

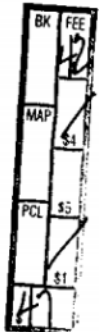
SHARON GARDA  
1265 PARKSIDE VILLAGE DR.  
CHINO VALLEY, AZ 86323

3397234 BK 3872 PG 559  
Yavapai County  
Patsy Jenney-Colon, Recorder  
10/22/2001 01:40P PAGE 1 OF 42  
PARKSIDE VILLAGE HOA  
RECORDING FEE 42.00  
SURCHARGE 4.00  
POSTAGE 1.00

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS**

**FOR**

**PARKSIDE VILLAGE**



IN WITNESS WHEREOF, THE UNDERSIGNED, being the Secretary of the  
Parkside Village Homeowners Association, Inc., herein, has executed this  
amendment this 20<sup>th</sup> day of September 2001. Amended and approved by  
Membership as required by Section 9.3.

Attested by *AJ Garda* Secretary.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has  
executed this Amendment this 20TH day of September, 2001.

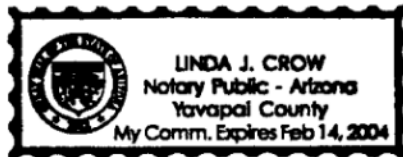
Declarant

Paul A. Boland

State of Arizona        )                        )ss.                        County of Yavapai    )

Linda J. Crow  
NOTARY PUBLIC

OFFICIAL SEAL



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
 FOR  
 PARKSIDE VILLAGE**

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## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARKSIDE VILLAGE

The Declaration of Covenants, Conditions and restrictions for Parkside Village was made the 28 TH day of October, 1993 by Parkside Village LLC, a Limited Liability Company Commission regulations, In Book 2722, Page 387-424 and amended the 24 TH day of August, 2000 by Parkside Village Homeowners Association, a non-  
\*IN BOOK 3666, PG. 877  
profit corporation, operating under the Arizona Corporate Commission Regulations.

### RECITALS

A Master Declaration of Restrictive Covenants for all lots of single-family residential units of Parkside Village (the "Initial Declaration") to establish a general plan for the development, sale, lease and use of the master planned community known as Parkside Village.

### ARTICLE 1: DEFINITIONS

Unless otherwise defined, the following words and phrases when used in this Declaration shall have the meanings set forth in this Article.

**1.1 "Additional Property"** means any real property, together with the improvements located thereon.

**1.2 "Annual Assessment"** means the assessments levied against each Lot and the Owner thereof, pursuant to Section 6.2 of this Declaration.

**1.3 "Architectural Committee"** means the committee of the Association to be created pursuant to Section 5.10 of this Declaration.

**1.4 "Architectural Committee Rules"** means the rules and guidelines adopted by the Architectural Committee pursuant to Section 5.10 of this Declaration, as amended or supplemented from time to time.

**1.5 "Areas of Association Responsibility" means**

- (I) All Common Area:
- (II) All land, and the Improvements situated thereon, located within the boundaries of a Lot which the Association is obligated to maintain,
- (III) All real property, and the Improvements situated thereon, the Development located within dedicated rights-of-way with respect to which the State of Arizona or any county or municipality has not accepted responsibility for the maintenance thereof, but only until such time as the State of Arizona or any county or municipality has accepted all responsibility for the maintenance, repair and replacement of such areas.

**1.6 "Articles"** means the Articles of Incorporation of the Association, as amended from time to time.

**1.7 "Assessment"** means an Annual Assessment or Special Assessment.

**1.8 "Assessment Lien"** means the lien created and imposed by Article 6 of this Declaration.

**1.9 "Assessment Period"** means the period set forth in Section 6.5 of this Declaration.

**1.10 "Association"** means Parkside Village HOMEOWNERS ASSOCIATION, an Arizona non-profit corporation, and its successors and assign.

**1.11 "Association Rules"** means the rules adopted by the Board pursuant to Section 5.3 of this Declaration, as amended from time to time, by the Association.

**1.12 "BOARD"** means the Board of Directors and the Association

**1.13 "BYLAWS"** means the Bylaws of the Association, as amended from time to time.

**1.14 "Common Area"** means tracts A, B, C, D, E, F, G and H, according to the plat recorded in Book 30 of Maps and Plats, Pages 43 - 47, records of Yavapai County, Arizona; and all land, together with all improvements situated thereon which the Association at any time owns in fee or in which the Association has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest.

**1.15 "Common Expenses"** means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

**1.16 "Declarant"** means Parkside Village, LLC, an Arizona Limited Liability Company, and any person to whom the Declarant may expressly assign any or all of its rights under this Declaration by an instrument recorded with the County recorder of Yavapai County, Arizona.

**1.17 "Declaration"** means the Declaration of Covenants, Conditions and Restrictions, as amended from time to time.

**1.18 "First Mortgage"** means any mortgage or deed of trust on a Lot which has priority over all other mortgages and deeds of trust on the same lot.

**1.19 "First Mortgagee"** means the holder or beneficiary of any First Mortgage.

**1.20 "Improvement"** means any building, fence, wall or other structure or any swimming pool, road or driveway.

**1.21 "Lessee"** means the lessee or tenant under a lease, oral or written, of any lot including an assignee of a lease.

**1.22 "Lot"** means a portion of the Development designated as a lot on a Plat and where the context indicates requires any residential unit, building, structure or other improvements situated on the Lot.

**1.23 "Maintenance Standard"** means the standard of maintenance of Improvements established from time to time by the Board or in the absence of any standard established by the Board, the standard of maintenance of improvements generally prevailing throughout the Development.

**1.24 "Member"** means any Person who is a member of the Association.

**1.25 "Owner"** means the owner of record, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot. Owner shall not include Persons having an interest in a Lot merely as security for the performance of an obligations or a Lessee. Owner shall include a purchaser under a contract for the conveyance of real property subject to the provisions of A.R.S. 33-741 et seq. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts pending the closing of a sale or purchase transaction. In the case of Lots the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of the Lots the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement, the beneficiary of any such trust who is entitled to possession of the trust property shall be deemed to be the Owner.

**1.26 "Person"** means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

**1.27 "Plat"** the final plat of Parkside Village is recorded in Book 30 of Maps, pages 43-47, records of Yavapai County, Arizona, and all amendments, supplements or corrections thereto.

**1.28 "Property" or "Development"** means the real property recorded in Book 30 of Maps and Plats, pages 43-47 in records of Yavapai County, Arizona, together with all improvements located thereon.

**1.29 "Development Documents"** means this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules.

**1.30 "Purchaser"** means any person, other than the Declarant, who by means of a voluntary transfer becomes the Owner of a Lot, except for a Person who, in addition to purchasing a Lot, is assigned any or all of the Declarant's rights under this Declaration.

**1.31 "Recording"** means placing an instrument of public record in the office of the County Recorder of Yavapai County, Arizona, and "Recorded" means having been so placed in public record.

**1.32 "Resident"** means each individual occupying or residing in any Residential Unit.

**1.33 "Residential Unit"** means a building, or portion of a building, situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence.

**1.34 "Single Family"** means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related who constitute a single family.

**1.35 "Special Assessment"** means any assessment levied and assessed pursuant to Section 6.4 of this Declaration.

**1.36 "Visible From Neighboring Property"** means, with respect to any given object, that such object is or would be visible from any part of such neighboring property.

## ARTICLE 2: PLAN OF DEVELOPMENT

### **2.1 "Property Initially Subject to the Declaration"**

This Declaration is being recorded to establish a general plan for the development, sale, lease and use of the Development in order to protect and enhance the value, appearance and desirability of the Development. Trustee and Declarant declare that all of the property within the Development shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the property subject to this Declaration, each Person, for himself or itself, his heirs, personal representatives, successors, transferee and assigns,

binds himself, his heirs, personal representatives, successors, transferee and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development, sale, lease and use of the Property and hereby evidences his interest that all the restrictions, conditions, covenants, rules, and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and each shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

## **2.2 "Disclaimer of Representations"**

Declarant makes no representations or warranties whatsoever that: (i) the Development will be completed in accordance with the plans for the Development as they exist on the date this Declaration is recorded; (ii) any Property subject to this Declaration will be committed to or developed for a particular use or for any use; or (iii) the use of any Property subject to this Declaration will not be changed in the future.

## **ARTICLE 3: USE RESTRICTIONS**

### **3.1 "Architectural Control"**

**3.1.1.** No excavation or grading work shall be performed on any Lot without the prior written approval of the Architectural Committee.

**3.1.2** No Improvement (including, but not limited to, front yard landscaping such as trees, plants, shrubs rock, grass or other landscaping improvement) shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee. No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, from

their appearance on the date this Declaration is Recorded shall be made or done without the prior written approval of the Architectural Committee. Any Owner desiring approval of the Architectural Committee for the construction, installation addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of his Lot, or the Improvements located thereon, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the addition, alteration, repair, change or other work which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications, and plan revision fee, if any. In the event that the Architectural Committee fails to approve or disapprove and applicant may resubmit to the Architectural Committee a second written request for approval of the application previously submitted by such Owner. If the Architectural Committee fails to disapprove the application within ten (10) days after receipt of the second written request for approval of the application, the Architectural Committee will be deemed to have approved such application, and the requirements of this Section shall be deemed to have been complied with by the Owner. However, the approval of any application submitted by an Owner shall not relieve such Owner from the obligation to comply with all other provisions of this Declaration. The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

**3.1.3** Upon receipt of approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practical and shall diligently pursue such work so that it is completed as soon as reasonable, practical and within such time as may be prescribed by the Architectural Committee.

**3.1.4** Any change, deletion or addition to the plans and specifications approved by the Architectural Committee must be approved in writing by the Architectural Committee.

**3.1.5** The Architectural Committee shall have the right to charge a fee for reviewing requests for approval of any construction, installation, alteration, addition, repair, change or other work pursuant to this Section, which fee shall be

payable at the time the application for approval is submitted to the Architectural Committee.

**3.1.6** All Improvements constructed on Lots shall be of new construction, unless specifically approved, and no buildings or other structures shall be removed from other locations on to any Lot.

**3.1.7** The provisions of the Section do not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation, addition, alteration, repair change or replacement of any improvement made by, or on behalf of, the Declarant as long as they comply with the Architectural Guidelines.

**3.1.8** The approval required of the Architectural Committee pursuant to this Section shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

**3.1.9** The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Section shall not be deemed a warranty or representation by the Architectural Committee as to the quality of such construction, installation, addition, alteration, repair, change or other work conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

**3.1.10** The Architectural Committee may disapprove plans and specifications for any construction, installation, addition, alteration, repair, change or other work which must be approved by the Architectural Committee pursuant to this Section if the Architectural Committee determines, in its sole and absolute discretion, that: (i) the proposed construction, installation, addition, alteration, repair, change or other work would violate any provision of this Declaration; (ii) the proposed construction, installation, addition, alteration, repair, change or other work does not comply with any Architectural Committee Rule; (iii) the proposed construction, installation, addition, alteration, repair, change or work is not in harmony with existing Improvements in the Development or with Improvements previously approved by the Architectural Committee but not yet constructed; (iv) the proposed construction, installation, addition, alteration, repair, change or other work is not aesthetically acceptable; or (v) the proposed construction, installation, addition, alteration, repair, change or other work is otherwise not in accord with the general plan for the development. Lots numbered 82 through 85 and lots numbered 91 through 105 are restricted to single story structures only.

**3.1.12** Prior to completion of the house construction and occupancy permit on each Lot numbered 32 and 33, 73, 74-81, 89-92, 96, 97 and 98, a five foot wall of

a non see-through Vinyl or Block Material, approved by the Architectural Committee shall be installed at the rear of each Lot, and additionally along the south side of Lot 92. Specifications and approval must be obtained from the Association for the construction, installation and maintenance of said wall prior to construction.

**3.1.13** Septic tanks installed on Lots 92, 93, 96, 97 and 98 shall be installed a minimum of 100 feet away from the existing well on parcel 306-33-001 H.

### **3.2 "Diseases and Insects"**

No person shall permit any thing or condition to exist upon any Lot or other property, which shall induce, breed or harbor infectious plant diseases or noxious insects.

### **3.3 "Antennas"**

No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation may be used, erected or maintained on the Development without the prior written approval of the Architectural Committee.

### **3.4 "Trash Containers and Collection"**

No garbage or trash shall be placed or kept on any Lot or other property, except in covered containers of a type, size and style that are approved by the Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Property except to make the same available for collection and then only for the shortest time reasonable necessary to effect such collection. All rubbish, trash, or garbage shall be removed from Lots and other property and shall not be allowed to accumulate thereon. No outdoor incinerators.

### **3.5 "Clothes Drying Facilities"**

No outside clothesline or other outside facilities for drying or airing clothes shall be erected, placed, or maintained on any Lot that would be Visible From Neighboring Property, street or Common Area.

### **3.6 "Utility Service"**

No lines, wires, or other devices for the communication or transmission to electric current or power, including telephone, television, and radio signals, shall be



erected, placed or maintained anywhere in or upon any Lot or other property unless the same shall be contained in conduits or cables installed approved by the Architectural Committee. No provision of the Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures approved by the Architectural Committee.

### **3.7 "Overhead Encroachments"**

No tree, shrub, or planting of any kind on any Lot or other property shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior approval of the Architectural Committee.

### **3.8 "Residential Use"**

All Residential Units shall be used, improved and devoted exclusively to residential use by a Single Family. No trade or business may be conducted on any Lot or in or from any Residential Unit, except that an Owner or other Resident of a Residential Unit may conduct a business activity within a Residential Unit so long as:

- (I) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit;
- (II) the business activity conforms to all applicable zoning ordinances of the Town of Chino Valley and requirements for the Development;
- (III) the business activity does not involve persons coming on to the Lot or the door-to-door solicitation of Owners or other Residents in the Development.
- (IV) and the business activity is consistent with the residential character of the Development and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other Residents in the Development, as may be determined from time to time in the sole discretion of the Board.

The terms "Business" and "Trade" as used in this Section shall be construed to have ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether:

- (I) such activity is engaged in full or part time;
- (II) such activity is intended or does generate a profit, or

- (III) a license is required for such activity. The leasing of a Residential Unit by the Owner shall in and of itself not be considered a trade or business within the meaning of the Section.

### **3.9 "Farm Animals"**

No fowl, poultry or livestock may be kept on any Lot. Dogs, cats, birds or similar household pets may be kept on a Lot if they are kept, bred or raised solely as domestic pets and not for commercial purposes. All dogs, cats or birds permitted under this Section shall be confined to the Owner's Lot except that a dog may be permitted to leave and Owner's Lot if such dog is at all times kept on a leash and under control and is not permitted to enter upon any other Lot. No dog, cat or bird permitted by this Section shall be allowed to make an unreasonable amount of noise, annoy or disturb any Owner or Resident, or become a nuisance. No structure for the care, housing or confinement of any animal, bird fowl, poultry, or livestock shall be maintained on any Lot without the prior written approval of the Architectural Committee. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purpose of this Section, a particular dog, cat or bird is a nuisance or making an unreasonable amount of noise or annoying or disturbing any Owner or Resident. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration.

ALL OWNERS WALKING DOGS MUST CLEAN UP AFTER THEM.

### **3.10 "MACHINERY AND EQUIPMENT"**

No outside machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building, appurtenant structures, or other Improvements or such machinery or equipment which Declarant of the Association may require for the operation and maintenance of the Development, Lawn and garden equipment may be kept on Owner's Lot provided they are housed in a building or not visible from any neighboring Lot, street, or Common Area when not in use.

### **3.11 "Signs"**

No signs whatsoever (including, but not limited to, commercial, political, and or similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Lot except:

- (I) Signs required by legal proceedings;
- (II) Residence identification signs provided the size, color, content and location of such signs have been approved in writing by the Architectural Committee;
- (III) Signs used by the Declarant on model;
- (IV) One "For Sale" or "For Rent" sign of a size not to exceed 6 square feet. All sign sizes must be adhered to: They cannot be larger than 6 sq. feet. That includes the following: *FOR SALE, FOR RENT, MODEL HOMES AND GARAGE SALES, CONTRACTOR MAY USE A TOTAL OF THREE (3) SIGNS AS FOLLOWS: ONE (1) AT EACH ENTRANCE AND ONE IN FRONT OF EACH MODEL.*

### **3.12 "Restriction on Further Subdivision Property Restriction and Rezoning"**

No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner other than the Declarant, without the prior written approval of the Board. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, Lessee, or other Person other than the Declarant against any Lot without the provisions thereof having been first approved in writing by the Board. No application for rezoning, variances or use permits pertaining to any Lot shall be filed with any governmental authority by any Person other than the Declarant unless the application has been first approved by the Board and the proposed use otherwise complies with this declaration.

### **3.13 "Trucks, Trailers, Campers and Boats"**

No mobile homes, licensed boats, boat trailers, travel trailers, utility trailers, recreation vehicles, stock trailers, campers, camper shells, or other similar equipment or vehicle shall be parked, maintained, constructed, reconstructed or repaired on any Lot or Common Area or on any street except for: (i) the temporary parking of a motor home or similar vehicle in the front yard of the Lot visible from the street for the purpose of loading or unloading, not to exceed a period of more than forty-eight (48) hours within any consecutive seven (7) day period; or (ii) trucks or vans not exceeding eight (8) feet in height and eighteen (18) feet in length which are not used for commercial purposes may be parked in garages or on driveways situated on a Lot; (iii) the above, which is not Visible From

Neighboring Property and is not in the front forty (40) feet of the Lot and not visible from any street or Common Areas.

### **3.14 "Motor Vehicles"**

Except for emergency vehicle repairs, no automobile or other motor vehicle shall be constructed, reconstructed or repaired upon a lot, street or other property in the Development; however, these activities may be performed in the garage or accessory buildings. No automobile or other motor vehicle shall be parked on any road or street in the Development for more than 24 hours in a 72-hour period. **No motor vehicle shall be parked on property designed/designated for landscaping. Vehicles shall be required to be parked on the driveway area approved by the Architectural Committee. Driveways/garage shall be large enough to accommodate all resident(s) vehicles. Any additional parking on property must have Architectural Committee approval.**

### **3.15 "Towing of Vehicles"**

Any expense incurred by the Association in connection with the towing of any vehicle or equipment, after reasonable notice to an owner, shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by a Member, any amounts payable to the Association shall be secured by the Assessment Lien, and the Association may enforce collection of suit amounts in the same manner provided for in their Declaration for the collection of Assessment.

### **3.16 "Variances"**

The Architectural Committee may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in Article 3 if the Architectural Committee determines in its discretion that: (i) a restriction would create an unreasonable hardship or burden on an Owner, Lessee or resident or a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete; and (ii) that the activity permitted under the variance will not have any substantial adverse effect on the Owners, Lessees and residents of the Development and is consistent with the high quality of life intended for residents of the Development.

### **3.17 "Drainage"**

No residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner

that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage for the Development, or any part thereof, or for any Lot as shown on the drainage plans on file with the country or municipality in which the Development is located.

### **3.18 "Garages and Driveways"**

All houses must have an attached 2-car garage (20' X 20'). Garages shall be used only for the parking of vehicles and shall not be used or converted for living or recreational activities without the prior written approval of the Architectural Committee. No motor vehicle shall be parked on property designed/designated for landscaping. Vehicles shall be required to be parked on the driveway area approved by the Architectural Committee. Driveways/garages shall be large enough to accommodate all resident(s) vehicles. Any additional parking on property must have Architectural Committee approval.

### **3.19 "Air Conditioners, Evaporative Coolers"**

All air conditioning units, and other appurtenant equipment may be mounted, installed or maintained on the roof of any Residential Unit or other building.

### **3.20 "Houses and Accessory Buildings"**

For dwelling purposes, not more than one (1) single-family dwelling unit shall be constructed on each Lot. All homes constructed on said residential lots shall have an enclosed living area of a least One Thousand, three hundred (1300) square feet of floor area, not including attached porches, garages and carports. A 2-car garage is required to be attached to the main residence. Accessory buildings, I.E. shop, hobby room etc. shall be constructed in an architectural design and material similar to that of the home, and which said structure shall not be constructed any closer to the front lot line than the front wall of the home. No building shall be erected or maintained with wall closer than twenty (20) feet of the front property line and ten (10) feet from the interior side property line or fifteen (15) feet on side Lot line of any non-front corner Lot. All structures must be kept in a state of good repair and all surfaces thereof kept painted. No roof shall be of a reflective substance or covered with metallic paint.

### **3.21 "Fencing"**

No front yard fencing shall exceed forty-two (42") inches in height. Any side and rear yard fencing shall be a maximum of six (6') feet, however, any fencing along any Common Area shall be built of A VINYL MATERIAL AND ANY EXISTING

FENCE REPLACEMENT MUST BE MADE OF LIKE MATERIAL AND APPROVED BY THE ARCHITECTURAL COMMITTEE. Prior to construction all fences shall be approved by the Architectural Committee. In the event of dispute between the Owners in respect to the construction and repairing of a common fence the Owners shall submit the dispute to the COMPLAINT COMMITTEE for a Decision, which will be binding on all Owners.

**3.22 "Landscaping"**

Within six (6) months of completion of construction of any dwelling, all Lot Owners are required to have SUBSTANTIALLY completed front yard landscaping. Prior to installation of landscaping all plans must be submitted and approved by the Architectural Committee. Lot Owners with corner Lots will be required to landscape side yards from the side yard fence line or side all line of home to the backside of the curb on said non-front street side. See exhibit "A" attached hereto. "SUBSTANTIALLY" is defined as ground cover is completed and in place and planting of trees and shrubs has begun, in accordance with plans submitted to and approved by the Architectural Committee.

**3.23 "Water Storage"**

No water storage tanks will be permitted either above ground or below ground on any Lot.

**3.24 "Water Fixtures"**

All home and building water faucets and fixtures shall comply with the City of Prescott "Low Water Use Guidelines."

**3.25 "Garage Sales"**

No one Residence may have more than six (6) garage sales a year.

**ARTICLE 4: EASEMENTS**

**4.1 "Owners' Easement of Enjoyment"**

**4.1.1** Subject to the rights and easements granted to the Declarant in this Declaration, every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

**4.1.2** The Association has the right to dedicate, convey, transfer or encumber the Common Area as defined in Section 1.14 of this Declaration.

**4.1.3** The Association has the right to regulate the use of the Common Area through the Association Rules.

**4.1.4** The Association has the right to suspend the right of an Owner and such Owner's family, tenants and guests to use the Common Area if such Owner is more than thirty (30) days delinquent in the payment of Assessments or other amounts due to the Association, or if the Owner has violated any other provisions of the Development Documents and has failed to cure such violation within fifteen (15) days after the Association notifies the Owner of the violation provided, however, the Association may not suspend and Owner's or Resident's right of ingress and egress.

**4.1.5** If a Lot is leased or rented by the Owner thereof, the Lessee and the members of the Lessee's family residing with such Lessee shall have the right to use the Common Area during the term until the termination or expiration of such lease.

**4.1.6** Each Owner and Resident shall have an easement over and across streets, drainage easements, park, which are part of the Common Area for the purpose of ingress and egress to and from the Owner's Lot and public streets and highways. This easement shall be for the benefit of the Owner or other Resident of the Lot and their respective families, tenants, guests, invitee, agents and contractors.

#### **4.2 "Utility Easement"**

There is hereby created an easement upon, across, over and under the Common area and the Lots for reasonable ingress, egress, installation, replacing, repairing or maintaining of all utilities, including, but not limited to, gas, water, sewer, telephone, cable television and electricity. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment on the Common Area or Lots but no sewers, electrical lines, water lines, to other utility or service line may be installed or located on the Common Area or Lots except as initially designed, approved and constructed by the Declarant or as approved by the Board.

#### **4.3 "Declarant's Use for Sales and Leasing Purposes"**

Declarant shall have the right and an easement to maintain sales or leasing offices, management offices and models throughout the Development and to maintain one or more advertising, identification or directional signs on the Common Area or on the Lots owned by Declarant while the Declarant is selling Lots or Homes.

Declarant reserves the right to place models, management offices, sales and leasing offices on any Lots owned by Declarant and on any portion of the Common Area in such number, of such size, in such locations as Declarant deems appropriate. No provision of the Declaration shall be construed or deemed to limit or prohibit any act of the Declarant or any of its employees, agents or contractors with respect to the construction, completion, marketing, sale or leasing of Lots. In the event of any conflict or inconsistency between this Section and any other provision of the Declaration, this Section shall control.

**4. 4 "Declarant's Easements"**

Declarant shall have the right and an easement on and over the Areas of Association Responsibility to construct all Improvements the Declarant may deem necessary and to use the Areas of Association Responsibility and any Lots and the property owned by Declarant, for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work regarding the Development. The Declarant shall have the right and an easement upon, over and through the Areas of Association Responsibility as may be reasonably necessary for the purpose of discharging its obligations or exercising the rights granted to or reserved by the Declarant by this Declaration. In the event of any conflict or inconsistency between this Section and any provision of this Declaration, this Section shall control.

**4. 5 "Easement in Favor of Association"** The Lots are hereby made subject to the following easements in favor of the Association and its directors, officers, agents, employees and independent contractors:

- (I) for inspection of the Lots in order to verify the performance by Owners of all items of maintenance and repair for which they are responsible.
- (II) for inspection, maintenance, repair and replacement of the Areas of Association Responsibility accessible only from such Lots;
- (III) for the purpose of enabling the Association. The Board, the Architectural Committee or any other committees appointed by the Board to exercise and discharge their respective rights, powers and duties under the Development Documents;
- (IV) For correction of emergency condition in one or more Lots;



- (V) For inspection of the Lots in order to verify that the provisions of the Development Documents are being complied with by the Owners, their guests, tenants, invitee and the other occupants of the Lot, provided, however, that adequate notice be given to Owner or Resident of possible violation under said Development Documents.

**ARTICLE 5: THE ASSOCIATION; ORGANIZATION;  
MEMBERSHIP AND VOTING RIGHTS**

**5.1 "Formation of Association"**

The Association shall be a nonprofit Arizona Corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles, Bylaws and this Declaration. In the event of any conflict or inconsistency between this Declaration and the Articles, Bylaws, Association Rules or Architectural Rules, this Declaration shall control.

**5.2 "Board of Directors and Officers"**

The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Unless Development Documents specifically require the vote or written consent of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. The Board shall have the power to levy reasonable fines against an Owner or a violation of the Development Documents by the Owner, by a Lessee of the Owner, by any Resident of the Owner's Lot or by any contractor or agent of the Owner.

**5.3 "The Association Rules"**

The Board may, from time to time, and subject to the provisions of the Declaration, adopt, amend and repeal rules and regulations pertaining to:

- (I) The management, operation and use of the Areas of Association Responsibility including, but not limited to Common Areas/Tracts any recreational facilities situated upon the Areas of Association Responsibility.
- (II) Minimum standards for the maintenance of Lots; or
- (III) the health, safety or welfare of the Owners and Residents.

In the event of any conflict or inconsistency between the Declaration and the Association Rules, the Declaration shall prevail. The Association Rules shall be

enforceable in the same manner and to the same extent as the covenants conditions and restrictions set forth in the Declaration.<sup>4</sup>

**5.4 "Personal Liability"**

No member of the Board or of any committee of the Association, no officer of the Association, and no manager of other employees of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act. Omission, error, or negligence of the Association, or any committee, committee member or officer of the Association; provided, however, the limitation set forth in this Section shall not apply to a person who has failed to act in good faith or has engaged in willful or intentional misconduct.

**5.5 "Implied Rights"**

The Association may exercise any right or privilege given to the Association expressly by the Development Documents and every other right or privilege reasonable to be implied from the existence of any right or privilege given to the Association by the Development Documents or reasonably necessary to effectuate any such right or privilege.

**5.6 "Identity of Members"**

Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his ownership eases for any reason at which time his membership in the Association shall automatically cease.

**5.7 "Classes of Members and Voting Rights"**

The Association shall have the following two classes of memberships:

**Class A.** Class A members are all Owners, with the exception of the Declarant until the termination of the Class B membership. Each Class A member shall be entitled to one (1) vote for each Lot owned. Upon termination of the Class B membership, the Declarant shall be a Class A member so long as the Declarant owns any Lot.

**Class B.** The Class B member shall be the Declarant. The Class B member shall be entitled to fifteen (15) votes for each Lot owned and fifteen (15) votes for each dwelling unit that could be constructed on any part of the Additional Property owned by Declarant which has not been annexed and subjected to this Declaration

under the master plan for Parkside Village approved by the Board of Town of Chino valley, Arizona, as amended from time to time. The Class B membership shall cease and be converted to Class A membership on the earlier of the date on which the votes entitled to be cast by the Class A members equals or exceeds the votes entitled to be cast by the B members or the date in which the Declarant notifies the Association in writing that it relinquishes or modifies its Class B membership.

#### **5.8 "Voting Procedures"**

No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person or entity and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will therefore be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Class A Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

#### **5.9 "Transfer of Membership"**

The rights and obligations of any Member other than the Declarant shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be affected by deed, in testate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each purchaser of a Lot shall notify the Association of his purchase within ten (10) days after he becomes the Owner of a Lot.

#### **5.10 "Architectural Committee"**

The Association shall have an Architectural Committee to perform the functions of the Architectural Committee set forth in this Declaration. The Architectural Committee shall be a Committee of the Board. The Architectural Committee shall

consist of such number of regular members and alternate members as may be provided for the Bylaws. So long as the Declarant owns more than five (5) Lots, the Declarant shall have the sole right to appoint and remove the members of the Architectural Committee. The members of the Architectural Committee shall be appointed by the Board. The Declarant may at any time voluntarily surrender its right to appoint and removed the members of the Architectural Committee, and in that event the Declarant may require, for so long as the Declarant owns more than Five (5) Lots, that specified actions of the Architectural Committee, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. The Architectural Committee may promulgate architectural guidelines, standards and procedures to be used in rendering its decision. Such guidelines, standards and procedures may include, without limitation, provisions regarding:

- (I) The size of Residential Units
- (II) Architectural design;
- (III) Placement of Residential Units and other buildings;
- (IV) Landscaping design, content and conformance with the character of the Property and permitted and prohibited plants;
- (V) Requirements concerning exterior color schemes, or finishes and materials;
- (VI) Signage;
- (VII) The type, wattage, design and location of exterior lights; and
- (VIII) Perimeter and screen wall design and appearance.

The decision of the Architectural Committee shall be final on all matters submitted to it pursuant to the Declaration. The Board may establish a reasonable processing fee to defer costs of the Association in considering any requests for approval submitted to the Architectural Committee, which fee shall be paid at the time the request for approval is submitted.

#### **5.11 "Suspension of Voting Rights"**

If any Owner fails to pay any Assessment or other amounts due to the Association under the Development Documents within thirty (30) days after such payment is due or if any Owner violates any other provision of the Development Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of the violation, the Board of Directors shall have the right to suspend such Owner's right to vote until such time as all payments, including

interest and attorney's fees, are brought current, and until any other infractions or violations of the Development Documents are corrected.

**5.12 "Conveyance of Common Area"**

Prior to the cessation of the Class B Membership, the Common Area may be conveyed only by the Declarant. No part of the Common Area shall be conveyed by the Association to any Person for any purpose unless the conveyance is approved by Owners representing more than two-thirds (2/3) of the votes represented in person or by proxy at a meeting of the Members.

**ARTICLE 6: COVENANT FOR ASSESSMENTS AND  
CREATION OF LIEN**

**6.1 "Creation of Lien and Personal Obligation of Assessments"**

The Declarant, for each Lot owned by it, hereby covenants and agrees, and each Owner, other than the Declarant, by becoming the Owner of a Lot is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. The prorated portion of annual assessment shall be paid by all Lot Owners of record in Parkside Village. All Lots shall be subject to Annual and Special Assessments as provided in this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessment, together with interest, late charges and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent Assessments whether or not suit is filed, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each Assessment, together with interest and all costs, including but not limited to reasonable attorney's fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, whether or not suit is filed, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the successors in title of the Owner unless expressly assumed by them.

**6.2 "Annual Assessments"**

In order to provide for the operation of the Association and to provide funds for the Association to pay all Common Expenses and to perform its duties and obligations under the Development Documents, including the establishment of

replacement and maintenance reserves and purposes as stated in section 6.10 of the Declaration, the Board, for each Assessment Period shall assess against each Lot and Annual Assessment. The Board shall give notice of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment. If the Board determines during any Assessment Period that the funds budgeted for that Assessment Period are, or will, become inadequate to meet all Common Expenses for any reason. Including, without limitation, nonpayment of Assessment by Members, it may increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board.

### **6.3 Rate of Assessment**

The amount of the Annual Assessment for each Lot shall be the amount obtained by dividing the total budgeted expense of the Association for the Assessment Period for which the Annual Assessment is being levied, divided by the total number of Lots at the time the Annual Assessment is levied by the Board.

### **6.4 "Special Assessments"**

The Association may levy against each Lot which is then subject to assessment, in any Assessment Period, a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an improvement upon the Common Area, including fixtures and personal property related thereto, provided that any Special Assessment shall have the assent of two thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose.

### **6.5 "Assessment Period"**

The period for which the Annual Assessment is to be shall be September 1<sup>st</sup>. through August 31<sup>st</sup>. of the following year, except that the first Assessment Period shall commence when the Lots become subject to Assessment as provided in Section 6.6 of this declaration and terminate on August 31 of such year. The Board in its sole discretion from time to time may change the Assessment Period.

### **6.6 "Commencement Date and Method of payment of Assessment Obligation"**

All Lots shall be subject to Annual or Special Assessments as provided in this Declaration. The annual assessment shall be paid in two (2) installments. The Association may at its discretion choose to collect the annual assessment on a quarterly, annual or other basis. At the time of purchase the annual or special

assessment will be prorated on a per diem basis for the time remaining in the assessment payment period.

**6.7 "Rules Regarding Billing and Collection Procedures"**

Special Assessments may be collected as specified by the Board. The Board shall have the right to adopt rules and regulations setting forth procedures for the purpose of making Assessments and for the billing and collection of the Assessments provided that the procedures are not inconsistent with the provisions of this Declaration. The failure of the Association to send a bill to a Member shall not relieve any Member of his liability for any Assessment or charge under this Declaration, but the Assessment Lien therefor shall not be foreclosed until the Member has been given not less than thirty (30) days written notice prior to such foreclosure that the Assessment or any installation thereof is or will be due and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. The Association shall be under no duty to refund any payments received by it even though the ownership of a Lot changes during an Assessment Period but successor Owners of Lots shall be given credit for repayments, on a prorated basis, made by prior Owners.

**6.8 "Effect of Nonpayment of Assessments, Remedies of the Association"**

Any Assessment, or any installment of an Assessment, not paid within thirty (30) days after the Assessment, or the installment of the Assessment, first became due shall bear interest from the due date at the rate of interest established from time to time by the Board. In addition, the Board may establish a late fee to be charged to any Owner who has not paid any Assessment, or any installment of an Assessment, within thirty (30) days after such payment was due.

**6.8.2** The Association shall have a lien on each Lot for: (i) all Assessments levied against the Lot; (ii) all interest, lien fees, late charges and other fees and charges assessed against the Lot or payable by the Owner of the Lot; (iii) all fines levied against the Owner of the Lot; (iv) all attorney fees, court fees, title report fees. Costs and fees charged by a collection agency either to the Association or to an Owner and any other fees or costs incurred by the Association in attempting to collect Assessments or other amounts due to the Association by the Owner of a Lot; (v) any amounts payable to the Association pursuant to Section 7.3 or 7.4 of the Declaration and (vi) any other amounts that are payable to the Association by an Owner pursuant to this Declaration. The Recording of this Declaration constitutes record notice and perfection of the Assessment Lien. The Association may, at its option, record a Notice of Lien setting forth the name of the delinquent

owner as shown in the records of the Association, the legal description or street address of the Lot against which the Notice of Lien is recorded and the amount claimed to be past due as of the date of the recording of the Notice, including interest, lien recording fees and reasonable attorney's fees. Before recording any Notice of Lien against a Lot, the Association shall make a written demand to the defaulting Owner for payment of the delinquent Assessments, together with interest, late charges and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand, the Association may proceed with recording a Notice of Lien against the Lot. If the association records a Notice of Lien against a Lot the Association may assess against the Owner of such Lot a lien fee in such amount as established from time to time by the Board.

**6.8.3** The Assessment Lien shall have priority over all liens or claims except for: (i) tax liens for real property taxes; (ii) assessments in favor of any municipal or other governmental body; and (iii) the lien of any first mortgage or first deed of trust. Any First Mortgagee or any other Person acquiring title or coming into possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure shall acquire title free and clear of any claims for unpaid assessments and charges against the Lot which became payable prior to the acquisition of such Lot by the First Mortgagee or other Person. Any Assessment and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

**6.8.4** The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, interest, lien, fees, fines, reasonable attorneys' fees, court cost, collection costs and all other sums payable to the Association by the Owner of the Lot have been paid in full.

**6.8.5** The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with interest, lien fees, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to,

- (I) bringing an action at law against the Owner personally obligated to pay the delinquent Assessments and such action may be brought without waiving the Assessment Lien securing the delinquent Assessments or
- (II) bringing an action to foreclose the Assessment Lien against the Lot in



the Manner provided by law for the foreclosure of a realty mortgage. The association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

**6.9 "Evidence of Payment of Assessments"**

Upon receipt of a written request by a Member or any other Person, the Association, within a reasonable period of time thereafter, shall issue to such Member or other Person a written certificate stating that all Assessments, interest and other fees and charges have been paid with respect to any specified Lot as of the date of such certificate, or if all Assessments have not been paid, the amount of such Assessments, incurs fees and charges due and payable as of such date. The Association may make a reasonable charge for the issuance of such certificates, which charges must be paid at the time the request for any such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with respect to any matters therein stated as against any bona fide Purchaser of or lender on the Lot in question.

**6.10 "Purposes for which Association's Funds may be Used"**

The Association shall apply all funds and property collected and received by it (including the Assessments, fees, loan proceeds, surplus funds and all funds and property received by it from any other source) for the common good and benefit of the Development and the Owners and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, properties, improvements, facilities, services, projected, programs, studies and systems, within or without the Development, which may be necessary, desirable, beneficial to the general common interests of the Development the Owners and the Residents. The following are some, but not all, of the areas in which the Association may seek to aid, promote and provide for such common benefit: social interaction among Members and Residents, maintenance of landscaping on common areas and public right-of-way and drainage areas within the Development, recreation, liability insurance, communications, ownership and operation of vehicle storage areas, education, transportation, health, utilities, public service, safety and indemnification of officers and directors of the Association. The Association may also expend its funds under the laws of the State of Arizona or such municipality's charter.

**6.11 "Surplus Funds"**

The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balance remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the Succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

**6.12 "Transfer Fee"**

Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as is established from time to time by the Board.

**ARTICLE 7: MAINTENANCE**

**7.1 "Areas of Association Responsibilities"**

The Association, or its duly delegated representative, shall manage, maintain, repair and replace the Areas of Association Responsibility, and all improvements located thereon, except for any part of the Areas of Association Responsibility which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate maintenance, repair and replacement of all Areas of Association Responsibility. No Owner or other Person (other than the Association) shall construct or install any Improvements on the Areas of Association Responsibility or modify or remove any Improvements situated on the Areas of Association Responsibility without the prior written approval of the Board.

**7.2 "Lots "**

Each Owner of a Lot shall be responsible for maintaining repairing or replacing all buildings, Residential Units, landscaping and other Improvements situated on the Owner's Lot, except for any portion of the Lot which is an Area of Association Responsibility. All buildings, Residential Units, landscaping and other Improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines and plants of any type on a Lot shall be irrigated, mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive

manner. No yard equipment, wood piles or storage areas may be maintained so as to be Visible From Neighboring Property, Common Areas or streets. Lots upon which no Residential Units, buildings or other structures, landscaping or Improvements exist shall be maintained in an attractive manner.

**7.3 "Assessment of Certain Costs of Maintenance and Repair"**

In the event that the need for maintenance or repair of an Area or Association Responsibility caused through the willful or negligent act of any Owner, his family, tenants, guests or invitees, arises, that the cost of such maintenance or repairs shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

**7.4 "Improper Maintenance and Use of Lots "**

In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance or quality of the surrounding Lots or other areas of the Development which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration; or in the event the Owner of any Lot is failing to perform any of his obligations under the Development Documents, the Board may make a finding to such effect, specifying the particular conditions or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within thirty (30) day, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said thirty (30) day period of time the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

**ARTICLE 8: INSURANCE**

**8.1 "Scope of Coverage"**

The Association shall maintain, to the extent reasonable and available, the following insurance coverage:

**8.1.1** Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property

damage arising out of or in connection with the use, ownership or maintenance of the Areas of Association Responsibility and all other portions of the Development which the Association is obligated to maintain under this Declaration;

**8.1.2** Property insurance on all Areas of Association Responsibility insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurance replacement value of the Areas of Association Responsibility, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured property, exclusive of land, excavations, foundation and other items normally excluded from a property policy.

**8.1.3** Workman's compensation, insurance to the extent necessary to meet the requirements of the laws of Arizona; BOARD WILL CONTRACT FOR SERVICES.

**8.1.4** Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners;

**8.1.5** The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provision:

- (I) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and member their household
- (II) no act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;
- (III) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;
- (IV) a "severability or interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;
- (V) statements of the name of the insured as the Association; and
- (VI) for policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy.

## **8.2 "Certificates of Insurance"**

An insurer that has issued an insurance policy under this Article shall issue a certificate or a memorandum of insurance to the Association and upon request, to

any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may be cancelled until thirty (30) days after notice of the proposed cancellation had been mailed to the association, each Owner and each mortgagee or beneficiary under a deed of trust to whom certificates of insurance have been issued.

**8.3 "Payment of Premiums"**

The premiums for any insurance obtained by the Association pursuant to Section 8.1 of this Declaration shall be included in the budget of the Association and shall be paid by the Association.

**8.4 "Payment of Insurance Proceeds"**

With respect to any loss to any Area of Common Responsibility covered by property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association, and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 8.5 of this Declaration, the proceeds shall be disbursed for the repair or restoration of the damage to the Area of Association Responsibility.

**8.5 "Repair and Replacement of Damaged or Destroyed Property"**

Any portion of the Areas of Association Responsibility which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

- (I) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or
- (II) Owners representing at least eighty percent (80%) of the total authorized votes in the Association vote not to rebuild.

The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If all of the Areas of Association Responsibility are not repaired or replaced, insurance proceeds attributable to the damaged Areas of Association Responsibility shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall either

- (I) be retained by the Association as an additional capital reserve, or
- (II) be used for payment of operating expenses of the Association if such action is

approved by the Members representing more than fifty percent (50%) of the votes in the Association.

## ARTICLE 9: GENERAL PROVISION

### 9.1 "CONFLICT RESOLUTION"

#### 9.1.1 THE FOLLOWING STEPS MUST BE FOLLOWED FOR THE RESOLUTION OF CONFLICTS:

- (I) COMPLAINT COMMITTEE ACTION: Complaints should be submitted to the complaint committee for action. If the complaint is resolved and is acceptable to all parties, then no further action is required.
- (II) BOARD ACTION: The second level of action for complaints is to refer the complaint to the Board for action. If the complaint is resolved and is acceptable to all parties, then no further action is required.
- (III) BINDING ARBITRATION: If the complaint resolution of the above is satisfactory, then binding arbitration must be entered into by the parties for resolution of the conflict. Arbitration hearings will be conducted by a neutral arbitrator obtained from the American Arbitration Association, community Association Institute or the American Bar Association Dispute resolution or a similar organization.

#### 9.1.2 "Enforcement"

The Association or any Owner shall have the right to enforce the Development Documents in any manner provided for the law or in equity. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Development Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Developments Documents in the future. If the Association retains an attorney with respect to a violation of the Development Documents, then all attorney fees incurred by the Association, whether or not suit is filed, shall be payable to the Association on demand by the Owner and any other Person who violated the Development Documents.

#### 9.2 "Term Method of Termination"

This Declaration shall continue in full force and effect for a term of twenty (20) years from the date this Declaration is recorded. After which time, this

Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be terminated at any time if such termination is approved by the affirmative vote or written consent, or any combination thereof, of the Owners representing ninety percent (90%) or more of the votes in each class of membership and by the holders of First Mortgages on Lots, the Owners of which have seventy-five (75%) or more of the votes in the Association.

### **9.3 "Amendments"**

**9.3.1** Until the termination of the Class B membership in the Association, this Declaration may only be amended by the Declarant and 2/3 OF THE CLASS A votes represented which may amend this Declaration without the consent or approval of any other Owner. Termination of class B membership will occur when five (5) or fewer lots are owned by the Declarant.

**9.3.2** After the termination of the Class B membership in the Association, this Declaration may only be amended by the written approval of the affirmative vote, or any combination thereof, of Owners representing more than sixty-seven percent (67%) of the total votes in the Association, except for amendments made pursuant to Subsection 9.3.3 of this Declaration.

**9.3.3** So long as the Declarant owns FIVE OR LESS LOTS, the Declarant, and thereafter, the Board, may amend this Declaration or the Plat, without obtaining the approval or consent of any Owner or First Mortgagee, in order to conform this Declaration or the Plat to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration, or any federal, state or local governmental agency whose approval of the Development, the Plat or the Development Documents is required by law or requested by the Declarant or the Board.

**9.3.4** So long as the Declarant owns MORE THAN 5 LOTS, any amendment to this Declaration must be approved in writing by the Declarant.

**9.3.5** Any amendment approved pursuant to Subsection 9.3.2 of this Declaration or by the Board pursuant to Subsection 9.3.3 of this Declaration shall be signed by the President or Vice President of the Association and shall be recorded with the County Recorder of Yavapai County, Arizona. Any such amendment shall certify that the amendment has been approved as required by this Section. Unless a later effective date is provided for in the amendment, any such amendment shall be effective upon the Recording of the amendment. Any amendment made by the Declarant pursuant to Subsection 9.3.1 or 9.3.3 of this Declaration shall be

executed by the Declarant and shall be recorded with the County Recorder of Yavapai County, Arizona.

**9.4 "Interpretation"**

Except for judicial construction, the Board shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the BOARD'S construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefited or bound by this Declaration. In the event of any conflict between this Declaration and the Articles, Bylaws, BOARD Rules or Architectural Committee Rules, this Declaration shall control. In the event of any conflict between the Bylaws and the Association Rules or the Architectural Committee Rules, the Bylaws shall control.

**9.5 "Severability"**

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions thereof.

**9.6 "Rule Against Perpetuities"**

If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities shall be

- (I) those which would be used in determining the validity of the challenged interest, plus
- (II) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest

**9.7 "Change of Circumstances"**

Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.



**9.8 "Notice of Violation"**

The Association shall have the right to record a written notice of violation by any Owner or Resident of any restriction or other provision of the Development Documents. The notice shall be executed by an officer of the Association and shall contain substantially the following information:

- (I) the name of the Owner or Resident violating, or responsible for the violation, of the Development Documents;
- (II) the legal description of the Lot against which the notice is being Recorded;
- (III) a brief description of the nature of the violation;
- (IV) a statement that the notice is being Recorded by the Association pursuant to this Declaration; and
- (V) a statement of the specific steps which must be taken by the Owner or occupant to cure the violation.

Recordation of a notice of violation shall serve as notice to the Owner and Resident, and any subsequent purchaser of the Lot, that there is such a violation. If, after the recordation of such notice, it is determined by the Association that the violation referred to in the notice does not exist or that the violation referred to in the notice had been cured, this does not waive the right of the Association to Record a notice of violation and shall not constitute a waiver of any such violation or constitute any evidence that no violation exists with respect to a particular Lot or constitute a waiver of any right of the Association to enforce the Development Documents.

**9.9 "Laws, Ordinances and Regulations"**

**9.9.1** The covenants, conditions and restrictions set forth in this Declaration and the provisions requiring Owners and other persons to obtain the approval of the board or the Architectural Committee with respect to certain actions are independent of the obligation of the Owners and other persons to comply with all applicable laws, ordinances and regulations.

**9.9.2** Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any roll of the enforcement procedures set forth herein.

**9.10 "References to this Declaration in Deeds"**

Deeds to and instruments affecting ant Lot or ant other part of the Development may contain the covenants, conditions and restrictions herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the provisions of this Declaration shall be binding upon the grantee-Owner or other person claiming through ant instrument including his heirs, executors, administrators, success ors and assignees.

**9.11 "Gender and Number"**

Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural, and words in the plural shall include the singular.

**9.12 "Captions and Titles"**

All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof to be used in determining the intent of context thereof.

**9.13 "Notices"**

If notice of any action or proposed action by the Board or any committee or of any meeting is required by applicable law, this Declaration or resolution of the Board to be given to any Owner, Lessee or Resident then, unless otherwise specified herein or in the resolution of the Board, such notice requirement shall be deemed satisfied if notice of such action or meeting is published once in any newspaper in general circulation within Yavapai County. This Section shall not be construed to require that any notice be given if otherwise required and shall not prohibit satisfaction of any notice requirement in any other manner.