



**AMENDED AND RESTATED BYLAWS
OF
THE ASSOCIATION OF PROPERTY OWNERS OF RIVERHILL**

A NON-PROFIT CORPORATION

The name of this non-profit corporation shall be ASSOCIATION OF PROPERTY OWNERS OF RIVERHILL (the "Association").

**Article I
PURPOSE**

The purposes for which the Association is formed are set forth in the Articles of Incorporation. All definitions and terms contained in said Articles shall apply hereto and are incorporated herein by reference.

**Article II
MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES**

2.1 Membership

(a) Eligibility for membership in the Association ("Membership") shall be based on ownership (in full, in part, or shared) of a lot ("Lot") within the property covered by the Declarations. Membership is voluntary, subject to the terms and provisions of these Bylaws and the Declarations. Membership, and eligibility for Membership, for each current owner of a Lot ceases upon the sale or transfer of ownership of that Lot, and begins for the new owner(s) upon the completion of such sale or transfer.

(b) An eligible owner becomes a member of the Association ("Member") upon payment of annual non-refundable dues for the Lot owned by such owner, and eligibility for Membership ceases upon cancellation of such Membership pursuant to Section 2.1(a) or upon non-payment of the annual dues, subject to the terms and provisions of these Bylaws.

(c) Owners of multiple Lots may, at their discretion, obtain a Membership interest in the Association for one or more of the owned Lots. Annual dues will be

assessed for each Lot for which a desired Membership and voting interest in the Association is obtained.

(d) When more than one person own fee title to a single Lot (e.g, ownership is jointly shared), there shall be only a single Membership interest in the Association representing the Lot, and the vote representing that Lot shall be exercised by only one person, as the owners, among themselves, determine, but in no event shall more than one vote be cast or one Membership awarded with respect to any such Lot. In the case of Lots owned by a corporation or in a trust, an authorized representative will be appointed for Membership.

(e) Membership shall terminate without any formal Association action whenever the Lot owner(s) or their representative fails to pay annual dues (and for the period of such failure) and/or when such owner(s) cease to own the Lot, as the case may be, but such termination shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with this Association during the period of such ownership and Membership in this Association, or impair any rights or remedies which the Members have, either through the Board of Directors of the Association or directly against such former Member arising out of or in any way connected with ownership and Membership and the covenants and obligations incident thereto.

2.2 Voting

(a) Votes. The Association shall have one (1) class of voting Membership. Members who are entitled to vote shall be entitled to one vote for each Lot in which they hold the interest required for Membership and for which they have paid the current annual dues. Notice, voting, and quorum requirements for all actions to be taken by the Association shall be as set forth in these Bylaws, as same may be amended from time to time.

(b) Majority of Members. As used in these Bylaws, the term “majority of Members” shall mean more than fifty percent (50%) of the eligible voters who cast votes, either in person or by proxy, at the time such vote is made.

(c) Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Members eligible to vote more than fifty percent (50%) of the total votes of Members eligible to vote shall constitute a quorum. In the event a quorum is not present at any meeting, then the meeting shall be adjourned, and notice of a new meeting for the same purposes within two (2) to four (4) weeks shall be sent to Members in accordance with Section 3.5 below, at which meeting the number of Members represented in person or by proxy shall be sufficient to constitute a quorum. An affirmative vote of a majority of the votes of Members eligible to vote and present, either in person or by proxy, shall be required to transact the business of the meeting.

(d) Proxies. Votes may be cast in person, or by written or electronic proxy. Every proxy shall be submitted to the Association in writing or by email, specifying

the Lot for which it is given, signed by the Member or such Member's duly authorized representative or attorney-in-fact, and filed with the Secretary of the Association at or before the appointed time of the meeting for which it is to be effective. In the case of joint, shared, trust, or corporate ownership, the proxy must be executed by the agreed upon representative for the Lot owner(s). Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving the proxy is entitled to cast. In the event of a conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both proxies shall be deemed invalid. Every proxy shall be revocable and shall automatically terminate on the earlier of (i) the conveyance of the Lot by the Member that gave such proxy, (ii) receipt by the Secretary of written notice of revocation of the proxy, or of the death or judicially declared incompetence of the Member (who is a natural person) that gave the proxy, or (iii) 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

(e) Electronic and Absentee Voting. The following provisions are applicable to electronic and absentee voting by Members.

(i) Subject to Section 2.1 and Section 2.2(e)(ii) below, the voting rights of a Member may be cast or given: (A) in person or by proxy at a meeting of the Members; (B) by absentee ballot in accordance with this Section 2.2(e); (C) by electronic ballot in accordance with this Section 2.2(e); or (D) by any method of representative or delegated voting (such as by proxy), as provided in these Bylaws.

(ii) Except as otherwise provided by this Section 2.2(e)(ii), the Association is not required to provide any Member with more than one voting method. Each Member must be allowed to vote by absentee ballot or proxy. An absentee or electronic ballot received by the Association: (A) may be counted as a Member present and voting for the purpose of establishing a quorum at any meeting, only for items appearing on the ballot; (B) may not be counted, even if properly delivered, if the Member attends the meeting to vote in person, so that any vote cast at a meeting by a Member supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and (C) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot. For purposes of clause (C) in the preceding sentence, a nomination taken from the floor in a Board member election is not considered an amendment to the proposal for the election.

(iii) A solicitation for votes by absentee ballot must include: (A) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action; (B) instructions for delivery of the completed absentee ballot, including the delivery location; and (C) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will

not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(iv) For the purposes of this Section 2.2(e), "electronic ballot" means a ballot: (A) given by e-mail; facsimile; or posting on an Internet website; (B) for which the identity of the Member submitting the ballot can be confirmed; and (C) for which the Member may receive a receipt of the electronic transmission and receipt of the Member's ballot. If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each Member that contains instructions on obtaining access to the posting on the website.

(v) This Section 2.2(e) supersedes any contrary provisions in the Declarations or any other dedicatory instruments of the Association.

(f) Recount of Votes. Any Member may, not later than the 15th day after the later of the date of any meeting of Members at which the election or vote was held or the date of the announcement of the results of the election or vote, require a recount of the votes. A demand for a recount must be submitted in writing either: (1) by verified mail or by delivery by the United States Postal Service (USPS) with signature confirmation service to the Association's mailing address; or (2) in person to any Board member or to the Association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed. The following provisions apply to any such recount:

(i) The Association must estimate the costs for performance of the recount by a person qualified to tabulate votes under Section 2.2(f)(iv) and must send an invoice for the estimated costs (the "Recount Estimate Invoice") to the requesting Member at the Member's last known address according to Association records not later than the 20th day after the date the Association receives the Member's demand for the recount.

(ii) The Member demanding a recount under this section must pay the Recount Estimate Invoice in full to the Association on or before the 30th day after the date the Recount Estimate Invoice is sent to the Member. If the Recount Estimate Invoice is not paid by such deadline, then the Member's demand for a recount is considered withdrawn and a recount is not required.

(iii) If the Recount Estimate Invoice is for an amount that is less than or greater than the actual costs for the recount, the Association must send a final invoice to the Member on or before the 30th business day after the date the results of the recount are provided. If the final invoice includes additional amounts owed by the Member, any additional amounts not paid to the Association before the 30th business day after the date the invoice is sent to the Member may be added to the Member's account as an assessment. If Recount Estimate Invoice

exceeded the final invoice amount, the Member is entitled to a refund, which shall be paid to the Member at the time the final invoice is sent under this Section 202(f)(iii).

(iv) Following receipt of payment of the Recount Estimate Invoice, the Association shall, at the expense of the Member requesting the recount, retain for the purpose of performing the recount the services of a person qualified to tabulate votes. The Association shall enter into a contract for the services of a person who: (A) is not a member of the Association or related to a member of the Board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and (B) is either a current or former county judge, county elections administrator, justice of the peace, county voter registrar, or a person agreed to by the Association and each Member requesting the recount.

(v) On or before the 30th day after the date of receipt of payment of the Recount Estimate Invoice, the recount must be completed and the Association must provide each Member who requested the recount with notice of the results of the recount. If the recount changes the results of the election, the Association shall reimburse the requesting Member for the cost of the recount not later than the 30th day after the date the results of the recount are provided. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Article III **ADMINISTRATION**

3.1 **Association Responsibilities.** The Members will constitute the Association, which will have the responsibility of administering the Corporation through a Board of Directors. The determination of any dispute or disagreement by the Board shall be binding on each and all such Members, subject to the right of Members to seek other remedies provided by law after such determination by the Board.

3.2 **Place of meeting.** Meeting of the Members shall be held at such suitable place, convenient to the Members, as the Board of Directors may determine.

3.3 **Annual Meeting.** An annual meeting of the Members (“Annual Meeting”) shall be held on or before forty-five (45) days after the expiration of the prior fiscal year. At such meetings there shall be elected by ballot of the members a Board of Directors in accordance with the requirements of Paragraph 5 of Article IV of these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

3.4 **Special Meetings.** It shall be the duty of the President to call special meetings of the Members as directed by resolution of the Board of Directors or upon a petition signed by a majority of Members and having been presented to the Secretary or President of the Association. No business except as stated in the notice shall be

transacted at a special meeting. Any actions taken as a result of the meetings will be determined by a majority vote of the Members present or represented by proxy. Any such meetings shall be held after the first Annual Meeting and shall be held within thirty (30) days after receipt by the President of such resolution or petition.

3.5 **Notice of Member Meetings.** It shall be the duty of the Secretary of the Association to provide notice to Members of each annual and special meeting of the Members. Such notice shall state the place, date, and time of the meeting and, if the meeting is a special meeting, the purpose or purposes for which the meeting is called. The notice shall be delivered to each Member entitled to vote at the meeting not later than the 10th day and not earlier than the 60th day before the date of the meeting. Notice shall be (i) delivered via USPS mail with postage paid in an envelope addressed to the Member's address as it appears on the ownership or membership records of the Association; or (ii) posted on the Association's website and transmitted by email to the email address provided by each Member.

3.6 **Order of Business.** The order of business at Annual Meetings shall be as follows, where applicable:

- (a) Roll call, certifying proxies and establishment of a quorum.
- (b) Approval of agenda.
- (c) Reading and approval of previous meeting minutes.
- (d) Reports of officers and committees.
- (e) Election of directors.
- (f) Old business.
- (g) New business; and
- (h) Adjournment.

Article IV **BOARD OF DIRECTORS**

4.1 **Number and Qualification.** There shall be elected, in staggered terms, five (5) Members of the Association to the Board of Directors who shall thereafter govern the affairs of this Association until their successors have been duly elected and qualified. This provision supersedes any conflicting terms set forth in the Association's Articles of Incorporation.

4.2 **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and for the

operation, administration and enforcement of the restrictions and covenants in keeping with the character and quality of the neighborhoods. The Board of Directors may do all such acts and things except as by law or by these Bylaws or by the Declaration may not be delegated to the Board of Directors.

4.3 **Other Powers and Duties.** Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following, all of which shall be done for and on behalf of the Members:

(a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declarations, the Bylaws of the Association and supplements and amendments thereto.

(b) To enjoin and seek damages from an Owner who may be in default as is provided in the Declarations and/or these Bylaws.

(c) To enter into contracts within the scope of their duties and powers.

(d) To establish a bank account or accounts for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors.

(e) To keep and maintain full and accurate books and records showing all of the receipts, expenses, or disbursements and to permit examination thereof at any reasonable time by any of the Members in compliance with applicable statutes and regulations. On an annual basis the financial records of the Association will be reviewed by a qualified Member or Members (as determined by the Board) to verify funds balance and compliance with generally accepted accounting practices.

(f) To compile and make available to each Member a statement showing receipts, expenses, and disbursements since the last such statement.

(g) To meet at least once each quarter; provided that any Board of Directors meeting may be attended and conducted by telephone or other electronic device which permits all of the Directors in attendance to participate in such meeting, and provided further that any action required to be taken at any meeting of the Board of Directors, or any action which may be taken at such meeting, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the Board.

(h) In general, to carry on the administration of this Association and to do all of those things necessary and reasonable in order to carry out the purpose of this Association.

(i) To prepare and file annual tax returns with the federal government and state governments to make such elections as may be necessary to reduce or

eliminate the tax liability of the Association. Without limiting the generality of the foregoing, the Board may, on behalf of the Association, elect to be taxed under Section 528 of the Internal Revenue Code or successor statute conferring income tax benefits on homeowners' associations. In connection therewith, the Board shall take such steps as are necessary to assure that the income and expenses of the Association for any taxable year shall meet the limitations and restriction provided in said Section 528 of the Internal Revenue Code or any successor statute conferring benefits on homeowners' associations as are then in effect. The Board shall comply with the fiscal management requirements and limitations detailed in Article V.

4.4 **No Waiver of Rights.** The omission or failure of the Association or any Member to enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations or other provisions of the Declarations and these Bylaws shall not constitute or deemed a waiver, modification or release thereof, and the Board of Directors shall have the right to enforce the same thereafter.

4.5 **Election and Term of Office.** The term of office of all Directors, except those appointed by the Board, shall be fixed at two (2) years and terms will be staggered so to allow for continuity from year to year. The Directors shall hold office until their respective successors have been elected and hold their first meeting, except as is otherwise provided.

4.6 **Vacancies.** Vacancies in the Board of Directors caused by death, resignation, or disqualification (i.e., by any reason other than the removal of a Director by vote of the Association), shall be filled by vote of the majority of the remaining directors even though they may constitute less than a quorum; and each person so elected shall serve for the remainder of the unexpired term of the replaced director.

4.7 **Removal of Directors.** At any regular or special meeting duly called and held any one or more of the Directors may be removed with or without cause by a majority of Members. A Director and may be removed by a majority of Directors if a Director fails to attend three (3) consecutive Board meetings without good cause for such absence. A Director may also be removed by a majority vote of the remaining Directors for conduct or-actions deemed detrimental to the best interests of the Association. A successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by shall be given an opportunity to be heard at the meeting.

4.8 **Organizational Meeting.** The first meeting of a newly elected Board of Directors following a meeting of the Members shall be held within ten (10) days thereafter at such place as shall be fixed by the Directors at the meeting at which Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present.

4.9 **Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors but at least one such meeting shall be held during each quarter.

4.10 **Special Meetings.** Special meetings of the Board of Directors may be called by the President or Secretary. Special meetings of the Board of Directors shall be called on the written request of one or more Directors.

4.11 **Notice of Board Meetings.** Notice of regular and special meetings of the Board of Directors shall be given to each Director, personally, or by email, telephone, or other electronic means at least five (5) days prior to the day named for such meeting. Members shall be given notice of the date, hour, place, and general subject of any regular or special Board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice to Members shall be: (i) mailed to each Member not later than the 10th day or earlier than the 60th day before the date of the meeting; or (ii) provided at least 144 hours before the start of a regular Board meeting or at least 72 hours before the start of a special Board meeting, by posting the notice on the Association's Internet website and sending the notice by e-mail to each Member who has registered an e-mail address with the Association.

4.12 **Waiver of Notice.** Before or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

4.13 **Board of Directors' Quorum.** At all meetings of the Board of Directors, a majority of directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.14 **Open Meetings.** Regular and special Board meetings must be open to Members, subject to the right of the Board to adjourn a Board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the Association's attorney, matters involving the invasion of privacy of individual owners or Members, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following any executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

4.15 **Electronic Meetings.** A Board meeting may be held by electronic or telephonic means provided that: (A) each Board member may hear and be heard by every other Board member; (B) except for any portion of the meeting conducted in executive session: (i) all Members in attendance at the meeting may hear all Board members; and (ii) Members are allowed to listen using any electronic or telephonic communication method used or expected to be used by a Board member to participate; and (iii) the notice of the meeting sent to Members includes instructions for Members to access the electronic or telephonic communication method used to conduct the meeting.

4.16 **Meeting Records.** The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to a Member for inspection and copying on the Member's written request to the Association's managing agent or to the Board, in accordance with the Association's open records and retention policies in effect from time to time.

4.17 **Compensation.** No member of the Board of Directors shall receive any compensation for acting as such.

Article V

FISCAL MANAGEMENT

5.1 **Income.** At least sixty percent (60%) of the gross income of the Association for any taxable year shall consist solely of amounts received as membership dues, fees, or assessments from Members.

5.2 **Expenditures.** At least ninety percent (90%) of the expenditures of the Association for any taxable year shall be for the management, maintenance, and care of the property and rights under the Declarations as defined in the Articles of Incorporation.

5.3 **Limitations.** No part of the net income of the Association shall incur (other than providing management, maintenance, and care of Association property and rights under the Declarations and other than by a rebate of excess Membership dues, fees, or assessments) to the benefit of any private Member or individual.

5.4 **Accounts.** The funds and expenditures of the Association shall be credited and charged to accounts approved by the Board.

5.5 **Fiscal Year.** The fiscal year for the Association shall begin on October 1st and ends September 30th of the following year.

5.6 **Annual Budget.** An annual budget will be presented for approval of the Board of Directors at the first meeting of the Board following the Organizational Meeting after the Annual Meeting.

5.7 **Annual Dues.** The annual dues shall be determined by the Board of Directors. Such dues may be changed by the Board but shall not within any one (1) year period exceed two (2) times the current dues without the approval of the Members at a meeting duly called for such purpose. Annual dues are per Lot, not per owner.

Article VI **OFFICERS**

6.1 **Designation.** The officers of the Association shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors, and such assistant officers as the Board of Directors shall, from time to time, elect. Any two or more offices, other than the offices of President and Secretary, may be held by the same person. No person shall serve as an officer of the Association for more than three (3) consecutive years.

6.2 **Election of Officers.** The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new board and shall hold office subject to the continuing approval of the Board.

6.3 **Resignation and Removal of Officers.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. Any officer may resign at any time by giving written or email notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

6.4 **Vacancies.** A vacancy in any office because of the death, resignation, or removal, disqualification or otherwise of the officer previously filling such office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the unexpired term of such officer.

6.5 **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the president of an association, including but not limited to the power to appoint committees from among the Members from time to time as he/she may decide is appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board or by the Members of the Association at any regular or special meetings.

6.6 **Vice President.** The Vice-President shall have all the powers and authority and perform all the functions and duties of the President, in the absence of the President or upon the President's inability for any reason to exercise or perform such duties and may also perform any duties the Vice President is directed to perform by the President.

6.7 **Secretary**. The Secretary shall keep all the minutes of the meeting of the Board of Directors and the minutes of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board of Directors may direct; and shall, in general, perform all the duties incident to the office of Secretary and as is provided in the Declaration and the Bylaws. The Secretary shall compile and keep up to date in the official electronic files of the Association a complete list of Members and their last known address as shown on the records of the Association and/or as obtained from the Kerr County Appraisal District (KCAD) data base. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at a reasonable time. In addition, the Secretary will implement and maintain an electronic back up of all the Association files in accordance with the Association's published Records Retention Policy.

6.8 **Treasurer**. The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors. In the event a Managing Agent has the responsibility of collecting and disbursing funds, the Treasurer shall review the accounts of the Managing Agent within fifteen (15) days after the first day of each month.

Article VII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

7.1 **Indemnification**. The Association shall obtain Director and Officer liability insurance to the extent available and the Association shall indemnify any Officer or Director thereof who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (whether or not by or in the right of the Association) by reason of the fact that such person is or was a Director or Officer of the Association, against all loss, expenses (including but not limited to attorneys' fees and cost of the proceeding), judgements, fines and amounts paid in settlement actually and reasonably incurred by him in connection with or in defense of such action, suit or proceeding if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interest of the Association; provided, that with respect to: (1) any criminal action or proceeding, such person had no reasonable cause to believe that his conduct was unlawful; or (2) any civil claim, issue or matter, such person shall not be guilty of gross negligence or willful misconduct in the performance of his duties to the Association. Termination of any action, suit, or proceeding by judgement, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person had reasonable cause to believe that his conduct was unlawful, that such person did not act in good faith or in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, or that such person is guilty of gross negligence or willful misconduct in the performance of

his duties to the Association, all such matters being determined solely and exclusively for the purpose of indemnification as herein provided.

Indemnification under the preceding paragraph shall be made by the Association only as authorized in each specific case upon the determination that indemnification of such person is proper in the circumstances because he had met the applicable standards of conduct as set forth herein. Such determination shall be made (1) by the Board of Directors by a majority vote of quorum consisting of Directors who were not parties to such action, suit or proceeding; or (2) if such quorum is not obtainable by (a) independent legal counsel in a written opinion, or (b) the Members of the Association and no Member shall be disqualified from voting because he is or was party to such action, suit or proceeding. Indemnification so determined may be paid, in part, before the termination of such action, suit or proceeding upon the receipt by the Association of an undertaking by or on behalf of the person claiming such indemnification to repay all sums so advanced if it is subsequently determined that he is not entitled thereto as provided in this Article.

To the extent that a Director or Officer of the Association has been successful on the merits or otherwise in the defense of any action, suit or proceeding, whether civil or criminal, such person shall be indemnified against such expenses (including costs and attorneys' fees) actually and reasonably incurred by him in connection therewith. Indemnification provided herein shall be exclusive of any and all other rights and claims to which those indemnified may be entitled as against the Association, and every Director, Officer or employee thereof under any Bylaw, resolution, agreement or law and any request for payment hereunder shall be deemed a waiver of all such other rights, claims or demands against the Association and each Director, Officer and employee thereof. The indemnification provided herein shall incur to the benefit of the heirs, executors, administrators, and successors of any person entitled thereto under the provisions of this Article.

The Association shall purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

Nothing in this Article VII contained shall be deemed to obligate the Association to indemnify any Member who is or has been a Director or Officer of the Association with respect to any duties or obligations assumed or liability incurred by him under and by virtue of the Declarations and these Bylaws that were assumed or incurred outside of his conduct specifically related to the fulfillment of his duties as an Officer or Director of the Association.

7.2 **Other.** The Board of Directors or Officers shall enter contracts or other commitments as agents for the Association, and they shall have no personal liability for any such contract or commitment (except such liability as may be ascribed to them in

their capacity as Members), provided, however, that such exclusion of personal liability shall apply only so long as such party is acting within the scope of authority of such party.

Article VIII
AMENDMENTS TO BYLAWS

8.1 **Amendment to Bylaws.** These Bylaws may be amended by the vote of a majority of Members; provided, however, that such authority may be delegated by the majority of Members to the Board as allowed by the Texas Non-Profit Corporation Act.

Article IX
EVIDENCE OF OWNERSHIP AND REGISTRATION OF MAILING ADDRESS

9.1 **Proof of Ownership.** Any person(s), on becoming an owner of a Lot shall be qualified to become a Member of the Association. Ownership may be evidenced by the listing of such person(s)' name as owner(s) of the Lot in the KCAD data base or by such Member delivering to the Association a copy of his/her recorded deed covering a Lot. A Member shall not be deemed to be in good standing nor shall he/she be entitled to vote at any annual or special meetings of Members unless ownership has been confirmed and the non-refundable annual dues paid.

9.2 **Registration of Official Address.** Each Member shall register one designated electronic and USPS address to be used by the Association for delivering communications, statements, notices, demands, and other Association related material. All notices, statements, and communications from the Association to a Member will be deemed acceptable when given by email and posted to the Association's website, unless such Member delivers to the Association Secretary a written request for USPS delivery. In addition, Members may provide a secondary electronic address for group membership communications and informal individual communications. It shall be the responsibility of each Member to keep the Association Secretary advised of any change in the Member's email and/or USPS address.

9.3 **Membership.** The requirements herein contained in this Article IX shall be first met before a Member of the Association shall be deemed in good standing and entitled to vote at an annual or special meetings for the ensuing fiscal year.

Article X
COMMITTEES

10.1 **Designation.** The Board of Directors may, but shall not be required to, designate and appoint members to standing committees or ad hoc committees.

10.2 **Nominating Committee.** Before each Annual Meeting, the Board of Directors may appoint a committee who shall nominate candidates for the Board. The names of the candidates shall be submitted on or before forty-five (45) days before the

election. Members may submit names of candidates, including themselves, other than those submitted by the nominating committee at least forty-five (45) days prior to the election. Unless such names are submitted, either by the nominating committee or by the Members, no person shall be elected whose name is not so submitted. If an insufficient number of nominations are made in advance of the Annual Meeting to fill the open vacancies to be elected at the Annual Meeting, then the names of additional candidates may be submitted at the Annual Meeting for election by the Members at that time. If an insufficient number of Directors are elected at any Annual Meeting to fill the current vacancies, then the Board may fill such vacancies in accordance with Section 4.6 of these Bylaws.

10.3 **Architectural Control Committee**. After each Annual Meeting, the Board of Directors shall appoint a committee of at least 3 Members who shall serve on the Architectural Control Committee and carry out the architectural control provisions and procedures contained in the Declarations, or as set forth in the Articles of Incorporation of the Association. The Architectural Control Committee may hold meetings at such time as its members deem necessary and appropriate. A meeting of the Architectural Control Committee may be held by telephone or other electronic medium.

10.4 **Vacancies**. A vacancy in any committee may be filled by the President.

Article XI **NON-PROFIT ASSOCIATION**

This Association is not organized for profit. No Member, member of the Board of Directors, officer, or person from whom the Association may receive any property or funds, shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation thereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of any member of the Board of Directors, officer, or Member; provided, however, (1) that reasonable compensation may be paid to any Member, Director, or officer while acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association, and (2) that any Member, Director, or officer may be reimbursed for their actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

Article XII **EXECUTION OF DOCUMENTS**

The persons who shall be authorized to execute any and all contracts, documents, instruments of conveyance or encumbrances, including promissory notes, shall be the President or Vice President, and the Secretary or Treasurer of the Association.

Article XIII
CONFLICTING OR INVALID PROVISIONS

Notwithstanding anything contained herein to the contrary, should all or part of any Article of these Bylaws be in conflict with the provisions of the Texas Non-Profit Corporation Act as amended, such Act shall control; and should any part of these Bylaws be invalid or inoperative for any reason, the remaining parts, so far as is possible and is reasonable, shall be valid and operative.

By our signatures hereto the undersigned, being the Directors of the Association of Property Owners of Riverhill. Inc. and as authorized by the vote of the Membership at the conducted between August 15, 2021, and September 14, 2021 hereby adopt the foregoing Amended and Restated Bylaws of the Association as of the 15th day of September, 2021. These Amended and Restated Bylaws of the Association replace, and supplant the Bylaws of the Association dated January 31, 1998 and most recently recorded under Document No.11-06277, in the Official Public Records of Kerr County, Texas.

President/Treasurer

Bill White (Date)

Vice President

Hut Smith (Date)

Secretary

Niel Powers (Date)

Board Member

Doug Holmes (Date)

Board Member

Jill Giesecke (Date)