

**BYLAWS**  
**OF**  
**PECAN CREEK COMMUNITY ASSOCIATION, INC.**

**ARTICLE I.**  
**NAME**

The name of the corporation shall be the "PECAN CREEK COMMUNITY ASSOCIATION, INC." ("Association"), and all business of the Association shall be conducted under such name.

**ARTICLE II.**  
**OFFICES**

The principal office of the Association and its registered office in the State of Arizona shall be located in Maricopa County, Arizona. The Association may have such other offices, either within or without the State of Arizona, as the board of directors ("Board") may determine or as the affairs of the Association may require from time to time.

**ARTICLE III.**  
**MEMBERS**

**Section 1. Membership.** The Association shall have members ("Members"). Membership in the Association shall be limited to Owners of the Lots and Parcels of PECAN CREEK, and each and every person or entity who is a record owner of any Lot or Parcel shall automatically be a Member and shall remain a Member until no longer an Owner. Membership is appurtenant to and inseparable from ownership of a Lot or Parcel. Each Owner shall have such rights, privileges, and powers in the Association as are set forth in these Bylaws and the other Governing Documents.

**Section 2. Allocation of Memberships.** The respective membership interests ("Memberships") shall be allocated among the Members on the basis of the Land Use Classification of the Lot or Parcel owned by each Member as follows:

- (a) Each Residential Lot shall be allocated one (1) Membership.
- (b) Each Residential Parcel shall be allocated one (1) Membership for each Residence that could be constructed on the Parcel under the Development Plan and the zoning ordinances of the County or for each Residence permitted under the Supplemental Declaration applicable to the Parcel, whichever is less. If a subdivision plat or other instrument creating Lots is Recorded covering all or part of the area within the Parcel, the number of Memberships

allocated to the Parcel shall be reduced by the number of Lots shown on the Recorded subdivision plat.

(c) Each Non-Residential Parcel (other than a Parcel having a Land Use Classification of Apartment Project Use) and Non-Residential Lot shall be allocated one (1) Membership for each 10,000 gross square feet of land within the Lot or Parcel. For example, if a Parcel contains 8,000 gross square feet of land, the Parcel would have one (1) Membership, and if a Parcel contains 25,000 gross square feet of land, the Parcel would have two (2) Memberships.

(d) Each Parcel having a Land Use Classification of Apartment Project Use is allocated one (1) Membership for each seven (7) completed Apartments situated on the Parcel and one (1) Membership for each ten (10) additional Apartments that could be constructed upon the Parcel under the applicable Supplemental Declaration or under the Development Plan and zoning ordinances of the County.

**Section 3. Membership Classes and Voting Rights.** The Association shall have two classes of voting Memberships:

(a) Class A Membership. Class A Members shall be all Owners of Lots and Parcels of PECAN CREEK with the exception of the Declarant until termination of the Class B Membership. Each Class A Member shall be entitled to one (1) vote for each Membership held by such Member.

(b) Class B Membership. The Class B Member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Membership held by the Declarant and three (3) votes for each 10,000 square feet of land within any portion of the Additional Property owned by the Declarant that has not been annexed and subjected to the Declaration (pursuant to Section 2.2 thereof). The Class B Membership shall cease and shall be converted to Class A Membership upon the earlier of: (a) when the votes held by the Class A Members exceed the votes held by the Class B Members; or (b) March 1, 2020. The Declarant may also voluntarily relinquish its Class B Membership at any time by giving written notice to the Association.

Notwithstanding the foregoing, the voting rights of a Member may be suspended by the Board, as provided in the Declaration.

**Section 4. Annual Meetings of Members.** The first annual meeting of the Members shall be held within one (1) year of the first close of escrow of a Lot to a Class A Member of the Association at such time and place as may be set by the Board. An annual meeting of the Members shall be held at least once each calendar year thereafter at such time and place as is determined by the Board.

**Section 5. Special Meetings of Members.** Special meetings of the Members may be called at any time by the President, by the Board, or upon written request signed by such Class

A Members holding at least one-fourth (1/4) of the Eligible Votes of all Class A Members and delivered to the President or the Secretary. For the purposes of these Bylaws, the term "Eligible Votes" means the total votes of Members of the Association other than those votes allocated to Owners whose voting rights have been suspended.

**Section 6. Notice of Meetings to Members.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote, at the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the time and place of the meeting and, in the case of a special meeting, the purpose of the meeting. By attending a meeting, a Member waives any right he or she may have had to object to the meeting on the basis that the proper notice of the meeting was not given in accordance with these Bylaws or the statutes of the State of Arizona.

**Section 7. Quorum of Members.** Except as otherwise provided in the Articles, the Declaration, or these Bylaws, the presence (in person or by proxy) of Members entitled to cast one-tenth (1/10th) of the Eligible Votes of all Members shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any time during a meeting, the Members entitled to vote at such meeting shall have the power to adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present.

**Section 8. Majority Vote of Members.** A Majority Vote of the Members, as referred to herein, shall require the affirmative votes of such Member (or Members) holding more than one-half (1/2) of the total authorized votes of all the Members who are present (in person or by proxy) at a meeting for which a quorum of the Members is present. Except as otherwise provided by law, the Articles, the Declaration, or these Bylaws, any action taken or decision made by the Members shall require a Majority Vote of the Members, which shall be binding upon all Members for all purposes.

**Section 9. Proxy Voting and Mail Ballots.** At all meetings of the Members, a vote may be cast in person or by proxy. A proxy may be granted by any Member only in favor of another Member, the Secretary, the Declarant, the Member's mortgagee, or in the case of a non-resident Member, the lessee of such Member. A proxy must be duly executed in writing and shall be valid only for the particular meeting designated in the proxy. All proxies must be filed with the Secretary prior to the commencement of the meeting for which the proxy is given. The proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of a notice of revocation signed by the Member who granted the proxy. Except with respect to proxies in favor of a mortgagee, no proxy shall in any event be valid for a period in excess of 180 days after the execution thereof. Furthermore, with regard to any election of a director (or directors), the Association may, if directed by the Board, provide for mail ballots for Owners to vote in such election, and such ballots shall be subject to such rules as the Board may reasonably establish.

**Section 10. Obligations of Members.** Each Member shall fulfill all obligations provided in the Declaration with regard to any and all Lots and Parcels owned by such Member.

**ARTICLE IV.**  
**BOARD OF DIRECTORS**

**Section 1. Board of Directors.** The affairs of the Association shall be managed by the Board.

**Section 2. Initial Directors, Elections, and Removal.** The initial Board shall consist of those persons set forth in the Articles. During the Declarant Control Period, the Declarant shall have the exclusive right to appoint and remove Directors to or from the Board. After termination of the Declarant Control Period, the Directors shall be elected by the Members at the first annual meeting of the Members thereafter and may be removed and replaced by the Members, with or without cause, at any annual meeting or a special meeting. For the purpose of these Bylaws, the "Declarant Control Period" shall commence with the Recording of the Declaration by Declarant and shall end on the date that the Class B Membership terminates, as provided herein.

**Section 3. Number.** The initial number of Directors shall be five (5). The Members may increase or decrease the size of the Board in the same manner as Directors are elected; provided, however, that the total number of Directors shall always be an odd number and shall not be less than three (3) or more than nine (9), and no reduction in the number of Directors may affect the remaining term of a duly elected Director.

**Section 4. Qualifications.** After expiration of the Declarant Control Period, all Directors must be Members of the Association.

**Section 5. Term.** The initial Directors shall hold office until replaced by the Declarant during the Declarant Control Period or until their successors are elected and qualified at the first annual meeting of the Members following the Declarant Control Period. The term of those Directors elected, in whole or in part, by the Declarant shall be one (1) year. The term of those Directors elected only by the Class A Membership shall be three (3) years; provided, however, that the initial terms of such Directors shall be staggered such that one-third (1/3) of the positions on the Board are eligible for election in each calendar year.

**Section 6. Resignation.** A Director may resign at any time by giving written notice to the President, the Secretary, or the Board. Such resignation shall become effective on the date of receipt or at such later time as specified in the written notice. The acceptance of such resignation shall not be necessary to make it effective.

**Section 7. Vacancies.** After the expiration of the Declarant Control Period, and except as expressly provided herein for the removal and replacement of Directors by Members, any vacancies in the Board shall be filled, for the unexpired term thereof, by the Board at the next regular meeting or a special meeting or by unanimous written consent, as provided herein; provided, however, that the vacant Board position shall not be considered for the purposes of determining whether a quorum is present at a meeting or whether such consent to action without a meeting is unanimous.

**Section 8. Compensation and Reimbursement.** No Director shall receive compensation for his or her services rendered as such; provided, however, that no provision herein shall preclude any Director from serving the Association in any other capacity and receiving compensation therefrom or be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties as Director.

**Section 9. Limitation of Liability and Indemnification of Directors.** A Director shall not be personally liable for, and shall be indemnified by the Association for any liability resulting from, any actions taken (or not taken) as Director of the Association except with regard to: (1) the amount of a financial benefit received by a Director to which the Director is not entitled; (2) an intentional infliction of harm on the Association or the Members; (3) an unlawful distribution in violation of A.R.S. §10-3833; or (4) an intentional violation of the criminal laws.

**Section 10. Regular Meetings of Board.** Regular annual meetings of the Board shall be held at least once each fiscal year at the time and place designated by the Board of Directors at the prior annual meeting or otherwise.

**Section 11. Special Meetings of Board.** Special meetings of the Board may be called by or at the request of the President or any three (3) Directors, written notice of which shall include the time, place, and purpose of the special meeting and shall be provided by mail, by telegram, or by personal delivery to each Director at least three (3) prior to such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed with postage thereon prepaid. If notice is given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not properly called or convened.

**Section 12. Quorum of Board.** Except as otherwise provided in the Articles, the Declaration, or these Bylaws, the presence a majority of the then serving Directors shall constitute a quorum at all meetings of the Board. If less than a majority of the Directors are present at any time during a meeting, a majority of the Directors then present may adjourn such meeting without further notice.

**Section 13. Voting at Board Meetings.** Except as otherwise required by statute, the Articles, the Declaration, or these Bylaws, any action taken or decision made by the Board shall require the affirmative vote of a majority of the Directors who are present at a meeting for which a quorum of the Directors is present.

**Section 14. Action Without Board Meeting.** In the absence of a regular meeting or special meeting, the Board may also take action or make a decision by obtaining the unanimous written consent of all the Directors then serving, which shall be retained by the Secretary with the minutes of all meetings.

**Section 15. Powers and Duties.** The Board shall have all the powers and duties necessary for the administration and affairs of the Association in a manner consistent with the terms of the Governing Documents. The authority of the Board shall include (but not be limited to) the powers to:

- (a) Enforce the terms of the Governing Documents or any declaration made by a Neighborhood Association against such Neighborhood Association or any other party;
- (b) Adopt, amend, repeal, and enforce rules and regulations pertaining to the management, operation, and use of the Areas of Association Responsibility and minimum standards for the Maintenance of Lots and Parcels;
- (c) Lease all or any part of the Association Common Area for such purposes and on such terms and conditions as it determines to be necessary or desirable, provided, however, that any lease entered into after expiration of the Declarant Control Period must first be approved by a Majority Vote of the Members;
- (d) Mortgage or convey all or any part of the Association Common Area, provided, that, except to the extent provided in the Declaration, any such mortgage or conveyance must first be approved by the prior written consent of the Class B Member and a number of Class A Members holding two-thirds (2/3) of all the Eligible Votes of all Class A Members;
- (e) Dedicate parts of the Association Common Area to a public agency, authority, or utility for such purposes and subject to such conditions as it determines to be in the best interests of PECAN CREEK;
- (f) Provide for repairs, additions or improvements to, or alterations of the Association Common Area after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;
- (g) Designate, hire, and dismiss personnel necessary for the maintenance, construction, operation, management, and repair the Association Common Area, provide services for the Members, and provide 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;
- (h) Timely prepare and adopt an annual budget of revenues and expenses, determine and give notice of the amount of assessments from Members, collect such assessments, and enforce any liens or other remedies (including the suspension of voting rights) to secure the payment of such assessments, as provided in the Declaration;
- (i) Carry forward, unexpended, from fiscal year to fiscal year, any surplus of funds collected as it determines to be desirable for the financial security of the Association and the accomplishment of its purposes;

(j) Adopt and amend rules and regulations governing animals kept within PECAN CREEK and conclusively determine whether an animal or bird should be permitted to be kept on a Lot, whether such animal or bird is a nuisance or unreasonably noisy, and what is a reasonable number of dogs, cats, or small birds or animals which are commonly accepted as household pets for any particular Lot;

(k) Adopt and amend rules and regulations governing the parking of a Motor Vehicle, including recreational vehicles and motor homes, on Lots or the Streets;

(l) Procure property and liability insurance, including (but not limited to) comprehensive general liability insurance in an amount it shall determine to be appropriate, but not less than \$1,000,000;

(m) Declare the position of a Director to be vacant in the event that such Director has been absent from three (3) consecutive regular meetings of the Board;

(n) Employ, hire, and dismiss such employees as it deems necessary and determine their duties and compensation;

(o) Supervise all Officers, employees, and agents of the Association;

(p) Cause all Officers, employees, or agents having fiscal responsibilities to be bonded, as it determines to be appropriate; and

(q) Authorize any Officer, employee, or agent of the Association, in addition to the Officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, either generally or for limited purposes.

## **ARTICLE V. OFFICERS**

**Section 1. Officers.** The officers of the Association ("Officers") shall be a President, one or more Vice-Presidents (the number of which shall be determined by the Board), a Secretary, a Treasurer, and such other officers as may be elected in accordance with the provisions of these Bylaws. The Board may elect or appoint such other offices as it shall deem desirable, such officers to have the authority and perform the duties prescribed by the Board. Any two or more offices may be held by the same person, except the offices of President and Secretary, and a person serving as Officer may (but need not) be a Director or a Member.

**Section 2. Initial Officers, Elections, and Terms.** The initial Officers of the Association shall be those persons elected by the initial Board at an organizational meeting (or by unanimous written consent in lieu of an organizational meeting) and shall serve until successor Officers are elected by the Board at the first regular meeting of the Board that follows the first annual meeting of the Members. Succeeding Officers shall be elected annually by the Board at its regular meetings.

Each Officer shall hold office until removed or disqualified or until his or her successor has been duly elected and shall have qualified.

**Section 3. Removal.** An Officer may be removed by the Board, with or without cause; provided, however, that such removal shall be without prejudice to the contract rights (if any) of the Officer so removed.

**Section 4. Resignation.** An Officer may resign at any time by giving written notice to the President, the Secretary, or the Board. Such resignation shall become effective on the date of receipt or at such later time as specified in the written notice. The acceptance of such resignation shall not be necessary to make it effective.

**Section 5. Vacancies.** Any vacancies in an Officer position shall be filled, for the unexpired term thereof, by the Board at the next regular meeting or a special meeting or by unanimous written consent.

**Section 6. President.** The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the Members and of the Board. The President may sign, with the Secretary or any other proper Officer of the Association authorized by the Board, any deeds, mortgages, bonds, contracts, or other instrument which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws, or by statute to some other officer or agent of the Association; and, in general, the President shall perform all duties incident to the office of a President and such other duties as may be prescribed by the Board from time to time.

**Section 7. Vice-President.** In the absence of the President, or in the event of his or her inability or refusal to act, the Vice-President (or in the event there be more than one Vice President, the Vice-Presidents acting together) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice-President shall also perform such other duties as from time to time may be assigned to him or her by the President or the Board.

**Section 8. Treasurer.** The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever and deposit all such monies in the name of the Association in such banks, trust companies, or other depositories, as shall be selected in accordance with these Bylaws; and in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board. If required by the Board, the Treasurer shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Board shall determine.

**Section 9. Secretary.** The Secretary shall keep the minutes of the meetings of the Members and of the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; be

custodian of the corporate records; keep a register of the post-office address of each Member which shall be furnished to the Secretary by such Member; and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board.

#### **ARTICLE VI. BOOKS AND RECORDS**

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Members, the Board, and committees having any of the authority of the Board, and shall keep at its registered or principal office a record giving the names and addresses of the Members entitled to vote. All books and records of the Association may be inspected by any Member (or his or her agent or attorney) for any proper purpose at any reasonable time.

#### **ARTICLE VII. WAIVER OF NOTICE**

Whenever any notice is required to be given under the provisions of the Act or under the provisions of the Articles or the Bylaws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

#### **ARTICLE VIII. INDEMNIFICATION**

Except as provided herein, to the extent that it has the power to do so under federal and state laws, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any potential, pending, or completed action, suit, or proceeding (whether civil, criminal, administrative, or investigative, other than an action by or in the right of the Association), by reason of the fact that he or she is or was a Member, Director, Officer, employee, or agent of the Association or is or was serving at the request of the Association as a Member, Director, Officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney fees) and against judgments, fines, and other amounts actually paid in settlement and reasonably incurred by him or her in connection with such action, suit, or proceeding if his or her action or omission was made in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Indemnification of any such person shall be made in accordance with the procedures set forth in the Arizona Revised Statutes.

#### **ARTICLE IX. AMENDMENTS TO BYLAWS**

**Section 1. Amendments by Declarant During Declarant Control Period.**

During the Declarant Control Period, the Declarant, without a vote of the Members, may amend these Bylaws in order to conform the Bylaws to the requirements or guidelines of the Federal National Mortgage Association, the Federal Housing Administration, the Veterans Administration ("VA"), or any federal, state, or local governmental agency whose approval of the PECAN CREEK project, the Plat, or the Governing Documents is required by law or requested by the Declarant.

**Section 2. Amendments by Members.**

These Bylaws may be amended or repealed and new bylaws may be adopted by a Majority Vote of the Members at an annual meeting or a special meeting if written notice of the proposed changes is provided to the Members at least three (3) days prior to such meeting; provided, however, that during the Declarant Control Period, any amendment to these Bylaws must be approved by the VA or the United States Department of Housing and Urban Development ("HUD"), which shall be deemed given if: (1) application for approval is made in writing together with written certification complying with VA/HUD guidelines stating that the Bylaws, as amended, will continue to comply with applicable VA/HUD requirements; and (2) VA and/or HUD does not remove the PECAN CREEK property from its list of approved projects or otherwise object to the application within thirty (30) days following such application.

**ARTICLE X.**

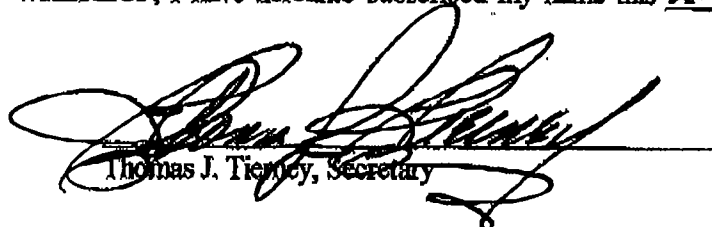
**DEFINITIONS AND CONSTRUCTION**

Any capitalized terms in these Bylaws which are not otherwise defined herein shall have the same meaning as provided in the Declaration of Covenants, Conditions and Restrictions for PECAN CREEK ("Declaration") made by PECAN CREEK, L.L.C., an Arizona limited liability company ("Declarant"). In the event that the terms of these Bylaws conflict with the terms of the Articles or the Declaration, the terms of the Articles or the Declaration, as the case may be, shall control.

**CERTIFICATE OF SECRETARY**

I, the undersigned, do hereby certify that I am the duly elected and acting Secretary of PECAN CREEK COMMUNITY ASSOCIATION, INC., an Arizona non-profit corporation; and that the foregoing Bylaws constitute the Bylaws of the Association as duly adopted by the Board of Directors on October 13, 2002.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 23<sup>rd</sup> day of October, 2002.

  
Thomas J. Tierney, Secretary