

# BYLAWS OF THE RESIDENTIAL OWNERS ASSOCIATION OF LAS PALMAS

## ARTICLE I NAME AND LOCATION

The name of the corporation is Residential Owners Association of Las Palmas, a Non Profit Association. The principal office of the corporation will be located at 8201 Lockheed Drive, El Paso, Texas 79925, but meetings of Members and Directors may be held at such places within the State of Texas as may be designated by the Board of Directors.

## ARTICLE II DEFINITIONS

Section 1. "Association" means and refers to Residential Owners Association of Las Palmas, a Non Profit Association, its successors and assigns.

Section 2. "Common area" means all real property owned by the association for the common use and enjoyment of the owners, also referred to as Common Areas and Facilities.

Section 3. "Declarant" means and refers to *[developer]*, as well as its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the declarant for the purpose of development.

Section 4. "Declaration" means and refers to the declaration of easements, covenants, conditions, and restrictions applicable to the subdivision and recorded simultaneously herewith in the Real Property Records of El Paso County, Texas.

Section 5. "Governing Instruments" means and refers to the Declaration, these Bylaws, and the Rules and Regulations promulgated by the Board of Directors of the Association.

Section 6. "Lot" means and refers to any plot of land shown on the recorded subdivision plat with the exception of the common area.

Section 7. "Member" means and refers to those persons entitled to membership in the association as provided in the declaration.

Section 8. "Owner" means and refers to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the subdivision, including contract sellers, but excluding those holding title merely as security for the performance of an obligation.

Section 9. "Subdivision" means and refers to that certain tract of real property described in the declaration, and such additions to that tract as may be brought within the jurisdiction of the association pursuant to the provisions of the declaration.

**ARTICLE III  
OFFICES**

**Principal Office**

3.01. The principal office of the Association shall be located in the City of El Paso, County of El Paso, State of Texas. The initial office of the Association is 8201 Lockheed, El Paso, Texas 79902.

**Registered Office and Registered Agent**

3.02. The Association shall have and shall continuously maintain in the State of Texas a registered office and a registered agent, whose office shall be identical with the registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal office of the corporation, and the address of the registered office may be changed from time to time by the Board of Directors.

**ARTICLE IV  
QUALIFICATIONS FOR MEMBERSHIP**

**Membership**

4.01. Membership in the Association is automatically granted to the Owner or Owners of each lot in the Project. Upon the transfer of title in fee simple to any lot, the membership of the transferor in that lot automatically ceases and the new Owner becomes a member. The Owner(s) of each lot is entitled to one (1) vote. If a lot has more than one Owner, named in the Deed conveying the lot to the Owner(s) the lot shall only be entitled to one (1) member vote.

**ARTICLE V  
VOTING RIGHTS**

**Voting**

5.01. The vote of any Member which is held by more than one person may be exercised by any one of them, unless any objection or protest by any holder of such membership is made prior to the completion of a vote, in which case the vote for such membership shall not be counted. Only those Members in good standing shall have the right to vote and be counted for a quorum. A Member more than 45days in arrears in payment of their monthly assessment/ or special assessment shall not be a considered Member in good standing until such delinquency is cured. Further a Member, who is in default of any of the covenants, conditions, rules and/or regulations more than 30days after written notice of such default, without making any attempt to cure said default, shall not be considered a Member in good standing.

**ARTICLE VI  
BOARD OF DIRECTORS**

6.01. The initial Board of Directors shall be as provided in the By Laws.

**Authority of the Board**

6.02. The Board of Directors shall have the authority for the conduct of the affairs of the Association which are set out by law, the founding documents, the Declaration, which are not specifically reserved to Members, the Developer, or the Architectural Committee.

The Board of Directors shall exercise its powers in accordance with the Governing Instruments.

The Board of Directors shall have the authority to appoint an on site manager who may be an individual and/or entity with a designated manager.

**Powers and Duties**

6.03 The Association shall have all of the powers granted by law and established under the laws of the State of Texas, subject to the provisions contained in the Declaration and in the other Governing Instruments. The Association may perform all acts that may be necessary for, or incidental to, the performance of the obligations and duties imposed on it by the Declaration and the other Governing Instruments. The powers of the Association shall include, but are not limited to, the following:

(a) The power to establish, fix, and levy assessments against Owners in accordance with the procedures and subject to the limitations set forth in the Governing Instruments.

(b) The power to adopt reasonable operating rules governing the use of the Common Areas and Facilities located on the Common Areas, as well as the use of any other Association property.

(c) The right to institute and maintain actions for damages or to restrain any actual or threatened breach of any of the provisions of the Declaration or Association Rules in its own name, either on its own behalf or on behalf of any consenting Owner.

(d) The right to discipline Owners for violation of any of the provisions of the Declaration or the Association's Rules by suspension of the violator's voting rights or privileges for use of the Common Areas or by imposition of monetary penalties, subject to the following limitations:

(i) The accused Owner must be given written notice of the alleged violation or property damage, stating the amount of any proposed fine or damage charge and that the Owner may request, in writing, a hearing before the Board within thirty (30) days of the notice.

(ii) The accused Owner must be given a reasonable time, by a date specified in the notice, to cure the violation and avoid the fine, unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months.

(iii) The accused Owner must be given written notice of a levied fine or damage charge within thirty (30) days after the date of levy.

(iv) Any suspension of privileges or imposition of monetary penalties shall be reasonably related to the Owner's violation.

(e) The power to delegate its authority, duties, and responsibilities, through the Board of Directors, to such committees, officers, or employees as are permitted to be retained under the Governing Instruments.

(f) The right, through its agents or employees, to enter any Lot when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable and any damage caused by the entrance shall be repaired by the Association at its own expense.

(g) The Association may, in accordance with the law merge or consolidate with another association similar in corporate nature and the purposes made by operation will be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association may administer the covenants and restrictions established upon any other property as one scheme. However, no such merger or consolidation shall affect any revocation, within the existing property except as hereinafter provided. Such merger or consolidation shall have the approval of seventy-five (75%) percent of the votes of the quorum of owners

(h) Additional Duties and Powers of the Board:

(i) Operation and maintenance of the Common Areas and the facilities located on the Common Areas. This duty shall include, but shall not be limited to, exterior painting, maintenance, repair, and landscaping of the Common Areas and of the furnishings and equipment for the Common Areas as the Board shall determine are necessary and proper.

(ii) Acquisition of and payment from the maintenance fund for improvements to the Common Area and replacement of equipment, and any other matter that the Board determines requires a reserve fund.

(iii) Water, sewer, garbage, electrical, telephone, gas, elevator, and other necessary utility service for the Common Areas and, to the extent not separately metered and charged for the Lots.

(iv) Provide for insuring Common Areas and Facilities. A policy or policies insuring the Board, the Owners and/or the Association against any liability to the public or to the Owners and their tenants and invitees, incident to the ownership and/or use of the Common Areas of the Project, including the personal liability exposure of the Owners. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) per occurrence, for personal injury and/or property damage, Two Million Dollars (\$2,000,000.00) for any one accident, and Two Hundred Thousand Dollars (\$200,000.00) for property damage. The limits and coverage shall be reviewed at least annually by the Board and varied in its discretion, provided, however, that the said limits and coverage shall never be of fewer kinds or lesser amounts than those set forth in this Paragraph. The policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement in which the rights of named insured's under the policy or policies shall not be prejudiced as respects his, her, or their action against another named insured.

(v) The Association shall not be responsible for the Lot Owner's Insurance on his residential improvements and/or furniture and furnishings or the Owner's personal liability. Each Lot Owner or Residential Lot Owner is encouraged to secure his or her own insurance their property and personal liability protection. Also the Association encourages the Owner to look into and possibly secure flood insurance, if it is concerned about flood damage. The insurance for the Association is aforementioned and the Association shall only insure its general liability

(vi) Workers' Compensation insurance to the extent necessary to comply with any applicable laws.

(vii) The goods and the services of personnel that the Board shall determine to be necessary or proper for the operation of the Common Areas and Facilities.

(viii) Legal and accounting services necessary or proper for the operation of the Common Areas or the enforcement of this Declaration.

(c) Preparation and distribution, on a regular basis, of financial statements to the Owners in accordance with the following as provided by the governing documents. The annual statements to the Owners shall include a Balance Sheet, Operating Statement, and Budget for the ensuing year and any other financial statement the Board shall deem necessary for the Members.

(d) Maintenance of the financial books and records of the Association, such books and records to be kept in accordance with generally accepted accounting principals and procedures:

(i) Financial records with a detailed account of the receipts and expenditures affecting the Project and its administration and specifying the maintenance and regular expenses of the Common Areas and any other expenses incurred by or on behalf of the Project.

(ii) Minutes of proceedings of Owners, Board of Directors, and Committees to which any authority of the Board of Directors has been delegated.

(iii) Record of the names and addresses of all Owners with voting rights.

(iv) Plans and specifications used to construct the Project.

(e) Formulation of rules of operation for the Common Areas and Facilities owned or controlled by the Association.

(f) Initiation and execution of disciplinary proceedings against Owners for violations of the provisions of the Governing Instruments in accordance with the procedures set forth in the Governing Instruments, these Bylaws and the Rules and Regulations of the Association.

(g) Retention and distribution of the condominium information statement given to all lot Owners or potential lot Owners by the Developer before sale.

(h) Voting records, proxies, and correspondence relating to declaration amendments.

(i) Payment of taxes and assessments that are or could become a lien on the Common Area and Facilities or any portion thereof.

(j) Delegation of its powers to such committees, officers, employees or agents of the Association as necessary to operate the Common Areas and Facilities.

(k) Arrangement for an annual independent audit of all books and records of the Association, if the Board shall deem the audit necessary or the Members by approval of a majority vote of the Members for an annual or periodic audit of the financial records of the Association and provided the Members shall secure the necessary funds for same.

#### **Declarant's Control Period**

6.04. Declarant shall have the power to appoint and remove officers and members of the Board until one hundred twenty (120) days after Declarant has conveyed seventy-five (75) percent of the Lots in the Project to Residential Owners other than Declarant, provided, however, that, not later than the one hundred twentieth (120th) day after Declarant's conveyance of fifty (50) percent of the Lots to Owners other than a Declarant, not less than one third of the Board members must be elected by Owners other than Declarant. Conveyance of lot(s) to home builders by the Declarant shall be considered as lots owned by the Declarant in the making the above computation until said lot(s) have been sold by the home builder to a third party purchaser

who shall at the time of making this computation is residing in the residential lot or there is a residential tenant in the dwelling.

### **Meetings and Initial Appointment of the Directors**

6.05. The Board of Directors of the Association shall meet no less often the quarterly unless the Board shall determine to meet more often due to the circumstances occurring in the operations of the Association. The Board shall meet in the Common Facilities of the Association at times deemed convenient for the Board members. The initial Board of Directors shall be appointed by the Declarant in accordance with the Governing Instruments.

## **ARTICLE VII ASSESSMENTS**

### **Covenant to Pay**

7.01. The Declarant covenants and agrees for each lot owned by it in the Project, and each Owner by acceptance of the deed to such Owner's lot is deemed to covenant and agree, to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. All moneys collected shall be put into a maintenance fund to be used to defray expenses attributable to the ownership, operation, and maintenance of common interests by the Association. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Areas or by abandonment of the Owner's Lot. The initial assessments are set forth in the Governing Instruments.

### **Regular Assessments**

7.02. Regular assessments shall be made in accordance with the following. Within sixty (60) days prior to the beginning of each calendar year, the Board shall estimate the net charges to be paid during that year, including a reasonable provision for contingencies and replacements with adjustments made for any expected income and surplus from the prior year's fund. This estimated cash requirement shall be assessed to each Owner according to the ratio of the number of lots owned by said Owner to the total number of lots in the Project subject to assessment. Each Owner is obligated to pay assessments to the Board in equal monthly installments on or before the first day of each month.

### **Special Assessments**

7.03. Special assessments shall be made in accordance with the following. If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year because of the cost of any construction, unexpected repairs, replacements of capital improvements on the Common Areas, or for any other reason, it shall make a special assessment for the additional amount needed. Such special assessments shall be levied and collected in the same manner as regular assessments.

## **Limitations on Assessments**

7.04. The Board may not, without the approval of a majority of the voting power of the Association residing in Owners other than Declarant, impose a regular annual assessment per lot that is more than twenty (20%) percent greater than the regular annual assessment for the preceding year, or levy a special assessments that in the aggregate exceeds five (5%) percent of the budgeted gross expenses of the Association for that year. These limitations shall not apply to a special assessment levied against an Owner to reimburse the Association for funds expended in order to bring the Owner into compliance with the provisions of the Association's Governing Instruments.

## **Commencement of Assessments**

7.05. Regular assessments shall commence on the date of the closing of the first sale of a lot in the project. If the date of closing on a lot is other than the first day of the month the assessment shall be prorated for the new owner from the date of closing to the beginning of the first day of the month next succeeding and thereafter the assessment shall be made on the first day each month.

## **Liability for Assessments**

7.06. Each monthly portion of a regular assessment and each special assessment shall be a separate, distinct, and personal debt and obligation of the Owner against whom the assessments are assessed. The amount of any assessment not paid when due shall be deemed to be delinquent.

## **Payment of Assessments on Conveyance of Lot**

7.07. On the sale or conveyance of a Lot, all unpaid assessments against an Owner for the Owner's share in the expenses to which Articles 4.02 and 4.03 of this Declaration refer shall first be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature, except the following:

- (a) Assessments, liens, and charges in favor of the State of Texas and any political subdivision of the State of Texas for taxes past due and unpaid on the Lot.
- (b) Amounts due under mortgage instruments duly recorded.

## **Lien and Foreclosure for Delinquent Assessments**

7.08. The Association shall have a lien on each Lot for any delinquent assessments attributable to that Lot. The Association is authorized to enforce the lien through any available remedy, including nonjudicial foreclosure pursuant to Texas Property Code Section 51.002. The Owners expressly grant to the Board a power of sale, through a trustee designated in writing by the Board, in connection with any such liens.



(a) The liens provided for herein are prior to all other liens, except that such liens shall be subordinate, secondary and inferior to (i) all liens for taxes or special assessments levied by the City, County and State Government or any political subdivision or special district thereof, and (ii) all lines securing amounts due or to become due under any mortgage, vendor's lien or deed of trust filed for record prior to the date the Common Expense charge or Special Assessment became due and payable, and (iii) all liens securing any such loan is advanced to purchase any Lot.

(b) The liens to secure Common Expense Charges as herein provided may be foreclosed without prejudice but subject to the aforesaid prior and superior liens, by suitor by non judicial sale as approved by the Board or any authorized officer or member of the Association acting in behalf of all Owners in like manner as mortgages on real property, or may be foreclosed at public sale without judicial proceeding in the manner prescribed by the laws of the State of Texas.

(c) No foreclosure suit or sale hereunder affects or impairs any of the prior liens above mentioned. The Board or any person authorized by it, acting in behalf of all Owners, has the power to bid on the Lot foreclosed on at the foreclosure sale, the amount of which bid may not exceed the total amount of all Common Expenses Charges and Special Assessments in default interest and other charges thereon and costs of foreclosure.

(d) If the Board purchases any Lot at any such foreclosure sale, it shall have authority to hold, lease, mortgage or convey the same as Trustee of all other Owners. All funds realized from the foreclosure sale are applied first to the cost and expenses of filing and prosecuting suit, including all costs of court and a reasonable amount of attorney's fees, and then towards payment of the indebtedness sued on, together with interest and other charges thereon, and the remainder if any are paid over to the defendant or defendants in such foreclosure suits as their interest may appear.

(e) If the proceeds realized from the foreclosure sale, applied as aforesaid, are insufficient to pay off and discharge the whole amount of the assessment sued on, together with interest and other charges thereon, then the amount of the assessment sued on, together with interest and other charges thereon, then the Purchaser acquiring title to such Lot at such foreclosure sale, whoever he may be, other than the Owner sued, shall not be liable for the deficiency, except for a pro rata part thereof as hereinafter stated, and any such deficiency shall be deemed a Common Expense Charge, collectible from all Owners, including the purchaser at the foreclosure sale, on a pro rata basis as, in the case of the other Common Expenses Charges. The Owner sued remains personally liable to the Owners paying the deficiency.

## ARTICLE VIII MEETINGS OF MEMBERS

### **Annual Meetings**

8.01. The first meeting of the Members of the Association shall be held within six (6) months after the closing of the sale of the first Unit within the Project. After the first meeting, the annual meeting of the Members of the Association shall be held on second Tuesday of March of

each succeeding calendar year at the hour of 7:00 p.m.. If the day for the annual meeting of the Members is a legal holiday, the meeting shall be held at the same hour on the first day following that is not a legal holiday or a Saturday or Sunday.

### **Special Meetings**

8.02. Special meetings of the Members may be called by the President, the Board of Directors or by Members representing at least twenty (20%) percent of the total voting power of the Association.

### **Place**

8.03. Meetings of the Members shall be held within the Project or at a meeting place as close to the Project as possible, as the Board may specify in writing.

### **Notice of Meetings**

8.04. Written notice of all Members' meetings shall be given by or at the direction of the Secretary of the Association or such other persons as may be authorized to call the meeting, by mailing or personally delivering a copy of such notice at least ten (10) but not more than fifty (50) days before the meeting to each Member entitled to vote at the meeting. The notice must be addressed to 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. The notice shall specify the place, day, and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

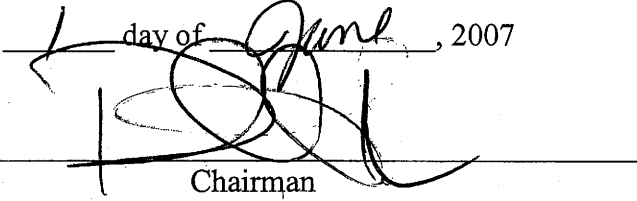
### **Order of Business**

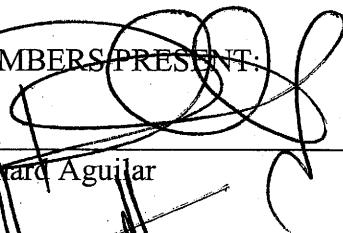

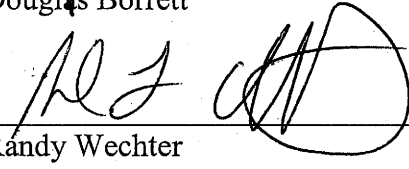
8.05. The order of business at all meetings of the Members shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meetings or waiver of notice.
- (c) Reading of Minutes of preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of directors.
- (g) Unfinished business.
- (h) New business.

**Action Without A Meeting**

8.06. Any action required by law to be taken at a meeting of the Members or any action that may be taken at a meeting of the Members 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 and filed with the Secretary of the Association.

Ratified and approve by the Members on the 1 day of June, 2007  
  
Chairman

MEMBERS PRESENT:  
  
Richard Aguilar  
  
Douglas Borrett  
  
Randy Wechter