

# **FIRST AMENDMENT**

to

## **DECLARATION OF RESTRICTIVE COVENANTS**

for

### **GRIFFITH LAKE ESTATES**

Date: March 27, 2018

This First Amendment (the "Amendment") to the Declaration of Restrictive Covenants for Griffith Lake Estates (the "Declaration") is entered into by Gerry McDowell, member of Griffith Lake Estates, LLC, a Texas limited liability company (the "Developer"). Capitalized terms used, but not defined, herein have the meaning set forth in the Declaration.

#### **RECITALS**

The Developer is the developer of that certain property known as Griffith Lake Estates located in or near the city of Abilene, Taylor County, Texas (the "Subdivision"), according to the map or plat recorded in Cabinet 4, Slide 366, Plat Records, Taylor County, Texas, and any replat of, or amendment to, such plat.

Pursuant to Section 2 of the Declaration, the Developer, during the Development Period, may amend the Declaration.

Because the Developer owns 75% or more of the Lots as of the date of this Amendment, the Development Period has not ended per the definition of "Development Period" in the Declaration.

NOW, THEREFORE, the Declaration is amended to read as follows:

1. Section 5(i) is amended in its entirety as follows:

(i) one detached single-family dwelling, which shall not exceed two stories in height and which shall have an attached, fully-enclosed two-car-minimum garage. Each such garage shall be front-entry or side-entry, except that Lots with rear alleys shall only have rear-entry garages; provided, however, that Lot 9, Block E and Lot 1, Block I shall also be allowed to have side-entry garages; and

2. Section 6 is amended by restating the second paragraph in its entirety as follows:

The roofs of all structures shall be constructed using composite shingles with darker-colored tones (such as, for example, black, dark brown, dark grey, and dark clay). Metal roofs and metal roofing material are not allowed on any structure; provided, however, that metal roofing material may be used as an accent to the roof of a structure. The predominant portion of the roof of any residence shall have a roof pitch of not less than 8/12 pitch.

3. Section 7 is amended by deleting the words "twenty-five (25)" and adding the words "fifteen (15)" in place thereof.

4. Section 18 is amended by adding the following sentence at the end of the second paragraph in such section:

Notwithstanding anything to the contrary set forth herein, if an Owner purchases two adjacent Lots, the Owner is not required to commence construction of a residence on one of such Lots as required in this section; provided, however, that the landscaping and other requirements set forth in Section 22 will apply to the Lot that is to remain vacant as though the residence being constructed on the adjacent Lot is also being constructed on such vacant Lot.

5. Section 24 is amended by deleting the words "Texas Department of Environmental Management" and adding the words "Texas Commission on Environmental Quality" in place thereof.

6. The Declaration is amended by adding a new Section 33 as follows:

### **33. Variances**

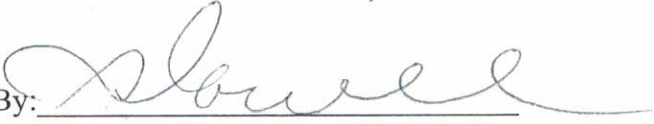
The Developer may allow a reasonable variance or adjustment of these Covenants in order to overcome practical difficulties that present unnecessary hardships in the application of these Covenants to the extent that such variance or adjustment is done in conformity with the intent and purposes of these Covenants and to the extent that, in each instance, such variance or adjustment will not be materially detrimental or injurious to other property or improvements within the Subdivision. Any such variance must be submitted by an Owner in writing and granted in writing by the ACC, which is hereby granted authority to allow or deny such variance in its sole discretion.

Except as expressly amended by the provisions of this Amendment, the terms and provisions contained in the Declaration shall continue to govern the rights and obligations of the Subdivision and all provisions and covenants in the Declaration shall remain in full force and effect as stated therein.

This Amendment may be executed in counterpart originals, each of which shall be treated as a fully-executed original hereof when all parties hereto have executed such a counterpart.

IN WITNESS WHEREOF, the undersigned has executed this Amendment to be effective as of the day and year first written above.

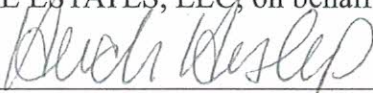
GRIFFITH LAKE ESTATES, LLC

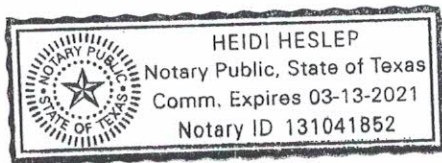
By:   
Gerry McDowell, Member

STATE OF TEXAS §

COUNTY OF TAYLOR §

This document was acknowledged before me on March 27, 2018, by Gerry McDowell, Member of GRIFFITH LAKE ESTATES, LLC, on behalf of said company.

  
Signature of Notary Public, State of Texas



Taylor County  
Larry G Bevill  
Taylor County Clerk  
Abilene, Texas 79602 (325)674-1202



70 2017 00020178

Instrument Number: 2017-00020178

As

Recorded On: December 11, 2017

Recording Fee

Parties: GRIFFITH LAKE ESTATES LLC

Billable Pages: 15

To THE PUBLIC

Number of Pages: 16

Comment: DECLA & RESTRI

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

Recording Fee 82.00

Total Recording: 82.00

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY  
because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 2017-00020178

Receipt Number: 423266

Recorded Date/Time: December 11, 2017 03:00:50P

User / Station: S Carreras - CASH01

**Record and Return To:**

JOHN SCOTT

3409 S 14TH STE 202

ABILENE TX 79605



State of Texas  
County of Taylor

**THIS IS NOT A BILL**

I hereby certify that this instrument was FILED on the date and at the time stamped hereon by me and was duly  
RECORDED in the OFFICIAL RECORDS of Taylor County, Texas as stamped hereon.

*Larry G Bevill*

County Clerk

## DECLARATION OF RESTRICTIVE COVENANTS

for

### GRIFFITH LAKE ESTATES

#### Basic Information

Date: DECEMBER 9, 2017

Declarant: Griffith Lake Estates, LLC, a Texas limited liability company

Declarant's Address: 2117 Canyon Rock Ct., Abilene, TX 79606

Association: Griffith Lake Estates Property Owners Association, a Texas nonprofit association

Association's Address: 2117 Canyon Rock Ct., Abilene, TX 79606

Property:

Griffith Lake Estates, Section 1, Being 54.286 acres out of the NE/4 of Section No. 33, Abstract No. 1412, and the SE/4 of Section No. 33, Abstract No. 1432, Blind Asylum Lands, City of Abilene, Taylor County, Texas, according to the Plat thereof recorded in Cabinet 4, Slide 366, Plat Records, Taylor County, Texas

#### 1. Definitions

"ACC" means the Architectural Control Committee established in this Declaration.

"Applicable Law" means all federal, state, and local laws, ordinances, regulations, or rules, applicable to the person, circumstance, or property addressed in the provision of this Declaration in which the term appears.

"Assessment" means any amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration, including both Regular and Special Assessments and any additional assessments.

"Association" shall mean and refer to Griffith Lake Estates Property Owners Association, a Texas unincorporated nonprofit association created by the filing of this Declaration.

"Board" means the Board of Directors of the Association.

"Bylaws" means the Bylaws of the Association adopted by the Board.

"Common Areas" means those portions of the Subdivision that have been designated by the Developer or the Board as common areas for the common use of all Owners.

"Common Area Expenses" means all expenses incurred in the operation, improvement, and maintenance of the Common Areas, including, but not limited to, insurance premiums, property manager fees, landscaping expenses, costs of repair and upkeep, and capital expenditures for projects approved by the Developer or the Board in accordance with the provisions of the Governing Documents.

"Covenants" means the covenants, conditions, and restrictions contained in this Declaration.

"Developer" means the Declarant, who is Griffith Lake Estates, LLC, a Texas limited liability company, and any successor that acquires all unimproved Lots owned by Developer for the purpose of development and is named as successor in a recorded document.

"Development Period" means the period beginning on the date of this Declaration and ending on the date when Developer owns less than twenty-five percent (25%) of the Lots.

"Governing Documents" means this Declaration and the relevant Bylaws and Rules, if any, as such may be amended from time to time.

"Lot" means each tract of land designated as a lot on the Plat.

"Owner" means every record owner of a fee interest in a Lot, other than the Association.

"Plat" means the plat of the property recorded in Cabinet 4, Slide 366, Plat Records, Taylor County, Texas, and any replat of, or amendment to, such plat.

"Real Property Records" means the real property records of the county or counties in which the Subdivision is located.

"Rules" means any rules or regulations that may be adopted by the Developer or the Board (i) for the operation, maintenance, and use of the Common Areas; (ii) for the safety, benefit, and welfare of the Owners; or (iii) to otherwise carry out the powers and duties granted under the Governing Documents.



"Subdivision" means the property covered by the Plat and any additional property made subject to this Declaration.

## **2. Terms and Amendments**

These Covenants are established by the Developer and are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. These Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot. All Owners and other occupants of the Lots by their acceptance of their deeds or occupancy of any Lot agree that the Subdivision is subject to the Covenants. Any action that may be taken by the Developer may also be taken by any transferee of the Developer of those Lots in the Subdivision that remain unsold to individual third parties.

Any provision in the Governing Documents to the contrary notwithstanding, during the Development Period the Developer reserves the right to: (i) facilitate the development, construction, and marketing of the Subdivision, (ii) direct the size, shape, look, and composition of the Subdivision, and (iii) modify, amend, or supplement, in whole or in part, this Declaration or the Governing Documents. These rights are in addition to all other rights afforded to the Developer by the Governing Documents and take precedence over any conflicting provisions in the Governing Documents.

After the Development Period, these Covenants may be modified, amended, or supplemented, in whole or in part, at any time, by an agreement in writing signed by the Owners of not less than sixty-seven percent (67%) of the Lots.

These Covenants shall cover and affect the Property. The Plat is part of this Declaration and is incorporated by reference.

Notwithstanding anything contained herein to the contrary, the Developer may assign, temporarily or permanently, all or a portion of its rights as Developer to any person or persons.

## **3. Enforcement**

If anyone subject to this Declaration shall violate or attempt to violate any of the Covenants, in addition to any fines or other penalties imposed by the Governing Documents, it shall be lawful for the Developer, during the Development Period, or the Association to (i) prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenants, (ii) prevent said person or persons from so doing, and (iii) to recover damages for such violations, which shall include expenses of litigation and reasonable attorney's fees.

In the event that any construction (including fence construction) or landscaping is done in violation of the plans, specifications, materials, or colors approved by the ACC and not corrected within ten (10) days after written notice, then the contractor and Owner shall be jointly and

severally liable to the ACC for an enforcement fee of \$500.00 in addition to injunctive relief, damages, and expenses of litigation, including reasonable attorney's fees. Such enforcement fee is payable within thirty (30) days of such written notice if the violation has not been corrected or removed within such ten (10) day period.

#### **4. Land Use**

All Lots or portions thereof shall be used only for single-family residential purposes and for no other purpose. An Owner shall maintain all portions and aspects of his or her Lot and any structure thereon in an attractive, neat, and well-maintained condition at all times.

#### **5. Building Type and Size**

No buildings shall be erected, altered, placed, or permitted to remain on any Lot other than:

(i) one detached single-family dwelling, which shall not exceed two stories in height and which shall have an attached, fully-enclosed two-car garage. Each such garage shall be front-entry, except that Lots with rear alleys shall only have rear-entry garages; and

(ii) one outbuilding, which shall (a) not exceed 150 square feet in floor area, (b) be limited to a maximum of eight (8) feet in height, and (c) be constructed of the same materials and have the same or corresponding colors as the house on the Lot.

For all Lots, the livable area of the residence, exclusive of open porches and garages, shall not be less than 1,650 square feet and not more than 3,200 square feet.

#### **6. Home and Structure Exteriors**

Eighty percent (80%) of all sides of all residences and all sides of any other above-ground structure constructed on any Lot shall be constructed of brick, natural stone, stucco, or dryvit; provided, however, that gables, bay windows, eaves, overhangs, and cantilevers of a residence or structure, and the walls of the second story of residences with either stories-and-a-half or two stories, may use non-masonry siding.

The roofs of all structures shall be constructed using composite shingles with darker-colored tones (such as, for example, black, dark brown, dark grey, and dark clay). Metal roofs are not allowed on any structure. The predominant portion of the roof of any residence shall have a roof pitch of not less than 8/12 pitch.

All residences shall have concrete foundations; pier and beam foundations are not allowed.

#### **7. Building Location**

No portion of a building, porch, or other covered structure on a Lot shall be erected or located nearer than twenty-five (25) feet to the front property line, nearer than five (5) feet to the side lot



line, and nearer than twenty (20) feet to the rear lot line.

**8. Nuisances**

No noxious or offensive trade or activity shall be carried on upon any part of the Subdivision, nor shall anything be done thereon which may be or become an annoyance to the Subdivision.

**9. Building Use and Temporary Structures**

No portion of a residence on any of the Lots shall be used for any purpose other than as a residence, and each residence shall be for one family only. No outbuilding, trailer, tent, shack, garage, basement, shelter, camper, mobile home, barn, or other building, nor any structure of a temporary character, shall be used as a residence, either temporarily or permanently, at any time.

**10. Driveways**

All driveways shall be paved solidly of concrete and shall be maintained in good condition.

**11. Signs**

Except political signs as allowed by Applicable Law, no billboard, signboard, or sign of any kind shall be displayed to the public view on any Lot except a sign of not more than six (6) square feet advertising (i) that the home or Lot is for sale or (ii), during the course of construction or remodeling, the business of the builder, tradesman, or materialman at work on the home or Lot. Such signs shall be removed immediately after the home or Lot is sold or the work is complete. The Developer, during the Development Period, or the Association, thereafter, may regulate the use of political signs to the extent allowed by Applicable Law. No signs may be installed in the Common Areas unless approved by the Board.

**12. Gardens and Animals**

Gardens shall be permitted only in the backyard of a Lot and only within those areas within which a building could be erected.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot other than dogs, cats, or other household pets. Such household pets are allowed so long as they (i) are not kept, bred, or maintained for any commercial purpose; (ii) shall not be or become an annoyance or nuisance to the Subdivision; and (iii) shall not exceed three (3) in number at any one time. No dog runs or kennels shall be erected on any Lot.

**13. Utility Cables**

All utility cables (electric, phone, or other utility) upon any Lot must be buried below finished grade in accordance with the specifications of the installing utility company.

#### 14. Vehicle and Boat Parking

No car, truck, trailer, boat, racing vehicle, unlicensed or inoperative motor vehicle, camper, recreational vehicle, or a vehicle or personal property of a like nature, or attachments or parts thereof, shall be left parked on the front yard, any side yard, backyard, or on a street or alley in the Subdivision for a period in excess of twenty-four (24) hours during any forty-eight (48) hour period or in excess of 10 days in any calendar year. No "lettered" or commercial truck or van in excess of a 1-1/2 ton gross weight capacity shall be parked on any Lot, street, or alley overnight.

#### 15. Easements

Easements for installation and maintenance of utilities and drainage facilities affecting all or some of the Lots are reserved as shown on the recorded Plat or other relevant, recorded instrument relating to the Subdivision. Within these easements, no structure, planting (except grass), or other material shall be placed by the Owner or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easement.

During the Development Period, only the Developer, or persons expressly authorized by the Developer or to whom the Developer grants all or a portion of its rights in an easement, may use an easement for access or for the installation of facilities. Thereafter, the Board will have the use and control of easements in place of the Developer.

The easement area across a Lot and all improvements in such area shall be maintained continuously by the Owner, except for those improvements for which a public authority, utility company, or other authorized entity is responsible. Any public authority, utility company, or other authorized entity with an easement shall have the right of reasonable ingress and egress across any Lot in order to maintain those improvements.

#### 16. Garbage and Refuse Disposal

Any trash, garbage, or other waste or refuse on a Lot shall be kept in neat and sanitary containers. Any incinerator or other equipment for the storage or disposal of such materials shall be kept in a clean, neat, and sanitary condition and maintained or used in accordance with all federal, state, and local laws or ordinances.

#### 17. Fences and Shrubs

Within forty-five (45) days of substantial completion of a residence on a Lot, fences shall be installed which shall (i) be six (6) feet in height with pickets of five and one-half (5.5) inches in width, (ii) be constructed of cedar, (iii) include a cedar cap with cedar trim, and (iv) be supported with metal posts; provided, however, that Lots whose rear lot lines are adjacent to and abut Griffith Lake must have all of the rear fence and a portion of each side fence constructed of wrought iron so as to allow views of the lake from the backyard of such Lots. Plans for such rear and side wrought iron fences must be submitted to and approved by the ACC before construction.

Any variation from the foregoing must be approved by the ACC.

Fences shall be maintained in good condition by the Owner.

No fence, wall, hedge, trellis, or similar structure may be located forward of the front wall line of the residence, except that are approved by the ACC.

No fence, wall, hedge, shrub, or other structure or plant which obstructs sight lines at an elevation higher than two (2) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-four (24) feet from the intersection of the street lines or, in the case of a rounded corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet of the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is sufficiently maintained to prevent obstruction of such sight lines.

#### **18. Building Completion**

No portion of a structure shall be allowed to remain upon a Lot in a partial state of completion for an unreasonable length of time, but in no event in excess of one (1) year from the start of construction.

Construction of a residence must commence within thirty (30) months after the purchase of a Lot.

#### **19. Architectural Control Committee**

The ACC will consist of three (3) members, who shall serve until they are replaced or they resign, as set forth below. During the Development Period, the Developer will have the right to appoint all members of the ACC and fill any vacancy during an unexpired term. During the Development Period, the Developer will also have the right to remove or replace an ACC member at any time. After the Development Period, the ACC members will be selected, replaced, and may be removed by the Board. A majority of the members of the ACC may designate a representative to act for it. The Developer hereby appoints Gerry McDowell, Blake Howard, and Craig Urban as the initial members of the ACC.

#### **20. Architectural Control Committee Approval**

No landscaping shall be commenced, installed, or altered, and no structure (meaning any improvement on a Lot, including, but not limited to, a residence, building, fence, wall, paved outdoor seating area, driveway, walkway, or trellis, temporary or permanent) shall be erected, placed, or altered upon any Lot without the prior approval of the ACC. The ruling of the ACC, upon any submittal or application made under this provision, shall be given to the applicant, in writing if requested, within thirty (30) days from submission to any member of the ACC.

**21. Excavation and Grade**

No excavation shall be made on any Lot or portion thereof except as is reasonably necessary for walls, basements, swimming pools, or public utilities. No person shall raise the grade of any Lot or portion thereof above the grade reasonably necessary to construct the permitted structure.

**22. Landscape Requirement**

Before or immediately upon completion of a residence on any Lot, weather permitting, the Owner or builder shall (i) install sod and a sprinkler or irrigation system on at least fifty percent (50%) of the unimproved area of the front yard, (ii) properly plant and maintain at least one (1) four (4) inch caliper tree in the front yard, and (iii) complete all landscaping and plantings for all unimproved areas of the Lot (including front, side, and rear areas). The front yard landscaping and planting shall conform to that of the other Lots in the neighborhood and be comparable in size and quantity to that of the other new residences in the Subdivision. All landscaping on a Lot shall be subject to the approval of the ACC.

The Association shall adequately maintain the front yard lawns for each Lot. Such maintenance shall include lawn mowing and edging. If, for whatever reason, the Association ever ceases, permanently or temporarily, to maintain the lawns as specified above, then such maintenance shall become the obligation of the Owner until maintenance is re-commenced by the Association.

It shall be the duty of each Owner to keep the grass on the Lot free from trash and in a neat and attractive in appearance. Should any Owner fail to do so, the Developer or the Association may take such actions as it deems appropriate to make the Lot neat and attractive, and the Owner shall, upon demand by the Developer or the Association, reimburse Developer or the Association for any expense incurred in doing so.

**23. Curb Repair or Replacement**

Each Owner is responsible for any broken curbs that occur during construction. The Owner shall repair or replace any broken curbs at such Owner's expense. If, within thirty (30) days after the Owner has been notified of the need of such repair or replacement by the Developer or the Association, such Owner does not make the necessary repair or replacement, then the Developer, Association, or the governmental department with appropriate jurisdiction has the right to make the necessary repair or replacement and recover all costs from the Owner.

**24. Compliance with Soil Erosion Control Plan**

Each Owner of a Lot shall comply with any erosion control plan filed for the Subdivision. All erosion control measures shall be performed by personnel trained in erosion control practices and shall meet the design criteria, standards, and specifications for erosion control measures established by the Texas Department of Environmental Management in guidance documents similar to, or as effective as, those outlined in the Texas Handbook for Erosion Control in

Developing Areas from the Division of Soil Conservation, Texas Department of Natural Resources.

Each Owner (including any builder owning any Lot) shall indemnify and hold the Developer harmless from and against all liability, damage, loss, claims, demands, penalties, fines, and actions of any nature whatsoever, including reasonable attorney's fees, which may arise out of or be connected with, or are claimed to arise out of or to be connected with, any work done by an Owner, builder, employee, or subcontractor which is not in compliance with any erosion control plan implemented for this Subdivision.

#### **25. Maintaining Drainage Easements**

An Owner may place drainage swales and easements within the Subdivision according to the Subdivision plans and specifications approved for the Subdivision by the City of Abilene Planning and Zoning Department. Any subsequent developer or homeowner who interferes with or disrupts the drainage and utility easements shall, at their own expense, re-establish such easements and any features related thereto in accordance with the plans and specifications approved by such department unless released from such obligation in writing by the City of Abilene or such other municipal governmental agency with jurisdiction.

#### **26. Sanitary Sewers**

The Developer may place sanitary sewers within the Subdivision in accordance with the Subdivision plans and specifications. Certain Lots within the Subdivision may have sanitary sewer manholes located on them. In no event shall manhole covers be partially or completely covered with dirt or other material so as to hinder or prevent access to, or to allow infiltration into, the sewer system. Furthermore, all connections to the sanitary sewer system shall be done according to the City of Abilene standards at the time of connection but in any event shall be sealed in a professional manner to prevent infiltration or leakage.

#### **27. Assessments**

Section 1. *Authority.* The Association may levy Assessments to promote the recreation, health, safety, and welfare of the Owners and occupants in the Subdivision, to fund operating expenses of the Association, to maintain the Lots, and to improve and maintain the Common Areas and pay for Common Area Expenses.

Section 2. *Personal Obligation.* An Assessment, including any interest, cost, and attorney's fees that may arise in relation thereto, is a personal obligation of each Owner when the Assessment accrues.

Section 3. *Creation of Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Developer upon the sale of a Lot and assigned to the

Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Association to secure Assessments.

Section 4. *Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by the Developer. Despite any provision to the contrary set forth herein, the Developer shall not be liable for, or owe to the Association or any other entity or person, at any time, any Assessment or any other fee set forth in the Governing Documents.

Section 5. *Allocation of Assessments.* Both Regular and Special Assessments shall be fixed at a uniform rate for all Lots.

Section 6. *Regular Assessments.*

a. *Rate.* Regular Assessments are levied by the Board semi-annually (i.e., twice per year) to fund the anticipated operating and maintenance expenses of the Association. Until changed by the Board, the Regular Assessment, to be paid twice per year, is \$600 per Lot, which shall be paid to the Developer until the end of the Development Period, at which time such Assessment shall be paid to the Association.

b. *Changes to Regular Assessments.* Regular Assessments may be changed semi-annually by the Board. After the Development Period, the Regular Assessment shall not increase in any six-month period by more than ten percent (10%). The Association may exceed this six-month limit only by an affirmative vote of the Owners of at least fifty percent (50%) of the Lots. The Board shall fix the amount of the Regular Assessment at least thirty (30) days in advance of the Regular Assessment's due date. Written notice of the Regular Assessment will be sent to every Owner at least thirty (30) days before the Regular Assessment's due date.

c. *Collections.* Regular Assessments will be collected semi-annually, payable on or before the tenth (10th) day of January and on the tenth (10th) day of June of each year. The first Regular Assessment owed by an Owner following conveyance of a Lot shall be due and payable on the first due date, whether January 15 or June 15 (or as such dates may be amended), following the purchase of the Lot; the thirty (30) day written notice of a Regular Assessment shall not be required for such first Regular Assessment. The failure of the Developer or the Association to assess an Assessment in any six-month period shall not be considered a waiver of the right to collect past due amounts or to assess such Assessments in the future.

Section 7. *Special Assessments.* In addition to Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Areas or for any other purpose benefiting the Subdivision but requiring funds exceeding those available from the Regular Assessments. After the Development Period, any Special Assessment must be approved by the Owners of at least fifty percent (50%) of the Lots at a meeting of the members of the Association. Written notice regarding Special Assessments will be sent to every Owner as required by Applicable Law.

Section 8. *Fines.* The Board may levy a fine against an Owner for a violation of the Governing Documents as permitted by Applicable Law.

Section 9. *Subordination of Lien to Mortgages.* The lien granted and reserved to the Association is subordinate to any first lien mortgage granted by an Owner against a Lot. The foreclosure of a superior lien extinguishes the Association's lien as to Assessments due before the foreclosure. Other than the sale or transfer of a Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, the sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot or Owner thereof from liability of any Assessment thereafter becoming due or from the lien thereof. Failure of the Association to file a lien notice in the Real Property Records shall not remove the personal obligation of the Owner.

Section 10. *Delinquent Assessments.* Any Assessment not paid within 30 days after it is due is delinquent. No Owner may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Common Areas or by abandonment of the Lot.

## 28. Remedial Rights

Section 1. *Late Charges and Interest.* In addition to the delinquent Assessment owed, a late charge of eighteen percent (18%) per annum of the delinquent amount shall accrue and be due and owing by the Owner. The Board may change the amount of the late charge and the interest rate.

Section 2. *Costs, Attorney's Fees, and Expenses.* The Owner is liable to the Association for all costs and reasonable attorney's fees incurred by the Association in collecting delinquent Assessments, foreclosing the Association's lien, and enforcing the Governing Documents.

Section 3. *Nonjudicial Foreclosure of Lien.* The Association may foreclose the Association's lien against a Lot by power of sale as permitted by Applicable Law. The



Association may designate a person to act as trustee or otherwise to exercise the power of sale on behalf of the Association.

Section 4. *Judicial Enforcement.* The Association may bring an action against an Owner to collect delinquent Assessments, foreclose the Association's lien, or enforce or enjoin a violation of the Governing Documents.

Section 5. *Remedy of Violations.* The Association may access an Owner's Lot to remedy a violation of the Governing Documents.

Section 6. *Suspension of Voting.* An Owner delinquent in payment of any Assessment may not vote.

Section 7. *Suspension of Other Rights.* If an Owner violates the Governing Documents, the Association may suspend the Owner's rights under the Governing Documents in accordance with Applicable Law until the violation is cured.

Section 8. *Damage to Property.* An Owner is liable to the Association for damage to Common Areas caused by the Owner or the Owner's employees, agents, independent contractors, or invitees in accordance with Applicable Law.

Section 9. *No Waiver.* Failure by the Developer or the Association to enforce the Governing Documents is not a waiver; waivers of any portion of the Governing Documents must be in writing.

#### **29. Severability**

Invalidation of any one of these Covenants by judgment or court order shall in no way affect any of the other provisions of this Declaration, which shall remain in full force and effect.

#### **30. Applicability to Mortgage Foreclosure Tax Sale**

Should any mortgage or lien be foreclosed or should any tax sale occur with respect to any property or Lot to which this Declaration applies and refers, then the title acquired by such foreclosure or sale and the person(s) who thereupon and thereafter becomes an owner of any such property or Lot, shall be subject to and bound by all Covenants enumerated herein and the Governing Documents.

#### **31. Common Areas**

Section 1. *Common Area Easements.* Each Owner has an easement in and to the Common Areas, subject to the right of the Association to —

- a. charge reasonable admission and other fees for the use of facilities situated in the Common Areas, and if an Owner does not pay these fees, the Owner may not use the facilities;
- b. suspend an Owner's rights under the Governing Documents; and
- c. grant an easement approved by the Developer or the Board over the Common Areas for utility, drainage, or other purposes, that will be superior to the Owner's easement for use of the Common Areas.

Section 2. *Permitted Users.* An Owner's right to use and enjoy the Common Areas extends to the Owner's employees and invitees, subject to the Governing Documents.

Section 3. *Unauthorized Improvements in Common Areas.* An Owner may not erect or alter any structure on, or clear, landscape, or disturb, any of the Common Areas except as approved by the Board.

Section 4. *Rules.* The Board may adopt Rules relating to the Common Areas that do not conflict with Applicable Law or this Declaration. On request, an Owner shall be provided a copy of any Rules.

### 32. Owner's Association

Section 1. The filing of this Declaration establishes the Association as an unincorporated nonprofit association that is governed by the Governing Documents. The Association has the powers of an unincorporated nonprofit association and a property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Bylaws.

Section 2. The Association shall be managed and controlled by the Board.

Section 3. Each Owner, by acceptance of a deed to any Lot, shall automatically become a member of the Association, regardless of any other abilities, intentions, or desires of such Owner, and each Owner agrees to abide by the Governing Documents. In matters where the Owners have a vote, there shall be only one vote per Lot. Membership in the Association is appurtenant to, and may not be separated from, ownership of a Lot.

Section 4. The operational procedures for the Association shall be set forth in the Bylaws to be established when the Association is formed. The Bylaws shall include, but not be

limited to, notice of meetings and the establishment of a quorum and a Board. In any event, the Bylaws of the Association may not amend or contradict the terms and conditions of this Declaration. Each Owner, by the acceptance of a deed, consents to the Bylaws to be established.

*[Signature Page Follows]*

DEVELOPER:

GRIFFITH LAKE ESTATES, LLC

By:   
Gerry McDowell, Managing Member

STATE OF TEXAS §

COUNTY OF TAYLOR §

This document was acknowledged before me on the 9<sup>th</sup> day of December, 2017, by  
Gerry McDowell, Managing Member of GRIFFITH LAKE ESTATES, LLC, on behalf of said  
company.

  
Signature of Notary Public, State of Texas

