ways.

F. Stem Walls. All stem walls shall be constructed of masonry (brick, stone or stucco).

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.

H. Roof Flashing, Vent Pipes, Chimney Covers and Guttering. Exposed roof flashing, guttering, vent pipes, chimney covers and down spouts shall be copper or shall be painted or pre-finished.

I. Roofing Material. Roofing material shall be 25-year weathered wood composition shingle or wood shake shingle of such color and design as approved by the Architectural Committee.

J. On-site Construction. No residence built off-site shall be moved or placed onto any Lot. No pre-constructed or manufactured buildings, new or used, of any kind, may be placed upon any Lot except for a construction/field office used by Declarant during the period of development of the Subdivision and construction of the residences and buildings therein.

K. Outbuildings/Temporary Structures. Outbuildings and portable storage units are prohibited. No trailer, tent, barn or any structure of a temporary nature shall at any time be used for human habitation. Notwithstanding the above, a construction field office for use by the Declarant shall be permitted during the period of development of the Subdivision and construction of the residences and buildings therein.

L. Swimming Pools. Above ground swimming pools are prohibited. In ground swimming pools, hot tubs or spas are permitted subject to the approval of the Architectural Committee.

M. Antennas. Exterior television, CB-Radio or other type antenna including satellite dishes shall be prohibited, except satellite dishes not exceeding 18" in diameter may be affixed to a building wall or dormer if below the eave.

N. Lot Maintenance. No inoperative vehicle or machinery shall be stored on



any Lot, and each Lot shall be maintained in a neat and orderly condition free of rubbish, trash and other debris.

O. Water Craft, Golf Carts and Recreational Vehicles. No boats, jet-skis or other water craft, golf carts, go-carts, ATV's, trailers, campers or other recreational vehicular equipment shall be stored on any Lot, other than within a garage.

P. Clotheslines and Garbage Receptacles. Exposed clothesline poles or other outside drying apparatus are prohibited, and no exposed garbage can, trash can or any trash burning apparatus or structure shall be placed on any Lot.

Q. Mailboxes. All mailboxes and mailbox pedestals shall conform in design to a specific plan adopted by the Architectural Committee, and the location and design shall further conform to the specifications of the U.S. Postal Service.

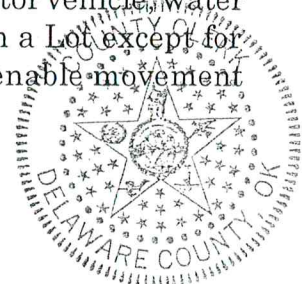
R. Animals. No animals, livestock or poultry of any kind maybe maintained, bred, sold or kept except that a combined total of two dogs, cats or other household pets may be kept provided that they are not used for commercial purposes.

S. Noxious Activity. No noxious or of 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.

T. Signage. No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than nine (9) square feet advertising the property for sale or rent (subject to the design approval of the Architectural Committee) or signs used by a builder to advertise the property during the construction and sales period.

U. Building Materials and Storage. No Lot shall be used for the storage of building materials for a period of greater than thirty (30) days prior to the commencement of construction, and once commenced, construction shall diligently proceed to completion, provided however the Declarant may utilize vacant Lots for temporary staging areas during the period of development of the Subdivision and construction of the residences therein. Each Lot shall be maintained in a neat and orderly condition,

V. Vehicle Repair. No major repair or restoration of any motor vehicle, water craft, trailer, aircraft or other vehicle shall be conducted upon a Lot except for emergency repairs, and then only to the extent necessary to enable movement of the vehicle to a proper repair facility.



W. Exterior Lighting. Exterior lighting within each Lot, whether freestanding or affixed to a building, shall be limited to shielded fixtures, designed to direct lighting downward and away from adjoining Lots, provided however, flood lighting which is ground mounted and directed toward the dwelling shall be permitted.

X. Lease of a Dwelling. No dwelling shall be permitted to be leased unless the owner thereof shall have occupied the dwelling prior to leasing the same. No lease of such a dwelling shall be for a period of less than one year, or cover less than the entire dwelling, unless otherwise approved in advance by the Fox Pointe at Grand Lake Homeowners' Association (hereafter the "Association"). Consent shall not be unreasonably withheld. Notwithstanding the above, the Declarant, without having occupied the same, shall be entitled to lease any dwelling owned by it upon such terms and conditions as are acceptable to the Declarant in its sole discretion.

II. BOAT DOCKS

A. Association Boat Docks. 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 Lot Ten (10) for the construction and maintenance of a covered boat dock containing seven (7) boat slips, and over, upon and across the twenty (20) foot wide area along the south Lot lines of Lots Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15) and part of Lot Sixteen (16) as depicted on the Plat as "Access Easement" for access thereto, hereafter referred to as Boat Dock A, and over, upon and across the waters within and adjoining "Common Area 2" as depicted on the Plat at the shoreline of Lots Twenty-eight (28) and Twenty-nine (29) for the construction and maintenance of a second covered boat dock containing Nine (9) boat slips, with access available via Common Area 2, hereafter referred to as Boat Dock B. 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 the two boat docks which shall hereinafter be referred to collectively as the "Association Boat Docks." The owners of Lots Ten (10), Twenty-eight (28) and Twenty-nine (29) shall cooperate with the Declarant in the permitting process to the extent necessary.

The use of Boat Dock A is limited to the mooring or parking of water craft by the owners of Lots One (1), Ten (10), Fifteen (15), Sixteen (16), Seventeen (17), Eighteen (18), and Nineteen (19), their respective guests and invitees, and the use of Boat Dock B is limited to the mooring or parking of water craft by the owners of Lots Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three



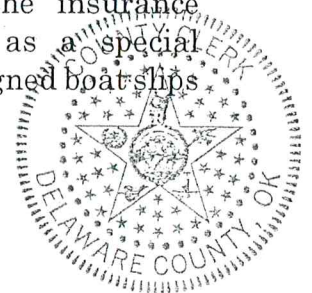
(23), Twenty-four (24), Twenty-five (25), Twenty-eight (28), Twenty-nine (29) and Thirty (30), their respective guests and invitees. Slips shall be numbered, and the use of one slip shall be assigned to the owners of each of the above described Lots by the Declarant. The right to use the assigned slip 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 Docks.

B. Boat Docks for Lots Two (2) through Nine (9), Eleven (11) through Fourteen (14), and Lots Twenty-six (26) and Twenty-seven (27). The owners of Lots Two (2) through Nine (9), Eleven (11) through Fourteen (14), and Lots Twenty-six (26) and Twenty-seven (27) 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. The construction of any Individual Boat Dock permitted by the GRDA shall be subject to the design approval of the Architectural Committee and must comply with all GRDA rules and regulations. Individual Boat Docks shall not be required to be covered.

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

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

1. In the event of damage to, or destruction of, all or a portion of the Association Boat Docks, 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 insurance proceeds are within Five Thousand Dollars (\$5,000.00) of the cost of restoration, the Association shall cause the damaged portion of the Association Boat Docks to be repaired or reconstructed, and the difference between the insurance proceeds and the actual cost shall be levied as a special assessment against the owners of the Lots with assigned boat slips to the repaired dock.



3. If the cost of repair or reconstruction exceeds the insurance proceeds by more than \$5,000.00, the majority of the owners of Lots with assigned boat slips in the damaged dock shall determine whether or not to perform the repairs or reconstruction. If the majority should determine to repair or reconstruct, the owners of Lots with assigned boat slips within the damaged dock shall be assessed equally for the additional funds required for such repair or reconstruction. If the majority should determine not to repair or reconstruct, the insurance proceeds shall be distributed equally to the owners of the Lots with assigned boat slips within the damaged dock.

III. OBLIGATION TO COMMENCE CONSTRUCTION WITHIN TWENTY-FOUR MONTHS OF PURCHASE; DECLARANT'S OPTION TO PURCHASE

The Declarant hereby reserves the right, at its sole option, to purchase and reacquire a Lot from the owner thereof if construction of a dwelling has not been commenced within twenty-four (24) months of the conveyance of the Lot from the Declarant. If construction shall not have been commenced within the twenty-four month period, the Declarant may exercise the foregoing option by giving written notice to the owner of the subject Lot within ninety (90) days subsequent to the expiration of the twenty-four month period, and upon the exercise of the option by giving of such notice, the Declarant and the owner of the Lot shall be deemed to have entered into a binding contract for the purchase and sale of the Lot for a purchase price, payable in cash, equal to the purchase price paid by said owner of the Lot. Upon exercise of the option, the Lot owner shall convey the Lot to the Declarant free and clear of all liens, adverse claims and other encumbrances, except easements and building restrictions of record, and the Declarant will pay the purchase price to the Lot owner.

IV. ARCHITECTURAL COMMITTEE - PLAN REVIEW - VARIANCES

A. Plan Review. No building, structure, dock, fence, wall, paving, swimming pool, hot tub, spa, exterior lighting, exterior antennae, exterior windows, doors or finish (including exterior painting and colors), exterior landscaping or decorative object, garbage receptacle enclosure, or free standing mail box shall at any time be erected, placed or altered on any Lot until the plans and specifications have been approved in writing by the Architectural Committee. For each building, the required plans and specifications shall be submitted in duplicate and include a site plan, floor plan, exterior elevations, exterior materials and color scheme. In the event the Architectural Committee fails to approve or disapprove plans and specifications submitted to it as herein required within ten (10) days after submission, the plans so submitted shall be

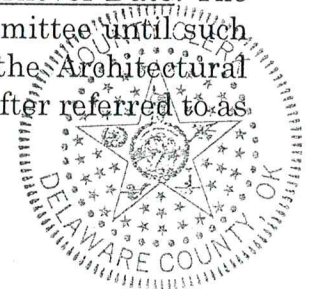


deemed approved. The development and use of the subject Lot shall thereafter be in substantial compliance with the approved plans or approved amendments thereto. In the event no suit to enjoin the erection of the building or structure or the making of an alteration has been commenced prior to the 30th day following completion thereof, approval of the Architectural Committee shall not be required and this covenant shall be deemed to have been fully complied with.

B. Committee Purpose. The Architectural Committee's purpose is to promote good design and compatibility and continuity within the Subdivision and in its review of plans or determination of any waiver as hereinafter authorized may take into consideration the nature and character of the proposed building or structure or modifications thereto, the materials of which it is to be built, the availability of alternative materials, the site upon which it is proposed to be erected and the harmony thereof with the surrounding area. The decision of the Architectural Committee shall include, but shall not be limited to, consideration of the proposed roof pitch and roof height and promotion of views of the lake from the various properties within the Subdivision. The Architectural Committee shall not be liable for any approval, disapproval or failure to approve hereunder, and its approval of building plans shall not constitute a warranty or responsibility for building methods, materials, procedures structural design, grading or drainage or code violations. The approval or failure to approve building plans shall not be deemed a waiver of any restriction. Nothing herein contained shall be deemed to prevent any Lot owner in the Subdivision from prosecuting any legal action relating to improvements within the Subdivision which they would otherwise be entitled to prosecute.

C. Variances. Upon written request of the owner of a Lot setting forth the reasons for the request, the Architectural Committee may in a particular instance grant a variance of the restrictions set forth herein upon the determination that the design aspects of the proposed variance are compatible with the overall design concepts for the Subdivision. Variances must be evidenced in writing signed by a majority of the members of the Architectural Committee. If a variance is granted, no violation of the covenants, conditions or restrictions contained herein shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any of the Lots hereof except as to the particular property and the particular instance, nor shall it establish any rights in any owner to a similar variance.

D. Declarant to Act as Architectural Committee until Turnover Date. The Declarant shall constitute and act as the Architectural Committee until such time as the Declarant assigns the powers and duties of the Architectural Committee to the Association by a written instrument (hereafter referred to as



the "Turnover Letter") at which time the Board of Directors of the Association shall act as the Architectural Committee (the "Turnover Date"). Alternatively, the powers and duties of the Architectural Committee shall be deemed duly transferred to the Association at such time as the Declarant (or its successor) owns no Lots in the Subdivision and the date of the filing of the deed of conveyance of Declarant's last Lot shall be the Turnover Date.

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, Association Boat Docks 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 or 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. 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. There is hereby established and reserved for future conveyance to the Association an easement for the provision of such maintenance.

VI. HOMEOWNERS' ASSOCIATION

A. Formation of Homeowners' Association. The Declarant has formed a not-for-profit corporation pursuant to the Oklahoma General Corporation Act named Fox Pointe at Grand Lake Homeowners' Association, Inc. (the "Association") for the general purposes of maintaining the Common Areas and enhancing the value, desirability and attractiveness of Fox Pointe.

B. Membership. Every person or entity who is a record owner of the fee interest of a Lot within Fox Pointe shall be a member of the Association, and



membership shall be appurtenant to and may not be separated from the ownership of a Lot. The acceptance of a deed to a Lot within Fox Pointe shall constitute acceptance of membership to the Association as of the date of recording of the deed.

C. Covenant for Assessment. The Declarant and each subsequent owner of a Lot, by acceptance of a deed thereto, is deemed to covenant and agrees to pay assessments to the Association, to be established by its Board of Directors in accordance with the provisions hereof.

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 Docks 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;

E. Voting Rights of Members.

1. Subject to the rights retained by the Declarant under Section VI (H) herein to designate the members of the Board of Directors of the Association until the Turnover Date, voting rights of the members of the Association shall be vested exclusively in the members of the Association with each Lot limited to one vote.
3. Voting Suspension. The Association shall have the right to adopt, within the Bylaws, provisions for suspension of an owner's voting rights for any period during which an assessment against the



owners Lot remains unpaid.

F. Assessments.

1. Assessment, Covenant and Lien. The Declarant, for each Lot owned, hereby covenants, and each owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in the deed, is deemed to covenant and agree, to pay to the Association:

- (a) annual maintenance assessments;
- (b) special assessments for capital improvements;

to be established and collected as hereinafter provided.

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

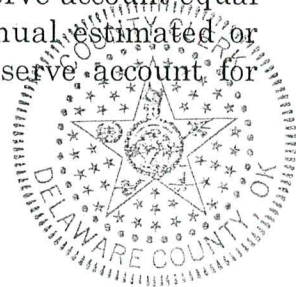
(b) the amount of all taxes and assessments levied against the Common Areas; and

(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, pathways and Association Boat Docks in the Subdivision, together with such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and

(f) the cost of funding all reserves accounts established by the Association, including a general operating 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;

3. Initial Assessment. The timing of the initial assessment if same is to be before the Turnover Date shall be established by the Declarant. If the initial assessment has not occurred before the Turnover Date, the initial assessment shall be made by the Board Directors as soon after the Turnover Date as feasible.
4. Determination of Amount of Assessments. After the Turnover Date, the Board of Directors of the Association shall prepare, or cause the preparation of, an annual operating budget for the Association which shall provide, without limitation, for the management and maintenance of the Common Areas and the operation of the Association as defined herein. The Board of Directors of the Association shall make reasonable efforts to fix the amount of the annual maintenance assessment against each Lot for each assessment period at least thirty (30) days in advance of the beginning of such period and shall, at that time, prepare a roster of the Lots and the annual maintenance assessments applicable thereto. The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the annual maintenance assessment hereunder for that or the next period, shall not be deemed a waiver or modification in any respect of the obligation to pay the annual assessment for that or any subsequent assessment period; but the annual maintenance assessment fixed from the preceding period shall continue until a new annual maintenance assessment is fixed. No member may exempt himself from liability for annual maintenance assessments by abandonment of any Lot belonging to him or by the abandonment of his right to the use and enjoyment of the Common Areas including the Association Boat Docks.
5. Special Assessments for Capital Improvements. In addition to the regular maintenance assessments, the Association may levy, in any assessment year, a special assessment for capital improvements, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, extraordinary repair or replacement of a described capital improvement located upon, or forming a part of the Common Areas, including the necessary fixtures and personal property related thereto, or for such other purposes as the Board of Directors may consider appropriate; provided, however, that any such assessment shall have the assent of the 2/3 of the



membership.

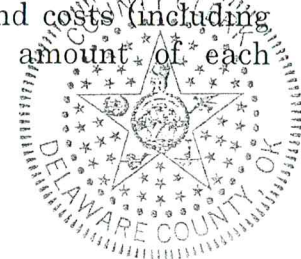
6. Notice and Quorum for any Action Regarding Assessments.

Written notice of any meeting called for the purpose of taking any action regarding assessments shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members in person or by proxy of 50% of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

7. Non-Payment of Assessments.

(a) Any assessment levied which is not paid on the date when due, shall be delinquent and shall, together with interest thereon at the highest legally imposed rate and the cost of collection thereof (including attorneys' fees), as hereinafter provided, thereupon become a continuing lien upon the Lot or Lots belonging to the member against whom such assessment is levied and shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives and assigns to the extent permitted by law. The personal obligation of the member to pay such assessment shall, in addition, remain his personal obligation for the statutory period and a suit to recover a money judgement for non-payment of any assessment levied may be maintained without foreclosing or waiving the lien herein created to secure the same.

(b) Any assessment levied which is not paid within ten (10) days after it is due, shall bear interest at a rate equal to the maximum legal rate permitted from time to time in the State of Oklahoma, and may subject the member obligated to pay the same to the payment of such penalty or "late charge" as the Board of Directors may fix, and the Association may bring an action at law against the member personally obligated to pay the same, or foreclose on the lien against the Lot or Lots then belonging to said member in the manner provided by law with interest and costs (including reasonable attorneys' fees) added to the amount of each



assessment.

8. Nonpayment Remedies. An assessment which is not paid when due shall be delinquent and shall constitute a lien on the Lot against which the assessment is made and the Association may file a notice of lien in the Delaware County land records to give notice of same. The Association may bring an action at law against the owner or person obligated to pay the same, or foreclose its lien against the property, or both, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of the assessment.
 9. Subordination of the Lien. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the Lot from the lien for assessments thereafter becoming due.
 10. Certificate of Assessment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.
- G. Common Areas Improvements. The Declarant pursuant to the development of Fox Pointe may make customary and reasonable improvements to the Common Areas including, but without limitation, the private roads, the Association Boat Docks, fencing, landscaping, and entry features but Declarant specifically disclaims any obligation to make particular or specified improvements. An owner of a Lot by acceptance of a deed thereto, whether or not it shall be so expressed in the deed shall be deemed to accept such improvements to the Common Areas as existing as of the date of acceptance of the deed.
- H. Declarant's Retained Rights. In addition to retaining the right to act exclusively as the Architectural Committee, the right to add, amend or terminate the covenants, conditions and restrictions contained herein and the right to assess the membership until the Turnover Date as set



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2/19/2008 11:03 am Pg 0485-0500
Fee: \$ 43.00 Doc: \$ 0.00
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State of Oklahoma

out herein, the Declarant also hereby retains the right to designate all the members of the Board of Directors of the Association (none of whom so designated by Declarant necessarily need to be members of the Association) until such time as the Declarant assigns all powers and duties to the Association, including the power and duty to elect a Board of Directors from among its membership, by a written instrument (hereafter referred to as the "Turnover Letter"). All power and duty of the Association, including the power and duty to elect a Board of Directors from among its membership, shall be deemed duly transferred to the Association upon delivery of the Turnover Letter to the Association's Board of Directors (the "Turnover Date"). At such time as the Declarant (or its successor) owns no Lots in the Subdivision, it shall be deemed at that time that the Board of Directors has duly received the Turnover Letter and the date of the filing of the deed of conveyance of Declarant's last Lot shall be deemed to be the Turnover Date.

VII. ENFORCEMENT, DURATION. AMENDMENT AND SEVERABILITY

- A. Enforcement. The restrictions set forth herein are to be covenants running with the land and shall be binding upon the owners of the Lots and shall inure to the benefit of and shall be enforceable by each Lot owner and by the Association as the representative body of the Lot owners. In any judicial action brought to enforce the covenants or restrictions, the defense that the party initiating the equitable proceeding has an adequate remedy at law, is hereby waived. In any judicial action brought by the Association or any Lot owner, which action seeks to enforce the covenants or restrictions, and/or to recover damages for the breach thereof, the prevailing party shall be entitled to receive its reasonable attorneys' fees and the costs of the action.
- B. Duration. These covenants and restrictions set forth in this Declaration, to the extent permitted by applicable law, shall be perpetual but in any event shall be in force and effect for a period of not less than thirty (30) years from the date of the recording of this Declaration, unless terminated or amended as hereinafter provided.
- C. Amendment. The covenants and restrictions within this Declaration may be added, amended or terminated in whole or in part at any time before the Turnover Date only by a written instrument signed and acknowledged by the Declarant and after the Turnover Date the covenants and restrictions may be amended or terminated at any time by a written instrument signed and acknowledged by 2/3 of the membership of the Association. The provisions of any instrument amending or terminating covenants and restrictions shall be effective from and after the date it is properly recorded.



D. Severability. Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment or decree of any Court of competent jurisdiction, or otherwise, shall not invalidate or affect any of the other restrictions of any part thereof as set forth herein, which shall remain in full force affect.

VIII. ASSIGNABILITY OF RIGHTS OF DECLARANT

The rights and obligations of the Declarant herein established shall inure to a Declarant's successor or assign if the Declarant conveys to a third party more than one Lot with the result that the Declarant no longer owns a Lot in the Subdivision and if the Declarant expressly assigns all Declarant's rights and obligations herein to the grantee in the recorded deed of conveyance.

Executed as of the day and year first above written.

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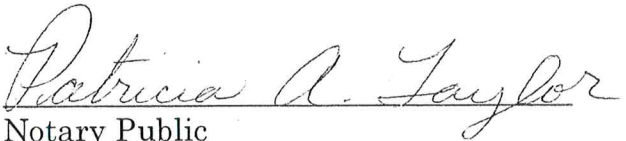
FOX POINTE DEVELOPMENT, L.L.C.


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 15 day of February 2008, 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.


Notary Public

My Commission Expires: Feb 26, 2010
My Commission No.: 02001365

I, the undersigned, County Clerk of
Delaware County, Oklahoma hereby certify
that the foregoing is a true, correct and full
copy of the instrument herewith set out as
appears of record in this office, this
19th day of February, 2008

Carol Fortner
County Clerk
By: L. Dist
Deputy

