

AMENDED AND RESTATED DECLARATION OF ESTABLISHMENT OF  
CONDITIONS, COVENANTS, AND RESTRICTIONS FOR DESERT RIDGE, INC

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**AMENDED AND RESTATED  
DECLARATION OF ESTABLISHMENT OF CONDITIONS,  
COVENANTS, AND RESTRICTIONS FOR DESERT RIDGE, INC.**

This Amended and Restated Declaration of Establishment of Conditions, Covenants, and Restrictions for Desert Ridge, Inc. of Green Valley, Arizona (this 'Declaration') is made as of the 9th day of February 2016 by the owners (the 'Owners ') of the real property described as:

Lots 1 through 98 and Common Areas A and B of Desert Ridge Inc., a subdivision in Pima County, Arizona, as shown by map of record in Book 35 of Maps and Plats at page 73, in the Pima County Recorder's Office, Pima County, Arizona (collectively, the 'Property').

**RECITALS:**

WHEREAS, Lawyers Title of Arizona, an Arizona corporation, as Trustee under Trust Number 6486-T - The 'Declarant') executed the *Declaration of Establishment of Conditions and Restrictions*, Recorded on September 22, 1982, in Docket 6902, page 795 *et seq.*, and

WHEREAS, the document was revised by Desert Ridge, Inc. homeowners on September 28, 1989 and September 22, 1997 and recorded in Book 10636, page 1403; and

WHEREAS, this Declaration is intended to amend and restate in its entirety the Declaration; and

WHEREAS, at least 67% of all property owners who voted have approved the adoption of this Declaration

NOW THEREFORE, the Owners hereby declare that the Property is and shall be held, conveyed, encumbered, leased, and used subject to the following covenants, conditions, uses, restrictions, limitations, obligations, easements, equitable servitudes, charges, and liens (hereinafter collectively referred to as the 'Restrictions'), all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. The Restrictions set forth herein shall run with the Property, shall be binding upon all persons having or acquiring any right, title or interest therein, and shall inure to the benefit of, be binding upon all Owners, the Association, and their successors and assigns in interest.

## **ARTICLE 1 DEFINITIONS**

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

- 1.1** ‘**Annual Assessments**’ means the annual assessments levied by the Board pursuant to this Declaration.
- 1.2** ‘**Architectural Committee**’ means the committee established pursuant to Article 5 of this Declaration.
- 1.3** ‘**Articles**’ means the Articles of Incorporation of the Association which have been filed in the Office of the Arizona Corporation Commission as such Articles may be amended from time to time.
- 1.4** ‘**Association**’ means Desert Ridge Inc., an Arizona non-profit corporation, its successors and assigns.
- 1.5** ‘**Association Rules and Regulations**’ means the Rules and Regulations adopted by the Board of Directors as set forth in Section 2.6.
- 1.6** ‘**Board**’ means the Board of Directors of the Association.
- 1.7** ‘**Bylaws**’ means the Bylaws of the Association as such Bylaws may be amended or restated from time to time.
- 1.8** ‘**Common Area**’ or ‘**Common Areas**’ means all real property and the Improvements or amenities thereon, all personal property, all easements and facilities which shall from time to time be constructed, owned, controlled, or operated by the Association in and for the Common use and enjoyment of the Owners. This shall include Common Areas A and B, which are undeveloped lots.
- 1.9** ‘**Community Documents**’ mean this Declaration, the Bylaws, the Articles, and the Association Rules and Regulations, as they may be amended from time to time.
- 1.10** ‘**Dwelling Unit**’ means any building, or part thereof, situated upon a Lot and intended for use and occupancy as a residence by a Single Family.
- 1.11** ‘**Fair Housing Act**’ means the Fair Housing Act and its Amendment of 1988, Public Law 100-430, 42 U.S.C. Section 3601, et seq., as further interpreted by Rules and Regulations of the Department of Housing and Urban Development, and which laws and regulations have been adopted in substantial conformity by Arizona Revised Statutes Section 41-1491.04.



- 1.12** **'First Mortgage'** means any mortgage under which the interests of any Owner of a Lot is encumbered and which mortgage has first and paramount priority, subject only to the lien or general or ad valorem taxes and assessments and such other matters as are recognized in such First Mortgage as permitted title exceptions. **'First Mortgagee'** shall mean the holder of a First Mortgage.
- 1.13** **'Grounds Maintenance Committee'** means the committee responsible for the maintenance and preservation of the Common Areas. The Chairperson of the Grounds Committee must be a member of the Board. The Bylaws reference this committee as the Maintenance Committee.
- 1.14** **'Improvement'** or **'Improvements'** mean buildings, driveways, roads, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.
- 1.15** **'Late Fee'** means a levy against a homeowner for violation of a Homeowner Association assessment due date.
- 1.16** **'Lot'** means a portion of the Property intended for independent ownership and use and designated as a Lot on the Plat and, where the context indicates or requires, shall include any Dwelling Unit or other Improvement situated on the Lot.
- 1.17** **'Member'** means any Owner.
- 1.18** **'Occupant'** or **'Resident'** means any Person, other than an Owner, occupying a Lot or any portion thereof, or building or structure thereon, as a tenant, licensee or otherwise, other than on a merely transient basis.
- 1.19** **'Owner'** means the owner of record as recorded by the County Recorder of Pima County, Arizona.
- 1.20** **'Party Wall'** means each wall, whether a patio yard wall or bearing wall of a Dwelling Unit, which is built as a part of the original construction of a building upon the Property and placed on or immediately adjacent to the dividing line between Lots.
- 1.21** **'Person'** means a natural person, a corporation, a partnership, a trustee or any other legal entity.

- 1.22** ‘**Plat**’ means any plat or survey affecting the Property, filed in the office of the Recorder for Pima County, Arizona, as such plats or surveys may be amended from time to time, commencing first with the Plat recorded in Book 35 of Maps and Plats at Page 73.
- 1.23** ‘**Property**’ means all real property identified in the Plat.
- 1.24** ‘**Record**,’ ‘**Recording**,’ or ‘**Recorded**’ means placing or having placed a document of public record in the Official Records of the Office of the County Recorder of Pima County, Arizona.
- 1.25** ‘**Recreational Vehicle**’ means motorhomes, vans, campers, trailers, boats, and similar vehicles.
- 1.26** ‘**Refuse Removal Service Provider**’ means a private, public, or quasi-public utility or other company that provides or is proposed to provide trash removal services to Lots pursuant to a ‘Refuse Removal Service Agreement.’
- 1.27** ‘**Reimbursement Assessment**’ means an amount expended on behalf of the Association collectable from an owner, usually for an infraction of the governing documents.
- 1.28** ‘**Rules and Regulations**’ means those procedures approved by the Board to interpret, execute, and enforce the CC&Rs in a fair, open, and impartial manner. The Rules and Regulations establish the procedures for the assessment of penalties for violation of any Governing Document.
- 1.29** ‘**Single Family Residence**’ means a dwelling unit in which a single family resides. Single Family means one person living alone or a group of two or more persons each related to the other by blood, marriage, or legal adoption or not more than two persons who are not related but maintain a common household.
- 1.30** ‘**Structure**’ means anything constructed, erected, or placed on a Lot that is located on the ground or is attached to something located on the ground and that is visible from Neighboring Property.
- 1.31** ‘**Special Assessment**’ means an amount due from an Owner as established by the Members by vote for a specific significant purpose and not includable in the annual assessment. This assessment may not be used for any purpose other than that approved by the Members.
- 1.32** ‘**Vehicles**’ means trucks, automobiles, motorcycles, and similar vehicles.
- 1.33** ‘**Visible From Neighboring Property**’ means, with respect to any given object, that the object is or would be substantially visible to any Person standing at ground level on another Lot or any portion of the Common Areas.

## **ARTICLE 2 THE ASSOCIATION**

**2.1 Rights, Powers and Duties.** The Association is an Arizona nonprofit corporation. The Association shall have all of the powers conferred upon nonprofit corporations under Arizona law and all powers necessary or desirable: (a) to perform the Association's duties and obligations under the Community Documents or imposed by law; and (b) to exercise the rights, obligations and powers of the Association set forth in the Community Documents. The Association may exercise any right or privilege given to the Association expressly by the Community Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Community Documents or reasonably necessary to carry out the objectives and purposes of the Association as set forth in the Community Documents.

**2.2 Membership in the Association.** Each Owner of a Lot, by virtue of being an Owner, is automatically a Member of the Association. Any transfer of ownership of a Lot shall automatically transfer the membership associated with that Lot to the new Owner. Any attempted transfer of membership separate from the appurtenant Lot is void.

**2.3 Voting Rights.** No change in Membership shall be effective for voting purposes until the Board receives written notice of such change. Owners are entitled to one vote for each Lot owned, whether the Lot is owned by one or more Persons. The vote for each Lot must be cast as a single vote. Fractional votes shall not be allowed. In the event that a Lot is owned by more than one Person and such Owners are unable to agree as to how their vote or votes shall be cast, they shall not be entitled to vote on the matter in question. If any Owner casts a vote representing a certain Lot, he/she will be conclusively presumed to be acting with the authority and consent of all other owners of the same Lot unless written objection is made to the Board at or prior to the time the vote is cast. In the event that more than one Person casts or attempts to cast a vote for a particular Lot, all such votes shall be deemed void. Voting procedure is set forth in the Bylaws.

**2.4 Suspension of Voting Rights.** Following the opportunity to be heard by the Board, the voting rights of any Lot Owner on any Association matter (including, but not limited to, amendment of the Community Documents) shall be suspended for any period during which any Annual Assessment against the Lot or any other sum due to the Association remains unpaid and delinquent.

**2.5 Non-Liability of Officers and Directors and Indemnification.** To the fullest extent permitted by law, neither the Board, nor any committees of the Association nor any Member thereof, nor any officers, directors or employees of the Association, are liable to any Owner or to the Association or any other person for any damage, loss or prejudice suffered or claimed on account of any decision, course of action, act, inaction, omission, error, negligence or the like, made in good faith and

which the Board or such committees or officers reasonably believed to be within the scope of their respective duties or rights.

To the fullest extent permitted by law, every director, officer, or committee member of the Association, shall be indemnified by the Association. Every other person serving as an employee or direct agent of the Association or otherwise acting on behalf of and at the request of the Association may, in the discretion of the Board, be indemnified by the Association. Any such indemnification shall be limited to all expenses and liabilities, including attorney fees reasonably incurred by or imposed upon such Person in connection with any proceeding to which he/she may be a party or in which he/she may become involved by reason of the Person having served in such capacity on behalf of the Association or incurred in any settlement, whether or not that Person is a director, officer, or member of a committee or serving in such other specified capacity at the time such expenses are incurred.

**2.6 Association Rules and Regulations.** Rules and Regulations shall have the same force and effect as if set forth in this Declaration. The Association Rules and Regulations may restrict and otherwise govern the use and occupancy of the Property. However, the Association Rules and Regulations and their application may not discriminate among Owners and shall not be inconsistent with the Community Documents. The Association Rules and Regulations may be adopted, amended, or repealed at any special or regular meeting of the Board after 30 days written notice to all Owners unless the rule(s) being adopted, amended, or repealed has a compelling health or safety purpose, in which case seven days' notice to the Owners is required. The Association Rules and Regulations, as adopted, amended, or repealed shall be available for review by each Owner on the Association Website or upon written request to the Board. It is the responsibility of each Owner to review and keep abreast of any changes in the Association Rules and Regulations.

## **ARTICLE 3 GENERAL PROVISIONS**

**3.1 GVR Deed Restriction.** The Association shall have no right to amend the deed restriction that requires membership in Green Valley Recreation, Inc. ('GVR') or its successors or assigns. GVR, a non-profit corporation organized under the laws of the State of Arizona, has been formed for the purposes of establishing and maintaining facilities and services for social and recreational activities and for the preservation and promotion of health, safety, and welfare for its members. Each Owner agrees for himself/ herself and his/her heirs, successors, and assigns to become and remain a member of GVR or any successor thereto, and to pay the membership dues assessed by said organization, which may vary in amount from time to time. There is hereby created a lien, with power of sale, on each Lot to secure payment of the membership dues to GVR, pursuant to the terms of the aforesaid deed restriction.

**3.2 Interpretation of the Covenants.** The Association, by the Board, shall have the exclusive right to construe and interpret the provisions of this Declaration and all other Governing Documents. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof or of any other Community Document, shall be final, conclusive, and binding as to all Persons and property benefited or bound by this Declaration.

**3.3 Amendments.** This Declaration may be amended by the affirmative vote of Owners of at least a majority of the Lots (casting one vote per Lot). Any amendment shall become effective upon recordation with the office of the County Recorder of Pima County, Arizona, including a certificate of the President and Secretary of the Association, certifying that the Owners of at least a majority of the Lots consented to such amendment

**3.4 Severability.** Any determination by a 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 hereof.

**3.5 Gender and Number.** Whenever the context of this Declaration so requires, the 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.

**3.6 Captions.** 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 or to be used in determining the intent or context thereof.

**3.7 Survival of Liability.** The termination of membership in the Association shall not relieve or release any such former Member from any liability or obligation incurred under or in any way connected with the Association during the period of such membership, or impair any rights or remedies which the Association may have against such former Member arising out of, or in any way connected with such membership and the covenants and obligations incident thereto.

**3.8 Precedence.** In the event of any discrepancies, inconsistencies or conflicts between the provisions of this Declaration and any other Community Documents, the provisions of this Declaration shall prevail.

**3.9 Joint and Several Liability.** In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint owners set forth in or imposed by this Declaration shall be joint and several.

## **ARTICLE 4 COMMON AREA AND EASEMENTS**

**4.1 Ownership and Control of Common Areas.** The Association owns the Common Areas and is responsible for maintenance and operation of the Common Areas, which are designated as Common Areas A and B.

**4.2 Owner's Easements of Enjoyment.** Every Owner has the right and an easement to enjoy the Common Areas which is appurtenant to and passes with title to every Lot subject to the provisions of this Article 4. However, no Owner may make any structural alteration to any of the Improvements in the Common Area or Common facilities, or remove any Improvements therefrom, or plant or remove any vegetation located in the Common Area.

**4.3 Conditional Use of Common Areas.** Each Owner, Resident, his/her family, licensees, invitees and tenants or lessees, or contract purchasers of a Lot are entitled to use the Common Areas subject to the provisions of the Community Documents.

**4.4 Damage or Destruction of Common Area.** If any Common Area is damaged or destroyed by the willful or negligent act of an Owner or any of his/her guests, tenants, licensees, agents, or family members, such Owner is liable for the damage or destruction and the Owner shall be responsible for the costs of having such area restored in a workmanlike manner in substantial conformance with the condition of the area previous to the damage. After the Owner has been notified of their responsibility, the Association shall have the damaged property repaired and shall provide the Owner with an invoice for the work performed. If that amount is not paid within 30 days, the amount becomes a Reimbursement Assessment.

**4.5 Restrictions on Conveyance of Common Areas.** The Common Areas are owned by the Association and may not, by act or omission, be abandoned, partitioned, subdivided, encumbered, sold or transferred without the prior written approval of three fourths of the Members entitled to vote, except that the Association has the right at all times to grant easements over the Common Areas for the purpose of constructing, erecting, operating or maintaining the following: a) roads, streets, walks, pathways, and driveways; b) temporary overhead or permanent underground lines, cables, wires, conduits or other devices for the transmission of electricity for lights, heating, power, telephone, cable TV and other purposes; c) sewers, storm drains and pipes, drainage easements, water systems, water heating and gas lines or pipes; and d) such other Improvements as may be provided for in this Declaration or are deemed advisable in the sole discretion of the Board. Any portion of the Common Areas conveyed by the Association to another party will, after such conveyance, be free and clear of the restrictions and easements in this Declaration, that are peculiar to the Common Areas, but such Common Areas will continue to be subject to an easement for ingress and egress to and from any Lot, if the Lot is accessed over the conveyed property.

**4.6 Drainage Easements.** Easements for installation of drainage facilities are reserved as shown on the recorded plats. Within these easements no structure, planting or other material shall be placed or permitted to remain which may change the direction of flow of drainage channels or swales in the easements. No overhead utilities or television antennas, or other similar structure shall be erected and maintained on such easement.

**4.7 Utilities.** Subject to the provisions hereof, including the provisions concerning conveyance of Common Area, there is hereby created a blanket, nonexclusive easement upon, across, over and under all of the Common Areas for ingress, egress, installation, replacement, operation, repair, and maintenance of all utilities, including but not limited to, water, sewer, gas, telephone, electricity, television antennae system, and any equipment or facilities for the installation of a cable communications system.



## **ARTICLE 5 ARCHITECTURAL AND LANDSCAPING**

**5.1 Architectural Committee.** The Architectural Committee shall be composed of a minimum of three individuals appointed by the Board of Directors. The Chair of this Committee shall be a member of the Board. All architectural matters within the Property shall be subject to the review of the Architectural Committee, except as otherwise provided herein. The Architectural Committee may adopt and amend written procedures and standards for the construction, alteration, repair, modification, or addition of any exterior improvement ('Architectural Improvement'), subject to the approval of the Board of Directors.

For purposes of the Desert Ridge, Inc. governing documents, Architectural Improvements shall be deemed to include but are not limited to buildings including garages, fixtures, exterior surfaces, exterior lighting, paint color, window and door replacement, fencing, gates, awnings, sunshades, additions, and landscaping.

**5.2 Architectural Review Procedure.** All Requests for Architectural Improvements shall be submitted to and approved by the Architectural Committee before beginning construction. The request procedure and required form are in the Architecture Procedures and Standards document on the association website and also available by request

The Architectural Committee shall acknowledge in writing the receipt of a Request for Architectural Improvements within one week of receipt by the Architectural Committee. The Architectural Committee shall approve, table, or disapprove a Request in writing within 30 days of receipt; however, every effort shall be made to meet the requested timeframe. Any written Request not receiving action from the Architectural Committee within 30 days of receipt shall be deemed to be approved, and the provisions of this section shall be waived.

**5.3 Standards of Review.** In reviewing Requests, the Architectural Committee shall assure that the proposed change is in accordance with the provisions of this Declaration and the Architectural Guidelines in the Rules and Regulations.

The Architectural Committee has the right to deny alterations or modifications for purely aesthetic reasons, if it (A) considers the Request to be inconsistent or not in harmony with the overall scheme of development, styles of existing structures or general surrounds, or (B) believes that the proposed improvement will materially interfere with another Owner's view of natural landscape.

The Architectural Committee may, but is not required to, elicit the opinion of other Owners, including the neighbors of the Owner submitting the Request. It may take them into account in making its final decision.

**5.4 Cost Recovery.** If the Association incurs any costs for review of submitted Request due to the need for professional services, the Association may charge a reasonable fee to a petitioning Owner for the review of the Request. A deposit in an amount set by the Architectural Committee may be required in advance at the time the Request is submitted for approval.

**5.5 Limitation of Liability.** Although the Architectural Committee shall have the right to reject Requests for reasons that may include their failure to comply with zoning or building ordinances or other governmental regulations or restrictions, or on the basis that such Request appear defective or not prepared in accordance with sound engineering practices, the approval of Request shall not constitute a representation, warranty, or guarantee that such Request comply with proper engineering or design principles, with zoning or building ordinances, or with other governmental regulations or restrictions. By approving Requests, neither the Board of Directors, the Architectural Committee, nor any of their members assumes any liability or responsibility therefore, or for any defect in the structure that is constructed from such Requests. The Owner or his/her representative must ensure that all legal permissions and permits are obtained before starting work and that the modifications or structures will be in compliance with federal, state, county, or local codes and regulations.

**5.6 Submittal by Member of Committee.** When a member of the Architectural Committee submits a Request, the Request shall be submitted to the Board of Directors in conjunction with the remaining members of the Committee to approve or disapprove said Request.

**5.7 Appeal.** Any Owner whose proposal has been disapproved or has received a decision that he/she considers adverse may appeal the decision to the Board of Directors within 30 calendar days of receipt of the original decision. The appeal must be in writing and state the reasons for the request for appeal of the Architectural Committee's decision and the relief request. The Board shall set the appeal for a hearing and give the applicant notice of said hearing. The date of the hearing shall not be sooner than 10 days nor later than 30 days following the receipt by the Board of the appeal. The Board shall issue a written decision within seven days after the hearing has been completed. Failure to do so shall mean that the original decision of the Architectural Committee is affirmed. Decisions of the Board in this regard shall be binding and conclusive.

**5.8 Inspection.** Any authorized officer, director, employee, or agent of the Association may at any reasonable time and without being deemed guilty of trespass, enter on any Lot, after reasonable notice to the Owner of such Lot, to inspect the Architectural Improvements being constructed or recently completed on such Lot to ascertain that such Improvements have been or are being built in compliance with the Architectural Guidelines, plans, and specifications approved in accordance with this Article and any other pertinent provision of this Declaration.

If the Owner refuses permission, that shall be a reason to disapprove the Request or declare it nonconforming.

**5.9 Completion.** An approved Request shall be completed in a timely manner as prescribed by the Architectural Committee.

**5.10 Landscaping and Vegetation.** Plantings of the Owner's choice are permitted within the private patio or Lot; however, any new planting shall exclude vegetation with invasive root systems, those listed on state and federal noxious or invasive species list, and those known to attract burrowing rodents. Drought-tolerant species are highly recommended. See the Association Rules and Regulations for a list of suggested plants.

**5.11 Nonconforming Architectural Improvements.** In the event that an Owner makes unapproved Architectural Improvements upon his/her Lot or Architectural Improvements that do not conform to the plans and construction schedule submitted to and approved by the Architectural Committee, the Committee shall give written notice to the Owner of the property upon which such Architectural Improvements have been made. Such Notice shall specify the nature of the nonconformity of the Architectural Improvements and shall grant the Owner an opportunity for a hearing before the Board of Directors. If the matter is not resolved, the Association has the right to avail itself of all applicable legal and equitable remedies including restoration with the costs covered by the Owner.

## **ARTICLE 6 AGE RESTRICTIONS**

**6.1 Age Restrictions.** Each Lot will be occupied by at least one Qualified Resident (i.e., a person 55 years of age or older). It is intended that the Property is housing for older persons as defined in the current Fair Housing Amendments Act of 1988 (42 USC 3607(b)). At least 80 % of the Lots must be occupied by at least one person who is at least 55 years of age or older in order to maintain the Housing for Older Persons status under the Fair Housing Act and be exempt from familial discrimination.

Upon the death, dissolution of marriage, hospitalization, or other prolonged absence of any Qualified Resident, his/her spouse or domestic partner is entitled to continue living on the Lot, even if there is no other Qualified Resident living on the Lot, so long as the Board determines, in its sole discretion, that the continued occupancy on the Lot by only unqualified persons will not cause the Property to risk losing its status as Housing for Older Persons. The decision of the Board is final and binding on all parties.

**6.2 Minors.** Nothing in this Declaration shall be construed as to permit occupancy of any Lot by any person less than 18 years of age (a 'Minor'). No Minor shall reside in any Dwelling Unit for more than three months during any 12-month period except as required by the Fair Housing Act.

**6.3 Occupants.** The occupancy restrictions of this Declaration dealing with both minimum age restrictions and the prohibition of Minors applies to all Occupants, whether Owners, Residents, Lessees, or Tenants, and to all leases as well as sales.

**6.4 Compliance.** Owner and Occupants periodically, upon the request of the Board, shall provide written verification to the Association that a Dwelling Unit is occupied by at least one person over the age of 55. The ultimate responsibility for compliance with the provisions of this Article rests with the Owner and not the Association. The Association and the Association's officers, directors, agents, and employees shall have no liability whatsoever for compliance with the foregoing provisions, it being the duty of each Owner to comply therewith and ensure that all Occupants comply therewith and make appropriate notification to the Association. Each Owner acknowledges that the leasing of Dwelling Units and the pattern of re-sales of Dwelling Units can be difficult to control or predict and that compliance with the Fair Housing Act and with the Exemption depends upon the cooperation of the Owners and Occupants.

## **ARTICLE 7 LOT USAGE**

**7.1 Structures.** Each lot shall be used for residential purposes only, and no structure other than one single-family residence shall be placed or maintained on any lot. No structure shall be erected on any Lot that does not contain a minimum of 1,400 square feet of living area.

**7.2 Trash and Recycling.** The Board of Directors of the Association may engage a Removal Service Provider for trash removal and recycling services in the Property. Each household shall then use only the single company selected. Each household shall contract with the single company selected and pay directly. The Board may adopt Rules and Regulations governing all matters pertaining to trash removal and recycling services in accordance with Association Rules and Regulations.

**7.3 Unsightly Objects or Articles.** No unsightly articles or objects shall be permitted that are Visible from Neighboring Properties or from the street or any public way. Trash and recycling containers shall be stored in an enclosed area not visible from the street except for the day the trash and recycling is picked up. The Board shall have the sole discretion in determining if any activity by an Owner or Occupant is in violation of this Section.

**7.4 Storage.** No Lot shall be used in whole or part for the storage of construction materials, rubbish, or garbage of any character whatsoever nor for the storage of anything that will cause the Lot to appear in an unclean or untidy condition or that will otherwise be obnoxious.

**7.5 Traffic Safety** No shrubs, trees, or obstructions of any kind shall be planted on corner residential lots in such places as to cause a traffic hazard.

**7.6 Animals.** Ordinary domestic pets are allowed, but no rabbits, poultry, fowl, or livestock shall be kept on any part of a lot. Pets shall be limited to a total of four dogs or cats in each Dwelling Unit.

**7.7 Antennas.** An antenna, including receiver dishes, may be installed provided each installation is positioned on the structure in a position that has limited impact on architectural lines but does not negatively affect the quality of the signal.

**7.8 Business Activities.** Lots 1 through 98 shall be used for single-family residential purposes only. No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in any Lot may conduct home business activities within the Lot so long as: (A) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (B) the business activity conforms to all zoning requirements and any other governmental requirements for the Property; (C) the business activity does not involve any person conducting such business who does not reside in the Lot or door-

to-door solicitation within the Property; (D) the existence or operation of the business does not increase a Lot's use of Common Area facilities over the standard for a single family dwelling; and (E) the business activity does not constitute a nuisance or a hazardous or offensive use or cause the Owners to violate any other provisions of this Declaration, or threaten the security or safety of other Owners or Residents of the Property, as may be determined in the sole discretion of the Board. The terms 'business' and 'trade,' as used in this Section, shall be construed to have their 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 (1) such activity is engaged in full or part-time, (2) such activity is intended to or does generate a profit, or (3) a license is required therefore. Notwithstanding the above, the leasing of a Dwelling Unit shall not be considered a trade or business within the meaning of this Section.

**7.9 Yard Sales or Garage Sales.** The Association may by Rules and Regulations regulate the use of garage and household sale signs, including size, number of signs and placement, or any other provision pertaining to such sales.

**7.10 Clotheslines and Equipment.** Clotheslines, water softeners, equipment, woodpiles, or storage piles shall be concealed from view of neighboring Lots and streets.

**7.11 Diseases and Insects.** No Owner shall permit anything or any condition to exist upon the Property, which shall induce, breed or harbor infectious plant diseases or noxious insects.

**7.12 Drainage.** In general, there shall be no interference with the established drainage pattern over any property within the Property, unless adequate provision is made for proper drainage conforming to Pima County rules, regulations, ordinances, and drainage criteria. For purposes hereof, 'established drainage' is defined as the drainage which existed at the time the overall grading of the Property was originally completed, or which is shown on the Plat or on any plans conforming to Pima County rules, regulations, ordinances, and drainage criteria, which are approved by Pima County Building Services or its duly appointed representative. If any modification or violation requires correction, all resultant costs will be the responsibility of the Owner creating the need for the correction.

**7.13 Flags.** Flags and flag poles are permitted on residential Lots but their placement, size, and type must be approved in writing by the Architectural Committee in accordance with the Architectural Guidelines and in conformance with Arizona Statutes, and flags must be flown in accordance with Arizona and Federal laws and customs.

**7.14 Leases.** No room or rooms in any Dwelling Unit may be rented or leased to others by the Owner or Occupant of any Lot. No Lot may be sublet. An Owner may lease his/her entire Lot for a minimum of 28 days. The Owner shall provide the Association with the name of the lessees, notice of the lease term, and proof of the age of the lessee so that the Association can confirm that the tenant(s) satisfies the minimum age requirement. The Property and Occupants remain subject in all respects to the provisions of the Association Governing Documents and the Planned Community Act.

**7.15 Noise.** No Owner shall engage in any activity or permit any activity to occur on the Property that shall result in unusual, loud, or obtrusive noises or sounds.

**7.16 Nuisances and Offensive Activity.** No nuisance shall be permitted to exist or operate upon the Property, nor shall any activity be conducted which is offensive or detrimental to any portion of the Property or any Owner, lessee, or Resident.

**7.17 Resubdivision.** No Lot or Lots shall be subdivided. No adjacent Lots shall be joined to create a single Lot.

**7.18 Security.** The Association may, from time to time, provide measures of security on the Property; however, the Association is not a provider of security and shall have no duty to provide any security on the Property. The obligation to provide security lies solely with each Owner individually. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or as a result of the ineffectiveness of any security measure undertaken.

**7.19 Signs.** The Arizona Planned Community Act allows Open House, For Sale, and Political signs; see the Architectural Committee Standards for specifications. Signage referencing security and signs or postings that may be required by legal proceedings are permitted on a Lot subject to the Association Rules and Regulations. Final sign approvals rest with the Board of Directors or its designated representative or committee. No other signs are allowed on any lot or building, except as approved by the Architectural Committee. The Association may, from time to time, display signs for approved events on the common area.

**7.20 Solar Energy Devices.** Solar energy devices shall not be prohibited; however, the Architectural Committee may adopt reasonable rules regarding placement if those rules do not prevent the installation, impair the functioning of the device, or restrict its use or adversely affect the cost or efficiency of the device.

**7.21 Storage Tanks.** No elevated tanks of any kind shall be erected, placed or permitted on any part of the Property. No tanks may be erected, placed or buried in the Lots for the storage of any flammable product (such as gas, oil, etc.), except small tanks, such as those containing flammable substances for use in outdoor grills, recreational vehicles or medical purposes which may be exempt from this restriction.

**7.22 Vehicles.** The use of all vehicles shall be in accordance with this Section and the Association Rules and Regulations and Regulations, which may prohibit or limit the use of said vehicles, provide parking regulations, or adopt other restrictions regulating the same.

**7.22.1 Off-Road Vehicles.** No All-Terrain Vehicle, motorcycle, nor any other vehicle may be used on the Common Area or in washes within or adjacent to any of the Property.

**7.22.2 Recreational Vehicles.** Parking or storing of recreational vehicles is prohibited on all portions of the Property, except within the confines of a garage. In addition, notwithstanding the above, such recreational vehicles may be parked on the parking area of an Owner's Lot or in any designated Common Area parking areas for a period designated by the Board in the Rules for the purposes of loading, unloading, or for providing parking for guests of the Owner who may be driving or pulling one of these recreational vehicles. The use and/or occupancy of a vehicle or recreational vehicle as living quarters on either a temporary or permanent basis is strictly prohibited on any portion of the Property.

**7.22.3 Prohibition Against Inoperable and Stored Vehicles.** No inoperable, unlicensed, junked, or wrecked vehicles shall be parked on any portion of the Property. Nor shall any repair or maintenance work (other than vehicle washing or waxing) be done to any vehicle except within the garage. No vehicles shall be located on the Property in any state of disrepair or disassembly.

**7.22.4 Commercial Vehicles.** No commercial, construction, or like vehicles (including but not limited to pickup-type vehicles in excess of 3/4-ton capacity; vehicles bearing commercial signs, advertising, or other business insignia; and any commercially licensed vehicle) shall be parked or stored on the Property, except with the permission of the Board of Directors. This restriction does not apply to delivery or service provider trucks that are parked on a temporary basis.

**7.23 Vehicle Parking.** All houses in the Property are designed to accommodate two vehicles. All Owners and Occupants shall park motorized vehicles only in the garage or, if necessary, in the driveway on a Lot. No portion of the vehicle may extend onto the sidewalk or into the street. Garage doors are to remain closed except when in use. The designated Common Area parking spaces are primarily for use of guests. However, Owners, Occupants, and service vehicles may be parked in the designated parking areas for limited times as determined by the Rules and Regulations.



**7.24 Enforcement of Parking Restrictions.** In the event any Owner, Occupant, or guest violates this Section regarding vehicle parking and storage, the Association may take any action that is necessary to obtain compliance with this Section, including the removal of vehicles in violation of this Section, the cost of which shall become the responsibility of the Owner of the Lot where the vehicle Owner resides or is visiting.

## **ARTICLE 8 PARTY WALLS**

**8.1 Easements for Party Walls.** Buildings on any residential sites or portions of residential sites may have common or party walls in the main building, roofs, overhangs, and/or patio walls. Each of the residential sites shall be subject to a perpetual easement in favor of the owner or owners of the other residential sites or portions of residential sites to which these buildings and use restrictions apply for construction, maintenance, repairs, and alterations, and for the hooking-up-and-operation use, maintenance, and inspection of attachments for electric hookups and meters customarily installed and used by any public utility or utilities servicing the said real property.

**8.2 Alteration of Party Walls.** No Owner may alter the appearance or structure of a party wall (except that landscaping shall not be precluded) without the consent of the Architectural Committee. The Committee may but is not obligated to deny approval if all Owners having an interest in the party wall have not consented to the alteration. No Owner shall take any action that may destroy the integrity of a party wall or pose an unsightly appearance or threaten its strength, durability, or lasting life. Without limitation, no Owner shall place any plants or shrubs close to a party wall in a fashion that watering of said plants will threaten the foundation of the party wall or cause the foundation to be undermined.

**8.3 Repair and Maintenance of Party Walls.** The cost of ordinary repair and maintenance of a party wall shall be shared equally by the Owners of the Lots that are divided by the wall.

**8.4 Damage by Adjoining Owner.** This Section applies in the event any party wall is damaged or destroyed through the act of one adjoining Owner or Occupant so as to deprive the other Owner or Occupant of the full use and enjoyment of such wall. The Owner responsible for the damage shall immediately proceed to rebuild and repair the party wall, or cause it to be rebuilt or repaired, to as good condition as formerly without cost to the other Owner.

**8.5 Damage by Outside Causes.** In the event any party wall is damaged or destroyed by some cause other than the act of one of the adjoining Owners or Occupants, his/her agents, tenants, guests or family (including ordinary wear and tear and deterioration from lapse of time), both adjoining Owners shall proceed immediately to rebuild or repair the Common wall to as good condition as formerly, at their joint and equal expense.

**8.6 Dispute Resolution.** In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of applicable costs, then upon written request of one of such Owners delivered to the other such Owner, the matter shall be heard and determined by a mutually selected arbitrator, under mutually agreeable rules of procedure. If the parties cannot agree on an arbitrator or on rules of procedure, the American Arbitration Association shall

provide an arbitrator and/or rules of procedure. The arbitrator's decision shall be final and binding on all parties.

**8.7 Private Agreements.** Private agreements between Owners may not modify the provisions of this Article.

## **ARTICLE 9 INSURANCE/CONDEMNATION**

**9.1 Insurance Requirements.** The Board has the power and duty to obtain and maintain insurance coverage in such types and amounts and on such terms as the Board determines suitable in its discretion for the following purposes:

**9.1.1 Insurance for Common Areas.** The Board shall insure the property of the Association and all structures and other improvements in the common areas against loss, damage, or destruction by fire or other casualty.

**9.1.2 Insurance for Officers, Directors, and Members.** The Board shall provide insurance for Officers, Directors, and Members acting on behalf of the Association from any liability from any cause that the Board deems necessary and proper in its discretion including, without limitation, errors and omissions from those acting on behalf of the Association.

**9.1.3 Fidelity Insurance.** Fidelity Insurance against dishonest acts on the part of directors, officers, managers, trustees, employees, or volunteers responsible for handling funds belonging to or administered by the Association. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added, if the policy would not otherwise cover volunteers.

**9.2 Insufficient Insurance Proceeds.** In the event that the Board determines that insurance proceeds collected under the policy for damage to the Common Areas are insufficient to pay all costs for the restoration of any damaged improvements to the same condition that existed prior to the damage, the Board shall levy a Special Assessment to cover the balance of the costs of restoration. Such deficiency shall be assessed against the members in equal shares, shall be billed by the Association within thirty (30) days from the date it is levied, and paid within thirty (30) days thereafter.

**9.3 Insurance Premiums.** Premiums for insurance purchased or obtained by the Association shall be a Common expense payable through Annual Assessments, and all such insurance coverage obtained by the Board shall be written in the name of the Association.

**9.4 Insurance on Private Lots.** Each Owner is responsible for providing Owner's liability insurance, fire, theft, and other insurance covering the Lot from all damage and loss. In the event of damage to an improvement on a Lot, the Owner shall promptly repair or rebuild the improvement to the same standards and specifications as the original improvement within six months of the occurrence of the damage, unless otherwise approved by the Board.

## **ARTICLE 10 EXTERIOR MAINTENANCE**

**10.1 Common Area Maintenance.** The Association is responsible for maintaining all Common Area. This function is managed by the Grounds Maintenance Committee under the direction of the Board of Directors. Such maintenance includes landscaping, plant watering and fertilization, tree planting and trimming, and erosion and weed control in the Common Area. Its purpose is to keep Desert Ridge common areas clean, safe, and attractive. Homeowners are to make no additions or changes to the Common Areas.

**10.2 Private Streets.** West Desert Hills Drive, South Desert Ridge, Golf Course Place, Desert Canyon Place, and Desert Trail are the five private streets in Desert Ridge. The Association maintains the Private Streets. The Streets Committee is responsible for overseeing the maintenance and repair of the streets under the direction of the Board of Directors.

**10.3 Private Lot Maintenance.** The Owner of each lot is responsible for the proper maintenance and repair of the exterior portions of all structures on the lot. The Association may by rule or regulation establish standards for private lot maintenance.

**10.3.1 General Appearance.** Lot Owners are responsible for landscaping and maintaining the appearance of the Lot and Dwelling Unit reasonable on a par with those of the neighboring Lots. This responsibility includes but is not limited to trees, shrubs, gravel, driveways, and walks. This includes keeping their Lots free of weeds and overgrowth and for trimming and pruning all landscape plants.

**10.3.2 Destruction of Dwelling.** In the event any Dwelling Unit is destroyed in whole or in part as the result of any cause whatsoever, the Owner must repair or promptly rebuild the structure. If the Owner of such damaged or destroyed building fails to take the necessary steps to rebuild such Dwelling, then the Owner shall remove the remaining portion of the destroyed Dwelling and maintain and keep such Lot in a clean and sanitary condition and shall repair or restore any sewers, patio walls, sidewalks, Private Streets or any other damaged portion of the Lot.

**10.4 Owner's Failure to Maintain.** In the event any Owner fails to fulfill his/her obligations under this Section, the Board shall have the right through its agents and employees to enter upon the subject property and to repair, maintain, and restore the Lot to acceptable condition. The cost of such exterior maintenance or corrective action shall be a Reimbursement Assessment to which such Lot is subject. The Board shall have the right to determine whether or not a Lot is in need of maintenance, repair, and upkeep to conform to the standards of the Property. The Board shall use a reasonably high standard to determine whether corrective action is required as set forth in this Section so that the Property as a whole will reflect pride

of ownership. Before exercising its rights under this Section, the Board shall make a finding specifying what obligations are not being fulfilled and give notice to the offending Owner that corrective action must be taken within a reasonable time established by the Board, which shall not be less than 14 days.

## **ARTICLE 11 COVENANTS AND ASSESSMENTS**

### **11.1 Creation of the Lien and Personal Obligation to Pay**

**Assessments.** Each Owner, by acceptance of a deed to any Lot, whether or not it shall be so expressed in such deed is deemed to covenant and agree to pay to the Association (A) Annual Assessments, (B) Special Assessments, and (C) Reimbursement Assessments.

The Annual, Special and Reimbursement Assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which each assessment is made. Delinquent assessments, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment was levied. The personal obligation for delinquent assessments shall not pass to his/her successors in title unless expressly assumed by them.

**11.2 Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, welfare, and enjoyment of the Owners and Occupants; for the improvement and maintenance of the Common Area; for enforcement of the Community Documents; and for the establishment of reasonable reserves for anticipated future expenditures for such purposes.

**11.3 Annual Assessment.** The assessment amount, due date, and delinquency date shall be established annually by the Board.

**11.3.1 Time Established.** Within 90 days prior to the end of each calendar year and subject to the provisions of Section 11.3.2, the Board shall, with input from the Budget Committee, formulate the following year's budget to determine the total charges to be paid during the forthcoming year for Association operations so the Annual Assessment can be established, including reasonable provisions for reserves.

**11.3.2 Increase Limitations.** The Board shall not impose an Annual Assessment that is more than 20 percent greater than the immediately preceding fiscal year's assessment without the approval of a majority of the Members of the Association.

**11.3.3 Written Notice.** Written notice of the Annual Assessment shall be sent to every Owner.

**11.4 Special Assessments.** Special Assessments may be recommended by the Board of Directors, in addition to the Annual Assessment for (A) constructing capital improvements, (B) correcting an inadequacy in the current operating account, (C) defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair, or replacement of improvements in the Common Area; or (D) paying for such other matters as the Board may deem appropriate for the Property or the good and welfare of the Members.

Special Assessments require the approval of 2/3rds of the Members who are voting in person or by absentee ballot at an Annual Meeting or at a Special Meeting duly called for this purpose (at which a quorum is present). The vote also may be by written ballot in place of a meeting. Monies collected as a Special Assessment shall be used only for the purpose(s) stated to the Members during the approval process.

**11.5 Reimbursement Assessments.** The Association shall levy a Reimbursement Assessment if (A) any Owner, his/her family member, tenant, guest, or invitee, has failed to comply with the Association's Community Documents, which failure has necessitated an expenditure of money by the Association to bring the Owner or the Lot into compliance; or (B) any Owner, his/her family member, tenant, guest, or invitee has caused damage to the Common Area; or (C) for any other special charge to an Owner.

A Reimbursement Assessment shall not be levied by the Association until notice and an opportunity for a hearing has been given to the Owner, or the Owner has agreed in writing to the Reimbursement Assessment. Reimbursement Assessments may be enforced in the same manner as regular Annual Assessments.

**11.6 Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and collected on an annual basis.

**11.7 Effect of Non-Payment of Assessments; Remedies of the Association.** Each Owner shall be deemed to covenant and agree to pay to the Association the assessments provided for herein, and to agree to the enforcement of the assessment in the manner herein specified.

**11.7.1 Late Fees.** All Owners with delinquent assessments shall be required to pay a late charge, not to exceed the maximum allowable under applicable law, and pay interest at a rate as set from time to time by the Board of Directors.

**11.7.2 Application of Payments and Defaults.** Unless the Owner informs the Association where he or she would like his/her delinquent payments applied, the late payments shall first be applied to unpaid assessments, then to unpaid late charges, then to collection fees and/or attorney's fees, and finally to charges and monetary penalties or interest due and late charges for those amounts. In the event the Association employs an attorney for the collection of any assessments, whether by suit or otherwise, the delinquent Owner shall pay reasonable attorney's fees and costs thereby



incurred, in addition to any other amounts due or any other relief or remedy obtained against said Owner. In the event of a default in payment of any such assessment when due, in which case the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in the manner provided herein by law or in equity, or without any limitation to the foregoing, by either or both of the following:

**A) ENFORCEMENT BY SUIT.** The Board may cause a lawsuit to be commenced and maintained in the name of the Association against an Owner to enforce each such assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency together with interest thereon from the date of delinquency until paid court costs and reasonable attorney's fees in such amount as the Court may adjudge. If the Reimbursement Assessment results from the levy of a monetary penalty for infraction of the Community Documents, A.R.S. §33-1807 (Planned Communities Act) provides that penalties imposed for Infractions of the Community Documents are not part of the Assessment Lien and are enforceable only by a civil suit against the pertinent Owner.

**B) ENFORCEMENT BY LIEN.** The Association has a lien on a Lot for any assessment levied against that Lot from the time the assessment becomes due. If an assessment delinquency is not paid within 30 days after delivery of a demand for payment, or, even without such a written demand being made, the Association may elect to file a notice of lien on behalf of the Association against the Lot of the defaulting Owner. The Association's lien for assessments, for charges for late payment of those assessments, for reasonable collection fees and for reasonable attorney fees, and costs incurred with respect to those assessments may be foreclosed in the same manner as a mortgage on real estate.

**11.8 No Exemption of Owner.** No Owner is exempt from liability for payment of assessments by waiver of the use of enjoyment of the Common Area or by abandonment of his/her Dwelling Unit and/or Lot.

**11.9 Transfer Fee.** A Transfer Fee set by the Board shall be charged for all lots sold. The Board may also establish other fees to cover costs of transfer of ownership.

## **ARTICLE 12 INTERESTS OF FIRST MORTGAGEES**

**12.1 Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure of a first mortgage, or a trustee's sale pursuant to power of sale or a foreclosure of a first deed of trust, or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become 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.

**12.2 Mortgage Protection and Additional Assessment as Common Expense.** Notwithstanding and prevailing over any other provisions of the Community Documents, the following provisions shall apply to and benefit each holder of a First Mortgage upon a Lot (called the 'First Mortgagee'):

**12.2.1** The First Mortgagee shall not be personally liable for the payment of any assessment or charge, nor for the observance or performance of any Community Documents provisions, except for those matters which are enforceable by injunctive or other equitable actions not requiring the payment of money, except as hereinafter provided.

**12.2.2** During the pendency of any proceeding to foreclose the first mortgage, including any period of redemption, the First Mortgagee (or receiver appointed in such action) may, but need not, exercise any or all of the rights and privileges of the Owner of the mortgaged Lot, including but not limited to, the right to vote as a Member of the Association, to the exclusion of the Owner's exercise of such rights and privileges.

**12.2.3** At such time as the First Mortgagee shall become record Owner of a Dwelling Unit and/or Lot, said First Mortgagee shall be subject to all of the terms and conditions of these Community Documents, including but not limited to the obligation to pay for all assessments and charges accruing thereafter, in the same manner as any Owner.

**12.2.4** The First Mortgagee, or any other party acquiring title to a mortgaged Dwelling Unit and/or Lot through foreclosure suit or through any equivalent proceeding arising from said First Mortgage shall acquire title to the mortgaged Dwelling Unit and/or Lot free and clear of any lien authorized by or arising out of any of the provisions of this Declaration or By-Laws which secured the payment of any assessment for charges accrued prior to the final conclusion of any such foreclosure suit or equivalent proceeding, including the expiration date of any period of redemption. Any such unpaid assessment shall nevertheless continue to exist as the personal obligations of the defaulting Owner to the Association, and the Board shall use reasonable

efforts to collect the same from the Owner even though he/she is no longer a member of the Association. There shall be a lien upon the interest of the first mortgagee or other party that acquired title to a mortgaged Dwelling Unit and/or Lot by foreclosure suit or by equivalent procedures for all assessments authorized by this Declaration or the By-Laws that accrue and are assessed after the date the acquirer has acquired title to the Dwelling Unit and/or Lot free and clear of any right of redemption.

**12.2.5** Nothing in this Declaration shall in any manner be deemed to give an Owner, or any other party, priority over any rights of a First Mortgagee of a Lot pursuant to the terms of such First Mortgagees in the case of a distribution to a Lot of insurance proceeds or condemnation awards for losses to or a taking of any Lot or any part of the Common Area owned by the Association. Each First Mortgagee shall be entitled to timely written notice of such loss or taking.

## **ARTICLE 13 ENFORCEMENT**

**13.1 Enforcement Rights.** The Association or any Owner has the right to enforce, by any proceeding at law or in equity, all provisions of all Association Governing Documents. The Association also has the right to impose reasonable monetary penalties for infractions of the Community Documents.

**13.2 No Obligation to Enforce.** The Association is not obligated to take any enforcement action if the Board determines, in its sole discretion, that because of considerations pertaining to the Association's finances, possible defenses, the time and expense of litigation, or other enforcement action, the likelihood of a result favorable to the Association or other facts deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Community Documents shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Community Documents in the future.

**13.3 Waiver.** No delay or omission on the part of the Association or any Owner in exercising its right to enforcement of any provision of the Community Documents shall be construed as a waiver of or acquiescence in any breach thereof, and no right of action shall accrue against the Board of Directors, the Association, or any Owner for their neglect or refusal to exercise such right of enforcement.

**13.4 Enforcement Procedures.** Enforcement Procedures are set forth in the Association Rules and Regulations.

**13.5 Fines for Violations.** The Board shall establish fines to be imposed on Owners for violations of any Association Governing Documents as set forth in the Association Rules and Regulations.

**13.6 Recorded Notice of Violation.** In the event that any Owner, his guests, tenants, or family members are in violation of any of the provisions of the Community Documents, the Association, after providing notice and an opportunity to cure the violation, has the right to record a 'Notice of Violation' with the office of the County Recorder of Pima County, Arizona, stating the name of the Owner, the Lot, the nature of the violation, and the Association's intent not to waive any of its rights of enforcement. The Notice shall remain of record until the violation is cured.

**13.7 Cumulative Rights and Remedies.** All rights and remedies of the Association under the Community Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy.

**13.8 Violation of Law.** Each and every provision of this Declaration, as amended from time to time, is subject to any and all applicable federal, state and local governmental rules and regulations, ordinances and subdivision regulations. Any violation of any federal, state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation, or use of any property within the Property is declared to be a violation of the Community Documents and subject to any and all enforcement procedures set forth in such Community Documents.

**13.9 Attorney Fees.** The prevailing party in any action shall be awarded reasonable attorneys' fees and costs. If no action is brought, the Association shall be reimbursed by the pertinent Owner(s) all reasonable attorney's fees and costs it incurs in enforcing the Community Documents.

IN WITNESS WHEREOF, the undersigned certify that this Amended and Restated Declaration of Establishment of Conditions, Covenants, and Restrictions for Desert Ridge, Inc. was approved by at least two-thirds of the votes cast at the Association's duly-held annual meeting of Members.

DESERT RIDGE, INC., an Arizona non-profit corporation

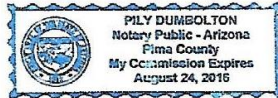
By: Carol A. Claton  
Its: President

ATTEST:  
Diane M. Harris  
Secretary

STATE OF ARIZONA )  
) ss:  
County of Pima )

Subscribed, sworn and acknowledged before me this 31 day of March 2016 by Carol A Claton, as President of Desert Ridge, Inc., an Arizona non-profit corporation.

Pily Dumbolton  
Notary Public



STATE OF ARIZONA )  
) ss:  
County of Pima )

Subscribed, sworn and acknowledged before me this 31 day of March 2016 by Diane M. Harris, as Secretary of Desert Ridge, Inc., an Arizona non-profit corporation.

Pily Dumbolton  
Notary Public

