

BYLAWS OF GAINES BEND PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I -- NAME AND LOCATION

The name of the corporation is **Gaines Bend Property Owners Association, Inc.** (the "Association"). The principal office of the corporation shall be located at HC 51, Box 18, Graford, Texas 76449, or at such other place as designated by the Board of Directors. 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

2.01 "Association" means and refers to Gaines Bend Property Owners Association, Inc., its successors and assigns.

2.02 "Properties" or "Subdivision" means and refers to that certain real property described in the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

2.03 "Common Areas" means and refers to all real property owned or to be owned by the Association for the common use and enjoyment of the Owners and their guests, together with all improvements now or hereafter constructed thereon. The Common Areas include (but are not necessarily limited to) the parks and recreational areas and the boat ramps and docks intended for common use and the road easements across the property of Declarant providing ingress and egress to the Subdivision.

2.04 "Lot" means and refers to each plot of land shown upon any recorded and still effective plat of property in the Subdivision and which is designated as a lot on such plat, which is privately owned, and which is now or is intended to be improved with a residential dwelling or is part of a residential site, but does not include any of the Common Areas or land which on the date of filing the Declaration is not currently platted. In some situations a lot consists of a platted lot plus an additional portion of an adjoining platted lot, the total of which is covered by a single lease and the total of which is restricted to a single residential dwelling under the present lease. In such situations (as listed in Exhibit C to the Declaration), the term "Lot" means the entire tract as leased and such entire leased tract will be deemed one "Lot" for purposes of these Bylaws. For each platted lot in the Subdivision, the definition of "Lot" as used in these Bylaws includes the land (if any) presently owned by Declarant and located between the platted lot and the nearest adjacent 1,000 foot contour line of the Morris Sheppard Reservoir, commonly referred to as Possum Kingdom Lake (the "Lake") by extending the side lot lines of the platted lot to the 1,000 foot contour line, and also applies to all land owned by Declarant located adjacent to an existing platted lot and covered by an existing recorded lease of a platted lot (including any amendment to an existing recorded lease of a platted lot).

If any portion of a platted lot extends beyond and below the 1,000 foot contour line of the Lake, into land that is owned by the Brazos River Authority, then such portion of the platted lot is excluded from the definition of a "Lot."

With respect to land that is subject to a condominium declaration, a "Lot" will include an individual condominium unit plus that unit's associated undivided interest in the condominium project real estate.

It is anticipated that a current survey will be prepared of each Lot as it is sold by Declarant so that the exact boundaries of the Lot will be established by the survey and incorporated into the deed of the Lot that is filed of record.

2.05 "Owner" means and refers to every person and entity who is a record owner of a fee or undivided interest in any Lot or other property that is subject to the terms of the Declaration, but does not include persons or entities (such as lenders) who hold an interest merely as security for the performance of an obligation. The term "Owner" also includes an Agreed Lessee (as defined below).

2.06 "Agreed Lessee" means and refers to a lessee of a Lot who agrees in a writing filed of record in the Official Public Records of Palo Pinto County to be bound by the terms, conditions, and

obligations of the Declaration and these Bylaws, and the heirs, successors and assigns of the lessee who agreed to be so bound.

2.07 "Declarant" means and refers to Gaines Bend Development, Ltd., a Texas limited partnership, and Madge L. Belding, and their personal representatives, heirs, and successors and assigns who receive rights or title by operation of law, and the persons or entities that were members of Gaines Bend Development, Ltd., and who receive the rights and interests of that limited partnership upon the dissolution of that limited partnership, but does not include a party who acquires title by sale unless such party acquires more than one undeveloped Lot from Declarant for the purpose of development and the rights of Declarant as to such Lots are expressly transferred by Declarant to the acquiring party. The term "Declarant" also includes a party that acquires fee title to multiple Lots in the Subdivision by way of foreclosure or deed in lieu of foreclosure on a lien executed by Declarant.

2.08 "Declaration" means and refers to the Supplemental Declaration of Covenants, Conditions, and Restrictions for Gaines Bend Subdivision, dated Feb 19, 1998, signed by Declarant, and recorded in Volume 953, Page 508, of the Official Public Records of Palo Pinto County, Texas, as it may be amended from time-to-time, applicable to the Subdivision.

2.09 "Member" means and refers to those persons entitled to membership in the Association as provided in the Declaration and in Section 3.01 below.

ARTICLE III - MEMBERS; MEETINGS OF MEMBERS; VOTING RIGHTS

3.01 **Membership.** Each Owner of a Lot (but not an owner of the Common Areas) shall automatically be a Member of the Association. Membership in the Association is appurtenant to ownership of the Lot and may not be separated from ownership of the Lot, except as provided in Section 3.03 below for Agreed Lessees.

3.02 **Voting Rights.** Each Member of the Association is entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members of the Association, but no more than one vote may be cast with respect to any Lot; the vote for any Lot may be exercised as the Owners of the Lot among themselves determine.

3.03 **Rights of Agreed Lessees.** The Declarant or other Owner of a Lot may assign its rights and obligations as a Member of the Association to an Agreed Lessee of that Lot, if that Agreed Lessee expressly assumes and promises to fulfill the obligations of the Owner as a Member of the Association with respect to the leased Lot, including the obligation to pay assessments of the Association against the Lot the same as though the Agreed Lessee had purchased the Lot. Any such assignment and assumption must be in writing and filed of record in the Official Public Records of Palo Pinto County with a copy furnished to the Association and must not last beyond the end of the lease. No such assignment and assumption shall relieve the Owner of the Lot of its underlying obligations in the event that the Agreed Lessee defaults in performing the obligations assumed. During the term of such an assignment by an Owner to an Agreed Lessee, the Agreed Lessee will have voting rights and other rights and obligations as a Member of the Association the same as an Owner, the same as though the Agreed Lessee had purchased the Lot.

3.04 **Annual Meetings.** The first annual meeting of the Members shall be held before November 30, 1998. Each subsequent regular annual meeting of the Members shall be held during the month of October or November for each year thereafter. The day, time, and place of each annual meeting of the Members shall be set by the Board of Directors.

3.05 **Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one tenth (1/10) of all of the votes of the membership.

3.06 **Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each Member entitled to vote thereat, 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. Such notice shall specify the day, time, and place of the meeting, and, in the case of a special meeting, the purpose of the meeting.

3.07 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the Members shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum is not present or represented at any meeting, the Members entitled to vote thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid is present or represented.

3.08 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies must be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

3.09 Location of Meetings. All meetings of Members, both annual and special, shall be held at a place within the Subdivision or at a place unanimously agreed upon by the Board of Directors.

ARTICLE IV – BOARD OF DIRECTORS

4.01 Number. The affairs of the Association shall be managed by a Board of seven (7) Directors, beginning with the annual election of Directors following the first annual meeting of Members. Until the first annual election of Directors, the number of Directors shall be at least three (3) and not more than seven (7), as determined by the Members of the Association.

4.02 Term of Office. Each of the three (3) initial Directors named in the Articles of Incorporation will hold office until the second annual meeting of Members, in 1999, and until his successor is duly elected and qualified or until his earlier resignation or removal. If any additional Director is named prior to the first annual meeting of Members, the term of such additional Director will end at the first annual meeting of Members (unless reelected) and until his successor is duly elected and qualified or until his earlier resignation or removal. Each person elected as a Director in the annual election following the first annual meeting of Members or in any annual election thereafter will hold office for a period of two (2) years and until his successor is duly elected and qualified or until his earlier resignation or removal. Four (4) persons shall be elected as Director in even numbered years, and three (3) persons shall be elected as Director held in odd numbered years. However, the outgoing President will remain on the Board for one additional year as Past President and will occupy one of the Director positions.

4.03 Election. Prior to each annual election of Directors, persons may be nominated for director by a written petition signed by at least three (3) Members of the Association, submitted to the Secretary of the Association no later than the beginning of the annual meeting of Members. Additional names may be added to the list of persons nominated for director by nomination from the floor at the annual meeting of Members seconded by at least two other persons. The list of all names so nominated for director by written petition and from the floor at the annual meeting of Members shall be placed on a written ballot, with the order of names on the ballot determined by a drawing for ballot position. The written ballot shall then be mailed to Members at their designated mailing addresses within twenty (20) days following the conclusion of the annual meeting of members, and with the ballots to be returned to the Secretary or a designated neutral party within twenty (20) days after the date the ballots are mailed out. All ballots shall be opened at the same time after the cutoff date for voting and the results promptly publicized by mail to all Members. In the event the number of those nominated for a Director position does not exceed the number of vacant positions available, those nominated shall be duly elected by affirmation during the Annual Meeting.

At each election the Members (or their proxies) may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of Section 3.02 of these Bylaws. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

4.04 Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board to serve for the unexpired term of his predecessor.

4.05 Compensation. No Director may receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

4.06 Powers. The Board of Directors has power to:

- a. adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- b. suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member is in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- c. exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- d. declare the office of a member of the Board of Directors to be vacant in the event such member has three (3) consecutive unexcused absences from regular meetings of the Board of Directors; and
- e. employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

4.07 Duties. It shall be the duty of the Board of Directors to:

- a. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-tenth (1/10) of the Members who are entitled to vote;
- b. supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- c. as provided in the Declaration, and subject to the restrictions stated in the Declaration, to:
 1. fix the amount of the regular assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 2. send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 3. foreclose the lien against any property for which assessments are not paid within ninety (90) days after the due date or to bring an action at law against the Owner personally obligated to pay the same.
- d. issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- e. procure and maintain adequate liability and hazard insurance on property owned by the Association;
- f. cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- g. cause the Common Areas to be maintained.

ARTICLE V – MEETINGS OF DIRECTORS

5.01 Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places as the Board shall determine.

5.02 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors. Special meetings require not less than three (3) days notice to each Director, except that a special meeting may be held in the event of an emergency with no prior notice.

5.03 Quorum. A majority of the number of Directors shall constitute a quorum for the

transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

5.04 **Meeting Place.** All regular and special meetings of the Board must be held at a location in or adjacent to the Properties, unless a different meeting place is unanimously agreed to by the Directors.

5.05 **Members' Right to Attend Board Meetings.** Each Member has the right to attend and observe any regular or special meeting of the Board, but does not have the right to speak at the Board meeting unless granted consent to do so by the Board.

5.06 **Telephone Meetings.** At any meeting of the Board, a Director may attend by telephone, radio, television, or similar means of communication which permits him to participate in the meeting, and a Director so attending shall be deemed present at the meeting for all purposes including the determination of whether a quorum is present.

5.07 **Action Taken Without a Meeting.** The Directors may take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved has the same effect as though taken at a meeting of the Directors.

ARTICLE VI – OFFICERS AND THEIR DUTIES

6.01 **Enumeration of Offices.** The officers of this Association shall be a President and Vice President, who must at all times be members of the Board of Directors, a Secretary, a Treasurer, and such other officers as the Board may from time to time by resolution create.

6.02 **Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

6.03 **Term.** The officers of this Association shall be elected annually by the Board and each will hold office for one (1) year unless he or she sooner resigns, or is removed, or otherwise becomes disqualified to serve.

6.04 **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom will hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

6.05 **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation takes effect on the date of receipt of such notice or at any later specified therein, and unless otherwise specified therein, the acceptance of such resignation is not necessary to make it effective.

6.06 **Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy will serve for the remainder of the term of the officer he or she replaces.

6.07 **Multiple Officers.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 6.04.

6.08 **Duties.** The duties of the officers are as follows:

- a. **President.** The President is to preside at all meetings of the Board of Directors; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds, contracts, and other written instruments and co-sign all checks and promissory notes.
- b. **Vice President.** The Vice President is to act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.
- c. **Secretary.** The secretary is to record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix

it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

- d. Treasurer. The treasurer is to receive and deposit in appropriate bank accounts all monies of the Association and to disburse such funds as directed by resolution of the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; and prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE VII – ASSESSMENTS

7.01 As more fully set forth in Paragraph 7.F and Paragraph 8 of the Declaration (which are incorporated herein by reference), and subject to the restrictions stated therein, each Member (other than Declarant) is obligated to pay to the Association assessments and charges which are secured by a continuing lien upon the property against which the assessment or charge is made. The purpose of the assessment is to promote the health, safety, and welfare of the Members and for the operation and maintenance of the Common Areas including (but not limited to) the improvement and maintenance of the roads in the Properties and within the road easements across the property of Declarant providing ingress and egress to the Subdivision and garbage and rubbish pickup for the Subdivision.

7.02 Any assessments or charges which are not paid when due are delinquent. If the assessment or charge is not paid within thirty (30) days after the due date, the assessment or charge will bear interest from the due date at the rate of ten percent (10%) per annum, unless the Board of Directors of the Association sets a different rate, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of a Lot.

7.03 The lien of the assessments is subordinate to the lien of any first mortgage. Sale or transfer of any Lot does not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Even if the lien against the Lot is extinguished by the sale or transfer of a Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, the personal liability of the Owner is still not discharged on any unpaid amount.

ARTICLE VIII – DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be transferred to another non-profit corporation or an appropriate public agency, to be used for purposes similar to those for which the Association was created.

ARTICLE IX – AMENDMENTS

9.01 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy, except that no amendment may be inconsistent with the terms of the Declaration or the Articles of Incorporation or any applicable law.

9.02 In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE X – INDEMNIFICATION AND LIABILITY OF DIRECTORS AND OFFICERS

10.01 Indemnification. Each person who is or was a director or officer of the Association or is or was serving at the request of the Association as a director or officer of any other entity (including the heirs, executors, administrators and estate of such person) shall be indemnified by the Association as a matter of right to the fullest extent permitted or authorized by the laws of the State of Texas, as now in effect and as hereafter amended, against any liability, judgment, fine, amount paid in settlement, cost and expenses (including attorneys' fees and court costs) asserted or threatened against and incurred by such person in his capacity as or arising out of his status as a director or officer of the Association or, if serving at the request of the Association, as a director or officer of another entity. The indemnification provided by this Bylaw provision shall not be exclusive of any other rights to which those indemnified may be entitled under the Articles of Incorporation, under any other Bylaw provision, or under any agreement, vote of disinterested directors or otherwise, and shall not limit in any way any right which the Association may have to make different or further indemnifications with respect to the same or different persons or classes of persons.

10.02 Limitation of Liability. No person shall be liable to the Association for any loss, damage, liability or expense suffered by it on account of any action taken or omitted to be taken by him as a director or officer of the Association or of any other entity which he serves as a director or officer at the request of the Association, if such person (i) exercised the same degree of care and skill as a prudent man would have exercised under the circumstances in the conduct of his own affairs, or (ii) took or omitted to take such action in reliance upon advice of counsel for the Association; or for such other entity, or upon statements made or information furnished by directors, officers, employees or agent of the Association, or of such other entity, which he had no reasonable grounds to disbelieve.

10.03 Absence of Personal Liability. The officers and directors of the Association are not individually or personally liable for the debts, liabilities, or obligations of the Association.

ARTICLE XI – MISCELLANEOUS

11.01 Fiscal Year. The fiscal year of the Association will begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year will begin on the date of incorporation.

11.02 Seal. The Association may have a seal in such form as the Board of Directors approves, and such seal may be impressed on, affixed to, or in any manner reproduced upon, instruments of any nature required to be executed by officers of the Association.

11.03 Right of Inspection. The books, records, and papers of the Association are at all times, during reasonable business hours, subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association must be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.