



***HIGHLAND ESTATES
HANDBOOK***

*ARTICLES OF INCORPORATION
BYLAWS*

*COVENANTS, CONDITIONS AND RESTRICTIONS
DESIGN GUIDELINES*

FORMS

SEDONA, ARIZONA

HIGHLAND ESTATES IMPROVEMENT ASSOCIATION

P. O. BOX 2024 7, SEDONA, ARIZONA 86341

Those of us living in Highland Estates consider it one of the most attractive developments in the Sedona area, situated in what has long been known as Little Park (as opposed to Big Park, which includes the Village of Oak Creek). After Verde Valley School Road leaves Big Park behind and curves down through two washes, Little Park presents its views: the steep side of House Mountain to the west, the red rock cliffs named Seven Warriors to the east, and – to the north – magnificent Cathedral Rock, which overlooks the whole valley. Highland Estates is tucked in below Seven Warriors, and seeing their deep orange-red glow just before sunset is one of the joys of living here.

Back in 1953, Colonel Robert L. Mundy, a veteran of both world wars, purchased 160 acres of land in Little Park from the original homesteader, a man remembered by Col. Mundy's son James as "the Old Timer." Col. Mundy built, and lived for many years, in a small house which remains today, scarcely visible, across the road and to the south of our entrance gate. *Comanche Territory*, one of the many Westerns made in the Sedona area, was filmed in part on Col. Mundy's property. Scenes show Seven Warriors, Cathedral Rock, and off in the distance, Capital Butte in West Sedona, letting us see the area as it was more than fifty years ago. In the late 60s or early 70s, he sold the part of his land that is now Highland Estates to Fred Simmons, one of the early residents, who gave Simmons Lane its name.

Subsequently, the land became the property of a Phoenix development corporation, and in 1976 a Declaration of Restrictions was drawn up by the corporation for the subdivision called Highland Estates, Little Park. Adam Sonnenklar, a member of the corporation and a resident of Phoenix, acted as president of the Highland Estates Improvement Association until his resignation in 1986, when 58 of our 65 lots had been sold and 8 homes were built.

At that time Ray Bluff, one of the first residents, became president and guided the association through six years of growing pains, confronting a number of problems including road conditions, water supply, and weed control. As the number of homes and residents increased, the board was expanded to nine, and provisions were made for a rotating membership. Many past and present residents have been members of the board, spending countless hours on the affairs of Highland Estates. All residents who are interested are encouraged to volunteer to serve one or more terms on the board.

Although newcomers can expect to find as much privacy as they desire, Highland Estates has a very friendly atmosphere. Walkers often stop to talk with residents or other walkers as they make their rounds, and neighbors help neighbors. Each year in the fall we look forward to a time of good fellowship at the annual Highland Estates potluck, sponsored by the association and hosted by one of our generous homeowners.

Welcome to our neighborhood.

HEIA Board of Directors

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I.

**AMENDED AND RESTATED ARTICLES OF INCORPORATION
OF HIGHLAND ESTATES IMPROVEMENT ASSOCIATION**

ADOPTED AUGUST 6, 2003

ARTICLES OF INCORPORATION

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**AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
HIGHLAND ESTATES IMPROVEMENT ASSOCIATION**

**ARTICLE 1.
NAME**

The name of the corporation is Highland Estates Improvement Association.

**ARTICLE 2.
DEFINED TERMS**

Capitalized terms used in these Articles without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions and Restrictions for Highland Estates recorded in the official records of Yavapai County, Arizona. As such, Declaration may have been or may be amended from time to time.

**ARTICLE 3.
PRINCIPAL OFFICE**

The principal office of the Association shall be located at 4856 E. Baseline Road, Suite 104, Mesa, Arizona 85206.

**ARTICLE 4.
STATUTORY AGENT**

Dan G. Curtis, whose address is 4856 E. Baseline Road, Suite 104, Mesa, Arizona 85206, and who has been a bona fide resident of the State of Arizona for more than three (3) years last past, is hereby appointed and designated as the initial statutory agent for the corporation.

**ARTICLE 5.
PURPOSE OF THE ASSOCIATION**

The object and purpose for which this Association is organized is to provide for the management, maintenance, and care of the Areas of Association Responsibility and other property owned by the Association or property placed under its jurisdiction and to perform all duties and exercise all rights imposed on or granted to the Association by the Association Documents. In furtherance of and in order to accomplish the foregoing object and purpose, the Association may transact any or all lawful business for which nonprofit corporations may be incorporated under the laws of the State of Arizona, as they may be amended from time to time.

ARTICLE 6.

CHARACTER OF BUSINESS

The character of the business which the Association intends to conduct in Arizona is to provide for the management, maintenance and care of the Areas of Association Responsibility and to exercise and perform such other powers and duties as are imposed on or granted to the Association by the Association Documents

**ARTICLE 7.
MEMBERSHIP AND VOTING RIGHTS**

The Members of the Association shall be the Owners of Lots. Each Owner shall have such rights, privileges and votes in the Association as are set forth in the Association Documents.

**ARTICLE 8.
BOARD OF DIRECTORS**

The number of directors constituting the Board of Directors shall be not less than five (5) or more than nine (9). The names and addresses of the current directors of the Association, who shall serve until their successors are elected and qualify, are as follows:

<u>Names</u>		<u>Mailing Address</u>
Robert Taylor	Sheryle Robinson	H.E.I.A.
Jerry Kendrick	Brynn Unger	P. O. Box 20247
William Anderson	Mark Litvack	Sedona, AZ 86341
Stephan Smith		

**ARTICLE 9.
LIMITATION ON LIABILITY OF DIRECTORS**

The personal liability of a director of the Association to the Association or its members for monetary damages or breach of his fiduciary duties as a director is hereby eliminated to the extent permitted by the Arizona Nonprofit Corporation Act, as it may be amended from time to time. Any repeal or modification of this Article 9 shall be prospective only and shall not adversely affect the personal liability of a director or prior director for any act or omission occurring prior to the effective date of such repeal or modification.

**ARTICLE 10.
INDEMNIFICATION**

The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that he is or was a member, director, officer, employee or agent of the Association or is or was serving at the request of the Association as a member, director, officer, employee or agent of another corporation, partnership,

joint venture, trust or other enterprise, against expenses, including attorneys' fees, and judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted, or failed to act, in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification of the members, directors, officers, employees or agents of the Association shall be governed by and made in accordance with the provisions of the Arizona Revised Statutes pertaining to nonprofit corporations. Any repeal or modification of this Article 10 shall be prospective only and shall not adversely affect, defeat or limit the right of any person to indemnification for any act, or failure to act, occurring prior to the effective date of such repeal or modification.

ARTICLE 11.
AMENDMENTS

These Articles may be amended by Members holding not less than two-thirds (2/3) of the total votes in the Association.

ARTICLE 12.
DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by Members representing not less than two-thirds (2/3) of the authorized votes in each class of membership. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed or assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purpose.

ARTICLE 13.
DURATION

The corporation shall exist perpetually.

ARTICLE 14.
CONTROLLING DOCUMENT

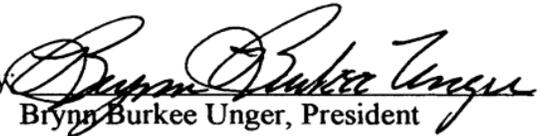
In the event of any conflict between these Articles of Incorporation and the Declaration, the provisions of the Declaration shall control.

ARTICLE 15.
AMENDED AND RESTATED ARTICLES

These Amended and Restated Articles of Incorporation supercede and replace all prior Articles of Incorporation and any amendments thereto (the "Prior Articles") in their entirety.

These Articles of Amendment were duly adopted by act of the Members of the Association. Dated this 6th day of August, 2003.

HIGHLAND ESTATES IMPROVEMENT ASSOCIATION
An Arizona nonprofit corporation.

By 
Brynn Burkee Unger, President

II.

**AMENDED AND RESTATED BYLAWS OF HIGHLAND
ESTATES IMPROVEMENT ASSOCIATION**

ADOPTED AUGUST 6, 2003

BYLAWS

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AMENDED AND RESTATED BYLAWS OF HIGHLAND ESTATES IMPROVEMENT ASSOCIATION

ARTICLE 1. GENERAL PROVISIONS

11 Defined Terms. Capitalized terms used in these Bylaws without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions and Restrictions for Highland Estates recorded in the official records of the County Recorder of Yavapai County, Arizona, as such Declaration may be amended from time to time. As used in these Bylaws, the term “Eligible Votes” means the total number of votes entitled to be cast by Members as of the record date for determining the Members entitled to vote at a meeting or in respect of any other lawful action including, but not limited to, action by written ballot or written consent.

12 Principal Office. The principal office of the Association shall be located at the known place of business of the Association designated in the Articles or such other place as the Association may designate from time to time in accordance with the Arizona Nonprofit Corporation Act, but meetings of members and directors may be held at such other place within the State of Arizona as may be designated by the Board.

13 Conflicting Provisions. In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

14 Designation of Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

15 Financial Records. An annual report, consisting of at least the following, shall be made available to all Members within sixty (60) days after the close of each fiscal year:

- (a) A balance sheet;
- (b) an operating statement; and
- (c) projected budget for the next fiscal year.

16 Amendment. These Bylaws may be amended by the Board of Directors or by the affirmative vote of Members holding more than fifty percent (50%) of the Eligible Votes. These Bylaws may not be amended in a manner that would be inconsistent with the Articles or the Declaration.

17 Indemnification. The Association shall indemnify its officers and directors as provided in the Articles of Incorporation.

ARTICLE 2.
MEETINGS OF MEMBERS

2.1 Annual Meeting. An annual meeting of the Members of the Association shall be held at least once each year. The date, time and place of each annual meeting shall be determined by the Board.

2.2 Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board or upon written demand signed by Members having at least one-fourth (1/4) of the Eligible Votes. The close of business on the thirtieth (30th) day before delivery of the demand or demands for a special meeting shall be the record date for the purpose of determining whether the demand for the special meeting has been signed by Members having at least one-fourth (1/4) of the Eligible Votes.

2.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting by mailing a copy of each notice, postage prepaid, at least ten (10) but not more than sixty (60) days before such meeting to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notices shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. When a meeting is adjourned to another date, time or place, a notice of the new date, time or place is not required if the new date, time or place is announced at the meeting before adjournment. At the adjourned meeting, the Association may transact any business which might have been transacted at the original meeting. If a new record date for the adjourned meeting is or must be fixed under Section 2.6, the Association shall give notice of the adjourned meeting pursuant to this Section to persons who are Members as of the new record date.

A Member's attendance at a meeting waives objection to the lack of notice or defective notice of the meeting, unless the Member at the beginning of the meeting objects to holding the meeting and transacting business at the meeting. In addition, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Member objects to considering the matter at the time it is presented.

2.4 Quorum. Except as otherwise provided in the Articles, the Declaration or these Bylaws, the presence in person or by proxy of Members entitled to cast one-tenth (1/10) of the Eligible Votes shall constitute a quorum at all meetings of the Members. If a quorum shall not be present at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time until a quorum shall be present.

2.5 Proxies. At all meetings of the Members a vote may be cast in person or by proxy. A Member may appoint a proxy to vote or otherwise act for the Member by signing an appointment form, either personally or by the Member's attorney-in-fact. A proxy is valid for eleven months unless a shorter period is expressly provided in the appointment form. An appointment of a proxy is effective on receipt by the Secretary or other officer or agent authorized to tabulate votes. An appointment of a proxy is revocable unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. Appointment of a proxy is revoked by the Member who appoints a proxy by either (a)

attending any meeting and voting in person or (b) signing and delivering to the Secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form. The death or incapacity of the Member who appoints a proxy shall not affect the right of the Association to accept the proxy's authority unless the Secretary or other officer or agent authorized to tabulate votes receives written notice of the death or incapacity before the proxy exercises authority under the appointment.

2.6 Record Date. For any meeting of the Members, the Board shall fix a date as the record date for determining the Members entitled to notice of the meeting. If the Board fails to fix a record date for any meeting of the Members, the record date for determining the Members entitled to notice of the meeting shall be the business day before the day on which the notice of the meeting is given. The Board shall also fix a date as the record date for determining the Members entitled to vote at a meeting of the Members. If the Board fails to fix such a record date, the Members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

A determination of Members entitled to notice of or to vote at a meeting of the Members is effective for any adjournment of the meeting, unless the Board fixed a new date for determining the right to notice or the right to vote. The Board shall fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date that is more than seventy (70) days after the record date for determining Members entitled to notice of the original meeting.

The Board shall fix a date as the record date for the purpose of determining the Members entitled to exercise any rights in respect of any other lawful action of the Members. If a record date is not fixed by the Board, Members at the close of business on the day on which the Board adopts the resolution relating to that record date, or the sixtieth (60th) day before the date of other action, whichever is later, are entitled to exercise those rights.

The record date fixed by the Board under this Section shall not be more than seventy (70) days before the meeting or action requiring a determination of Members. If a court orders a meeting adjourned to another date, the original record date for notice of voting continues in effect.

2.7 Organization and Conduct of Meeting. All Members attending a meeting of the Members shall register with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting, and all proxies must be filed with the Secretary (or such person or persons as may be designated by the Secretary) prior to commencement of the meeting. After the meeting is called to order by the chair of the meeting, no further proxies or changes, substitutions or revocation of proxies shall be accepted. All meetings of the Members will be called to order and chaired by the President of the Association, or if there is no President or if the President is absent or so requests, then by the Vice President. If both the President and Vice President are not present at the meeting, any other officer of the Association or such member of the Association as is appointed by the Board may call the meeting to order and chair the meeting. The chair of the meeting may appoint the Managing Agent to chair the meeting or portions thereof. The chair of the meeting may appoint any person (whether or not a Member of the Association) to act as Recording Secretary. The chair of the meeting shall have the authority to determine the order of business to be conducted at the meeting and to establish reasonable rules for expediting the business of the meeting, but the rulings of the chair with respect to such matters may be overruled by Members having more than fifty percent (50%) of the votes represented in person

or by proxy at the meeting.

2.8 Action by Written Ballot. Any action that the Association may take at any annual, regular or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall (a) indicate the number of responses needed to meet the quorum requirements; (b) state the percentage of approvals necessary to approve each matter other than election of directors; and (c) specify the time by which a ballot must be delivered to the Association in order to be counted, which time shall not be less than three (3) days after the date that the Association delivers the ballot. Once a written ballot has been received by the Association, the ballot may not be revoked. Approval by written ballot pursuant to this Section is valid only if both the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes which would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

2.9 Action by Written Consent. The Members may approve any action required or permitted by law that requires the Members' approval without a meeting of the Members if the action is approved by Members holding at least a majority of the Eligible Votes, unless the Declaration, Articles, these Bylaws or applicable law require a different amount of Eligible Votes. The action shall be evidenced by one or more written consents describing the action taken, signed by those Members representing at least the requisite amount of the Eligible Votes, and delivered to the Association for inclusion in the minutes or filing with the corporate records of the Association.

If not otherwise fixed by the Board pursuant to Section 2.6, the record date for determining Members entitled to take action without a meeting is the date the first Member signs the consent to the action. A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Written notice of Member approval pursuant to this Section shall be given to all Members who have not signed the written consent. Unless otherwise specified in the consent or consents, the action is effective on the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the Eligible Votes. Any Member may revoke the Member's consent by delivering a signed revocation of the consent to the President or Secretary before the date that the consent or consents are signed by the last Member whose signature results in the requisite amount of the Eligible Votes.

2.10 Voting Requirements. Unless otherwise provided in the Association Documents, if a quorum is present at a meeting of the Members, the affirmative vote of a majority of the votes represented and voting is the act of the Members.

ARTICLE 3.
BOARD OF DIRECTORS

3.1 Number and Terms of Office. The affairs of this Association shall be managed by a board of directors. The Board of Directors shall consist of at least five (5) directors. At no time shall the Board of Directors consist of more than nine (9) directors. All directors must be Members of the Association. The term of office shall be three (3) years.

The Board may increase or decrease the number of directors on the Board within the minimum and maximum number of directors prescribed by this Section, but the number of directors must always be an odd number. If the number of directors is increased by the Board, the persons appointed to fill the vacancies created by the new directorships shall serve until the next annual meeting of the Members at which time the Members shall determine the term of office of each new directorship and elect a successor to the person appointed by the Board. A decrease in the number of directors on the Board shall not serve to terminate the term of the office of a director in existence at the time of the decrease.

3.2 Appointment and Election. The directors shall be elected by the Members at the annual meeting of the Members. For each election of directors, the Board shall either prescribe an opening and closing date of a reasonable filing period in which each eligible person may declare their candidacy for election to the Board by giving written notice thereof to the Secretary of the Association or appoint a Nominating Committee to nominate candidates for election to the Board. The Board may also establish such other rules and regulations as it deems appropriate with respect to the nomination and election of directors. In each election of directors, the number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be deemed elected. Cumulative voting will not be permitted in the election of directors.

3.3 Resignation of Directors. A director may resign at any time by delivering written notice to the Board, its presiding officer or the Association. A resignation is effective when the notice is delivered unless the notice specifies a later effective date or event. If a resignation is made effective at a later date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor does not take office until the effective date.

3.4 Removal of Directors. Any one or more of the members of the Board may be removed from the Board with or without cause by Members holding more than fifty percent (50%) of the Eligible Votes.

3.5 Compensation. No director shall receive compensation for any service he or she may render to the Association, unless such compensation is approved by Members holding more than fifty percent (50%) of the Eligible Votes. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

3.6 Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written consent of all the directors. Any such written consent shall be filed with the minutes of the proceedings of the Board. Any action taken by the Board pursuant to this Section shall be effective when the last director signs the consent, unless the consent specifies a different effective date. Each director shall have one (1) vote.

3.7 Vacancies. Any vacancy occurring in the Board may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum or by a sole remaining director, and any director so chosen shall serve the remainder of the term of the director he or she replaces. Any newly created directorship shall be deemed a vacancy. If by reason of death, resignation or otherwise, the Association has no directors in office, any officer or Member may call a special meeting of the Members for the purpose of electing the Board.

3.8 Meetings. If the time and place of a meeting of the Board is fixed by the Board, the meeting is a regular meeting. All other meetings of the Board are special meetings. Regular meetings of the Board may be held with or without notice to the directors of the date, time, place or purpose of the meeting.

Special meetings of the Board may be called by the President on two (2) business days notice to each director, given in writing, by hand delivery, e-mail, mail or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) directors.

A director's attendance at or participation in a meeting waives any required notice to the director of the meeting, unless the director at the beginning of the meeting or promptly on the director's arrival at the meeting objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

A director may participate in a regular or special meeting of the Board through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting, and a director participating in a meeting by such means is deemed to be present in person at the meeting.

Notice of meetings of the Board shall be given to the Members of the Association within such time and in such manner as is required by law.

3.9 Quorum and Voting. A majority of the prescribed number of directors shall constitute a quorum for the transaction of business. If a quorum is present when a meeting is convened, the quorum shall be deemed to exist until the meeting is adjourned, notwithstanding the departure of one or more directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the Board, unless the Articles or Bylaws require the vote of a greater number of directors.

A director who is present at a meeting of the Board when corporate action is taken is deemed to have assented to the action taken unless either (a) the director objects at the beginning of the meeting or promptly on the director's arrival to holding it or transacting business at the meeting; (b) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or (c) the director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the Association before 5:00 p.m. on the next business day after the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

A director may vote in person or by proxy. A director may appoint a proxy to vote or otherwise act for the director by signing an appointment form, either personally or by the director's attorney-in- fact. The appointment does not relieve the director of liability for acts or omissions imposed by law on directors. An appointment of a proxy is effective when received by the Secretary. An appointment is valid for one

(1) month unless a different period is expressly provided in the appointment form. An appointment of a proxy is revocable by the director. The death or incapacity of a director appointing a proxy shall not affect the right of the Association to accept the proxy's authority unless written notice of death or incapacity is received by the Secretary before the proxy exercises its authority under the appointment. Subject to any express limitation on the proxy's authority appearing on the face of the appointment form, the Association is entitled to accept the proxy's vote or other action as the vote of the director making the appointment.

3.10 Powers and Duties. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Association Documents or as provided by law. The Board may do or cause to be done any act which the Association Documents do not direct to be done by the Members.

The duties of the Board shall include, without limitation:

- (a) opening bank accounts on behalf of the Association and designate the signatories thereon;
- (b) making, or contracting for the making, of repairs, additions to, improvements to or alterations of the Areas of Association Responsibility, in accordance with the Association Documents, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;
- (c) enforcing the provisions of the Association Documents by any and all means authorized by the Association Documents or by law; provided, however, that the Association shall not be obligated to take action to enforce any provision of the Association Documents if the Board determines, in its sole discretion, that because of the strength of the Association's position, possible defenses, the time and expenses of litigation or other enforcement action, the likelihood of a result favorable to the Association or other factors deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association;
- (d) designating, hiring and dismissing the personnel necessary for the maintenance, operation, repair, replacement of the Areas of Association Responsibility and providing services for the Members, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;
- (e) providing for the operation, care, upkeep and maintenance of all of the Areas of Association Responsibility and borrowing money on behalf of the Association when required in connection with the operation, upkeep and maintenance for the Areas of Association Responsibility;
- (f) preparing and adopting a budget for the Association prior to the commencement of each fiscal year and set the Regular Assessment for each Lot;
- (g) adopting Association Rules as provided in the Declaration;

- (h) declaring the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;
- (i) employing, hiring and dismissing such employees as they deem necessary and to prescribe their duties and their compensation;
- (j) causing to be kept a complete record of all its acts and corporate affairs;
- (k) supervising all officers, agents and employees of the Association and seeing that their duties are properly performed;
- (l) levying, collecting and enforcing the payment of Assessments in accordance with the provisions of the Declaration;
- (m) procuring and maintaining adequate property, liability and other insurance as required by the Declaration; and
- (n) causing all officers or employees having fiscal responsibilities to be bonded, as the Board may deem appropriate.

3.11 Managing Agent. The Board may employ for the Association and the Project a professional manager (“Managing Agent”) at a compensation established by the Board. The Board may delegate to the Managing Agent such powers as are necessary for the Managing Agent to perform the duties assigned to the Managing Agent by the Board, but the Board shall not delegate to the Managing Agent policymaking authority or the power to:

- (a) adopt the annual budget, any amendment thereto or to levy Assessments;
- (b) adopt, repeal or amend Association Rules;
- (c) designate signatories on Association bank accounts;
- (d) borrow money on behalf of the Association;
- (e) acquire real property on behalf of the Association.

3.12 Suspension of Member Rights or Privileges. The Board shall not suspend the voting rights of a Member, a Member's right to use the Common Area or any other right or privilege of a Member pursuant to any authority to suspend such rights granted to the Board in the Association Documents without first complying with procedures set forth in this Section. Written notice of any such suspension

(the "Suspension Notice") shall be given to the Member at least fifteen (15) days prior to the effective date of the suspension, and such notice shall state the reasons for such suspension. The notice shall also advise the Member of the Member's opportunity to submit to the Board at least five (5) days before the effective date of the suspension a written statement contesting the suspension and setting forth the Member's position with respect to the suspension. Notwithstanding the submission of a written statement by the Member, the suspension shall become effective on the effective date set forth in the Suspension Notice, unless the Board decides that the suspension should not become effective.

ARTICLE 4. **OFFICERS AND THEIR DUTIES**

4.1 Enumeration of Officers. The principal officers of the Association shall be a President, Vice-President, Secretary and Treasurer. All officers shall be elected by the Board. All officers must be members of the Board. The Board may elect such other officers as the Board deems desirable, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. The same individual may simultaneously hold more than one office in the Association.

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

4.3 Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4.4 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Association. A resignation is effective when the notice is delivered unless the notice specifies a later date or event. The acceptance of a resignation shall not be necessary to make it effective. If a resignation is made effective at a later date or event and the Board accepts the later effective date, the Board may fill the pending vacancy before the effective date if the Board provides that the successor shall not take office until the effective date.

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

4.6 Powers and Duties. To the extent such powers and duties are not assigned or delegated to a Managing Agent pursuant to Section 3.11, the powers and duties of the officers shall be as follows:

4.7 President. The president shall be the chief executive officer of the Association; shall preside at all meetings of the Board or the Members; and have general and active management of the business of the Association;

4.8 Vice-President. The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be

required of him by the Board;

4.9 Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board;

4.10 Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Association Documents; keep proper books of account; prepare an annual budget and a statement of income and expenditures; and, in general, perform all the duties incident to the office of treasurer.

ARTICLE 5. **COMMITTEES**

5.1 Committees of the Board. The Board may create one or more committees and appoint members of the Board to serve on them. Each committee shall have one or more members, and each member of a committee shall serve at the pleasure of the Board. The creation of a committee and appointment of members of the Board to the committee must be approved by the greater of (a) a majority of all the directors in office when the action is taken; or (b) the number of directors required by Section 3.11 to take action. The provisions of these Bylaws governing meetings, action without meetings and notice, waiver of notice, quorum and voting requirements of the Board shall also apply to committees and their members.

Each committee of the Board may exercise the authority of the Board to the extent specified by the Board, except that a committee shall not take any of the following actions (a) authorize distributions; (b) approve or recommend to the Members any action that requires the Members' approval under the Association Documents or by law; (c) fill vacancies on the Board or on any of its committees; (d) adopt, amend or repeal these Bylaws; and (e) fix the compensation of directors for serving on the Board of Directors or any committee of the Board. The Board may designate one or more directors as alternate members of any committee who may replace any absent member at any meeting of the committee.

5.2 Other Committees. In addition to Committees of the Board, the Board may appoint committees consisting of members and/or non-members of the Board to perform such tasks as the Board deems necessary or desirable. Any such committees shall be advisory only and shall not have the power to exercise any authority of the Board.

These Amended and Restated Bylaws supersede and replace all prior Bylaws of the Association and any amendments thereto (the "Prior Bylaws") in their entirety.

CERTIFICATION

I hereby certify that the foregoing Amended and Restated Bylaws were duly adopted by the Association on the 6th day of August, 2003.

By: Bill Ebert
Bill Ebert, Secretary

III.

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
HIGHLAND ESTATES**

**YAVAPAI COUNTY BOOK 4068 PAGE 407
AUGUST 29, 2003
INCLUDING ALL AMENDMENTS ADOPTED
THROUGH 2018**

COVENANTS, CONDITIONS AND RESTRICTIONS

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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHLAND ESTATES

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions for **HIGHLAND ESTATES** (the "Declaration") is made as of August 6, 2003.

INTRODUCTION

A. By that certain Declaration of Restrictions recorded in Book 732, Page 37 to 44, in Book 1254, Pages 211 to 220, as amended and restated in Book 2946, Page 569 to 585, records of Yavapai County, Arizona (the "Original Declaration"), declarant imposed certain conditions, covenants, restrictions and created other property and contract rights burdening and benefiting the real property described in the Declaration (the "Property").

B. Section 21 of the Original Declaration provides for the amendment of the Original Declaration by an instrument signed by not less than a majority of the then Owners.

C. Not less than a majority of the Owners of the Property desire to amend the Declaration, and by their signatures attached hereto, not less than a majority of the Owners of the Property amend the Declaration as provided below.

D. The Owners desire that all of the Property subject hereto be held, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time.

NOW THEREFORE, the Prior Declaration is hereby amended and revoked in its entirety and the provisions of this restated Declaration are hereby imposed upon the Property.

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

1.2 "Architectural Review Committee" means the committee created pursuant to Section 3.10 of this Declaration.

1.3 "Areas of Association Responsibility" means (i) all Common Area; and (ii) all land, and the

Improvements situated thereon, located within the boundaries of a Lot which the Association is obligated to maintain, repair and replace pursuant to the terms of this Declaration or the terms of another Recorded document executed by the Association.

1.4 “**Articles**” means the Articles of Incorporation of the Association, as amended from time to time.

1.5 “**Assessable Lot**” means each Lot.

1.6 “**Assessment**” means an Annual Assessment, Special Assessment, or Service Assessment.

1.7 “**Assessment Lien**” means the lien created and imposed by Article 6 or Article 7 of this Declaration.

1.8 “**Assessment Period**” means the period set forth in Section 6.4 of this Declaration.

1.9 “**Association**” means **HIGHLAND ESTATES IMPROVEMENT ASSOCIATION**, an Arizona nonprofit corporation, and its successors and assigns.

1.10 “**Association Documents**” means, collectively, this Declaration, the Articles, the Bylaws, the Association Rules and Design Guidelines, all as amended from time to time.

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.

1.12 “**Board**” means the Board of Directors of the Association.

1.13 “**Bylaws**” mean the Bylaws of the Association, as amended from time to time.

1.14 “**Common Area**” means all land, including roads, 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 the actual and estimated expenses, excluding Service Expenses, incurred or anticipated to be incurred by or on behalf of the Association including any allocations to reserves determined by the Board to be necessary and appropriate, and all other financial liabilities of the Association.

1.16 “**Declaration**” means this Declaration of Covenants, Conditions, and Restrictions, as amended from time to time.

1.17 “**Design Guidelines**” means the procedures, standards and guidelines adopted by the Architectural Review Committee pursuant to Article 3 of this Declaration, as amended or supplemented 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 (i) any Residential Unit, building, fence or wall; (ii) any swimming pool, tennis court, basketball goal, backboard or apparatus or playground equipment; (iii) any road, driveway or parking area; (iv) any trees, plants, shrubs, grass or other landscaping improvements of any type and kind; (v) any statuary, fountain, artistic work, craft work, figurine or ornamentation of any type or kind, and (vi) any other structure of any type, kind or nature.

1.21 “**Lessee**” means the lessee or tenant under a lease, oral or written, of any Lot including an assignee of the lessee’s or tenant’s interest under a lease.

1.22 “**Lot**” means a parcel of land within the Project, whether improved or unimproved, intended for independent ownership and use and designated as a "lot" on the Plat and any Residential Unit, building, structure or other Improvements situated thereon.

1.23 “**Maintenance**” means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement or reconstruction.

1.24 “**Maintenance Standard**” means the standard of Maintenance of Improvements situated on Lots 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 situated on Lots generally prevailing throughout the Project.

1.25 “**Member**” means any Person who is a member of the Association as provided in Section 5.6 of this Declaration.

1.26 “**Owner**” means the record owner, 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 obligation or a Lessee. Owner shall include a purchaser under a Recorded 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 which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots subject to a deed of trust pursuant to A.R.S., § 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.

1.27 “**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.

1.28 “**Plat**” means the plat of HIGHLAND ESTATES records of Yavapai County, Arizona, and all amendments, supplements and corrections thereto.

1.29 “**Property**” or “**Project**” means the real property described in the Original Declaration, together with all Improvements located thereon.

1.30 “**Purchaser**” means any Person who by means of a voluntary transfer becomes the Owner of a Lot.

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 of public record.

1.32 “**Resident**” means each person occupying or residing in any Residential Unit.

1.33 “**Residential Unit**” means any 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 “**Special Assessment**” means any assessment levied and assessed pursuant to Section 6.3 of this Declaration.

1.35 “**Visible from Neighboring Property**” means, with respect to any given object, that such object is or would be visible to a natural person six feet tall, standing at ground level on any part of any Lot, the Common Area or any public street within or adjacent to the Project.

1.36 “**Service Assessment**” means any Assessment levied and assessed pursuant to Section 6.10 of this Declaration

1.37 “**Service Expense**” means any expenses incurred by the Association in providing services pursuant to Section 6.10 of this Declaration

ARTICLE 2.

PROPERTY AND PERSONS BOUND BY DECLARATION

21 **General Declaration.** The Owners intend by this Amended and Restated Declaration to impose upon the Property mutually beneficial restrictions in furtherance of the general plan for the development, sale and use of the Property and for the administration, maintenance, preservation, use and enjoyment of

the Property. All of the Property shall be held, sold, used and conveyed subject to the easements, restrictions, conditions and covenants set forth in this Amended and Restated Declaration which are for the purpose of protecting the value, desirability and appearance of the Property. All of easements, restrictions, conditions and covenants in this Declaration shall run with the Property and shall be binding upon and inure to the benefit of all Owners, Lessees and Residents and all other Persons having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors, successors in title and assigns. By acceptance of a deed or by acquiring any interest in any of the Property, each Person, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees 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. This Declaration shall also be binding upon and shall be for the benefit of and enforceable by the Association.

22 Disclaimer of Implied Covenants. Nothing contained in this Declaration and nothing which may be represented to a purchaser of a Lot by real estate brokers or salesmen shall be deemed to create any implied covenants, servitudes or restrictions with respect to the use of any property subject to this Declaration.

ARTICLE 3. ARCHITECTURAL CONTROL

3.1 Approval Required. No devegetation, excavation or grading work shall be performed on any Lot without the prior written approval of the Architectural Review Committee. No Improvement shall be constructed or installed on any Lot without the prior written approval of the Architectural Review Committee. No addition, alteration, repair, change or other work which in any way alters the appearance of any part of a Lot, or the exterior appearance of any Improvements located thereon, shall be made or done without the prior written approval of the Architectural Review Committee. No total or partial exterior re-surfacing of an existing structure with paint, stucco, tile or other materials shall be made or done without prior written approval of the Architectural Review Committee. Any Owner desiring approval of the Architectural Review Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement or any other work which requires the prior written approval of the Architectural Review Committee shall submit to the Architectural Review Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change or other work which the Owner desires to perform. The request for approval must be accompanied by plans or specifications showing the nature, kind, color, shape, height, materials and location of the Improvements and such other information as may be required by the Design Guidelines. Any Owner requesting the approval of the Architectural Review Committee shall also submit to the Architectural Review Committee any additional information, plans and specifications which the Architectural Review Committee may request. In the event that the Architectural Review Committee fails to approve or disapprove an application for approval within forty- five (45) days after the application, together with any fee payable pursuant to Section 3.5 of this Declaration and all supporting information, plans and specifications requested by the Architectural Review Committee, have been submitted to the Architectural Review Committee, approval will not be required and this Section will be deemed to have been complied with by the Owner who requested approval of such plans. The approval by the Architectural Review Committee of any construction, installation, addition, alteration, repair, change or

other work shall not be deemed a waiver of the Architectural Review Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

3.2 Review of Plans. The Architectural Review Committee may disapprove plans and specifications for any construction, installation, addition, alteration, repair, change or other work which must be approved by the Architectural Review Committee pursuant to this Article 3 if the Architectural Review Committee determines, in its sole and absolute discretion, that the proposed work violates any provision of this Declaration or the Design Guidelines. In addition, the Architectural Review Committee may disapprove plans and specifications for any construction, installation, addition, alteration, repair, change or other work which must be approved by the Architectural Review Committee pursuant to this Article 3 even though the plans and specifications may be in substantial compliance with this Declaration and the Design Guidelines if the Architectural Review Committee, in its sole and absolute discretion, determines that the proposed construction, installation, addition, alteration, repair, change or other work, or some aspect or portion thereof, is unsatisfactory or aesthetically unacceptable. In reviewing the proposed plans and specifications, the Architectural Review Committee may consider any and all factors which the Architectural Review Committee, in its sole and absolute discretion, determines to be relevant including, but not limited to (i) the harmony of the proposed Improvements with existing Improvements in the Project or with Improvements previously approved by the Architectural Review Committee but not yet constructed; (ii) the proposed location of the proposed Improvements in relation to existing topography, finished grade elevations, roads, Common Area and other structures; and (iii) the exterior design, finish materials and the color of the proposed Improvements. The Architectural Review Committee may approve plans and specifications which fail in some material way to comply with the requirements of this Declaration or the Design Guidelines if the Architectural Review Committee, in its sole and absolute discretion, determines that some particular feature of the Lot or the proposed Improvements allows the objectives of the violated requirements of this Declaration or the Design Guidelines to be substantially achieved. Also, the Architectural Review Committee may approve plans and specifications that fail to comply with the requirements of this Declaration or the Design Guidelines if the Architectural Review Committee, in its sole and absolute discretion, determines that the failure is not material. The approval required of the Architectural Review Committee pursuant to this Article 3 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.

3.3 Construction of Improvements. Upon receipt of approval from the Architectural Review 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 Review Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Architectural Review Committee.

3.4 No Changes without Approval. Any construction, installation, addition, alteration, repair, change or other work approved by the Architectural Review Committee must be done or performed in accordance with the plans and specifications approved by the Architectural Review Committee. No change, deletion or addition to the plans and specifications approved by the Architectural Review Committee may be made without the prior written approval of the Architectural Review Committee.

3.5 Review Fee. The Architectural Review 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 Article 3, which fee shall be payable at the time the application for approval is submitted to the Architectural Review Committee. The fee charged by the Architectural Review Committee may include the actual or estimated fees or costs incurred or anticipated to be incurred by the Architectural Review Committee in consulting with an architect or engineer with respect to the plans submitted.

3.6 New Construction. All Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

3.7 No Warranty. The approval by the Architectural Review Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this Article 3 shall not be deemed a warranty or representation by the Architectural Review Committee as to the quality of such construction, installation, addition, alteration, repair, change or other work or that 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.

3.8 Conditional Approval. The Architectural Review Committee may condition its approval of plans and specifications upon the agreement by the Owner submitting such plans and specifications to furnish to the Association a bond or other security acceptable to the Architectural Review Committee in an amount determined by the Architectural Review Committee to be reasonably sufficient to (i) assure the completion of the proposed Improvements or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement; and (ii) repair any damage which might be caused to any Area of Association Responsibility as a result of such work. Provided there is no damage caused to any Area of Association Responsibility by the Owner or its agents or contractors, any such bond shall be released or security shall be fully refundable to the Owner upon (i) the completion of the Improvements in accordance with the plans and specifications approved by the Architectural Review Committee; and (ii) the Owner's written request to the Architectural Review Committee.

3.9 Improvements to Areas of Association Responsibility. If the plans and specifications pertain to an Improvement which is within an Area of Association Responsibility so that the Association is responsible for the maintenance, repair and replacement of such Improvement, the Architectural Review Committee may condition its approval of the plans and specifications for the proposed construction, installation, addition, alteration, repair, change or other work with respect to the Improvement on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.

3.10 Architectural Review Committee. The Board shall determine the number of members on the Architectural Review Committee, and the members of the Architectural Review Committee shall be appointed by the Board. A member of the Board shall at all times be a member of the Architectural Review Committee. The Board may adopt, amend and repeal architectural guidelines, standards and procedures to be used by the Architectural Review Committee rendering its decisions. Such guidelines, standards and procedures may include, without limitation, provisions regarding (i) the size and height of Residential Units, including limitations on the number of stories and levels of Residential Units; (ii) architectural design, with particular regard to the harmony of the design with the surrounding structures and topography; (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, exterior finishes and materials; (vi) signage; and (vii) perimeter and screen wall design and appearance.

ARTICLE 4. **USE RESTRICTION**

4.1 Residential Use. All Residential Units shall be used, improved and devoted exclusively to residential use. No trade or business may be conducted on any Lot or in or from any Single Family 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 or requirements for the Project; (iii) the business activity does not involve persons coming to the Lot or the door-to-door solicitation of Owners or other Residents in the Project; (iv) the use of the Residential Unit for trade or business in no way destroys or is incompatible with the residential character of the Residential Unit or the surrounding neighborhood; (v) the trade or business is conducted only inside the Residential Unit or inside an accessory building or garage, and does not involve the viewing, purchasing or taking delivery of goods or merchandise at, to, from or in any Residential Unit; (vi) the trade or business is conducted by a Resident or Residents of the Residential Unit with no employee working in or from such Residential Unit who is not a Resident thereof; (vii) the volume of vehicular or pedestrian traffic or parking generated by such trade or business does not result in congestion or be in excess of what is customary in a residential neighborhood; (viii) the trade or business does not utilize flammable liquids or hazardous materials in quantities not customary to a residential use; and (ix) the use of the Residential Unit for a trade or business does not violate any other provision of the Association Documents. 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 thereof shall not be considered a trade or business within the meaning of this Section.

4.2 Temporary Occupancy and Temporary Buildings. No trailer, recreational vehicle, base- ment of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of Improvements approved by the Architectural Committee shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailer or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Architectural Committee.

4.3 Nuisances; Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No condition shall be permitted to exist or operate upon a Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block,

lumber and other building materials will be piled only in such areas as may be approved in writing by the Architectural Committee. In addition, any construction equipment and building materials stored or kept on any Lot during the construction of Improvements may be kept only in areas approved in writing by the Architectural Committee, which may also require screening of the storage areas.

4.4 Diseases and Insects. No Person shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

4.5 Antennas. The installation, use or maintenance of any antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed on any Lot in accordance with the Design Guidelines. Except to the extent that the Federal Communications Act and the Regulations adopted pursuant to such Act (collectively, the "FCC Rules") prohibit prior approval for certain devices, no antenna, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed, installed, used or maintained on any Lot without the prior written approval of the Architectural Review Committee. If any FCC Rules modify or override a portion of the Design Guidelines, the remaining Design Guidelines shall remain in full force and effect.

4.6 Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, gas, earth or any earth substance of any kind.

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

4.8 Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot so as to be Visible from Neighboring Property.

4.9 Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures approved by the Architectural Review Committee. No provision of this 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 Review Committee.

4.10 Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot 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 written approval of the Architectural Review Committee.

4.11 Animals. Dogs, cats, parakeets or similar household birds may be kept on a Lot if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. All dogs, cats or other pets permitted under this Section shall be confined to an Owner's Lot, except that a dog may be permitted

to leave an Owner's Lot if such dog is at all times kept on a leash not to exceed six feet (6') in length and is not permitted to enter upon any other Lot. Any person bringing a dog onto the Common Area shall immediately remove any feces deposited on the Common Area by the dog.

No animal, bird, fowl, poultry or livestock shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any animal, bird, fowl, poultry, or livestock shall be maintained so as to be Visible from Neighboring Property. Upon the written request of any Owner, Lessee or Resident, the Board shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal, bird, fowl, poultry, or livestock is a nuisance or making an unreasonable amount of noise. Any decision rendered by the Board shall be enforceable in the same manner as other restrictions set forth in this Declaration.

The Board may adopt rules and regulations further restricting and governing animals within the Property, which rules may include, without limitation rules providing for the removal from the Property of a domestic pet which has bitten or attacked a person or other animal, has a propensity to attack persons or other animals or otherwise constitutes a threat to the safety of persons or other animals in the Property or which because of incessant barking or other behavior constitutes an unreasonable annoyance or nuisance to Owners and Occupants.

4.12 Machinery and Equipment. No 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 the Association may require for the operation and maintenance of the Project.

4.13 Signs. Except for signs constructed or erected by the Association, no signs whatsoever may be erected, posted or displayed on any Lot or the Common Area in a location that is Visible from Neighboring Property without the prior written approval of the Architectural Review Committee.

4.14 Further Subdivision, Property Restrictions, Rezoning and Timeshares. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, Lessee, or other Person 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 unless the application has been approved by the Board and the proposed use otherwise complies with this Declaration. No Lot shall be subjected to or used for any timesharing, cooperative, weekly, monthly or any other type of revolving or periodic occupancy by multiple owners, cooperators, licensees or timesharing participants.

4.15 Vehicles and Parking.

(a) As used in this Section 4.15, the term "Motor Vehicle" means a car, van, truck, recreational vehicle, motor home, motorcycle, all terrain vehicle, utility vehicle, pickup truck or other motor vehicle.

(b) No mobile home, travel trailer, tent trailer, trailer, camper shell, boat trailer or other similar

equipment or vehicle may be parked, kept or stored on any Lot or the Common Area without the prior written approval of the Board.

(c) Except as permitted by Subsection 4.15(d) or 4.15(e), no Motor Vehicle may be parked, kept or stored on any Lot or the Common Area without the prior written approval of the Board.

(d) Motor Vehicles owned or leased by an Owner, Guest, Lessee or Resident of a Lot must be parked in the garage of the Residential Unit unless there is insufficient space within the garage for the parking of all such Motor Vehicles, in which case such Motor Vehicles may be parked in the driveway situated on the Lot provided such Motor Vehicles do not exceed seven (7) feet in height and do not exceed eighteen (18) feet in length, are not used for commercial purposes and do not display any commercial name, phone number or message of any kind. No Motor Vehicle of any kind may be stored on a Lot except in a garage, and no Motor Vehicle of any kind may be stored on the Common Area. For purposes of this Subsection 4.15(d), a Motor Vehicle should be deemed stored if it is covered by a car cover, tarp or other material or is not moved for ninety (90) continuous calendar days. Recreational vehicles, motor homes and similar vehicles owned or leased by an Owner, Lessee or Resident which exceed seven (7) feet in height and/or exceed eighteen (18) feet in length may be parked in the driveway on a Lot for the purpose of loading or unloading, but in no event shall such recreational vehicle, motor home or similar vehicle be parked in the driveway for more than twenty-four (24) consecutive hours or for more than seventy-two (72) hours within any seven (7) day period.

(e) The Board of Directors shall have the right and power to adopt rules and regulations governing the parking of Motor Vehicles on Lots and the common Area and implementing the provisions of this Section 4.15. In the event of any conflict or inconsistency between the provisions of this Section 4.15 and the rules and regulations adopted by the Board of Directors, the provisions of this Section 4.15 shall control.

(f) No Motor Vehicle shall be constructed, reconstructed or repaired on any Lot or Common Area in such a manner as to be Visible from Neighboring Property, and no inoperable vehicle may be stored or parked on any Lot or Common Area in such a manner as to be Visible from Neighboring Property.

(g) The Board shall have the right to have any Motor Vehicle which is parked, kept, maintained, constructed, reconstructed or repaired in violation of the Association Documents towed away at the sole cost and expense of the owner of the Motor Vehicle. Any expense incurred by the Association in connection with the towing of any Motor Vehicle shall be paid to the Association upon demand by the owner of the Motor Vehicle. If the Motor Vehicle is owned by an Owner, 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 this Declaration for the collection of Assessment.

4.16 Variiances. The Architectural Review Committee may, with the approval of the Board, grant variances from the restrictions set forth in this Article 4 if the Architectural Review 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) the activity permitted under the variance will not have any substantial adverse effect on the Owners, Lessees and Residents of the Project and is consistent with the high quality of life intended for residents of the Project.

4.17 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 plans for the Project, or any part thereof, or for any Lot as shown on the drainage plans on file with Yavapai County.

4.18 Garages and Driveways. No garage shall be converted to living spaces or altered or used for purposes that would prevent the use of the garage for the parking of the number of vehicles for which it was designed. The interior of all garages shall be maintained in a neat, clean and slightly condition. Garage doors shall not exceed nine (9) feet in height.

4.19 Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residential Unit or other building so as to be Visible from Neighboring Property.

4.20 Basketball Goals and Backboards. No basketball goal or backboard shall be attached to a Residential Unit or other building. Basketball goals and backboards attached to a free-standing pole may be installed on a Lot provided the location, design and appearance of the basketball goal and backboard is approved in writing by the Architectural Review Committee.

4.21 Playground Equipment. No jungle gyms, swing sets or similar playground equipment which would be Visible from Neighboring Property shall be erected or installed on any Lot without the prior written approval of the Architectural Review Committee.

4.22 Rental of Lots. No Owner may lease less than his entire Lot and the Residential Unit situated thereon. All leases must be in writing and must provide that the terms of the lease are subject in all respect to the provisions of this Declaration and the Association Rules and that any violation of this Declaration or the Association Rules by the lessee or the other occupants shall be a default under the lease. There shall be no subleasing of Residential Units or assignments of leases. At least ten (10) days before commencement of the lease term, the Owner shall provide the Association with the following information (i) the commencement date and expiration date of the lease term; (ii) the names of each of the Lessees and each other person who will reside in the Residential Unit during the lease term; (iii) the address and telephone number at which the Owner can be contacted by the Association during the lease term; and (iv) the name, address and telephone number of a person other than the Owner whom the Association can contact in the event of an emergency involving the Lot. Any Owner who leases his Lot and the Residential Unit situated thereon must provide the Lessee with copies of this Declaration and the Association Rules. Any lease of a Lot or Residential Unit situated thereon must be for an initial term of at least six (6) months. The Owner shall be liable for any violation of this Declaration or the Association Rules by the Lessees or other persons residing in the Residential Unit and their guests or invitees and, in the event of any such violation, the Owner, upon demand of the Association, shall immediately take all necessary actions to correct any such violations. If the Owner has transferred the Owner's right of enjoyment of the Common Area to the Owner's Lessee, the Owner shall not have the right of enjoyment of the Common Area during that leasing period for that Lot.

4.23 Temporary Internet Antenna. Notwithstanding anything to the contrary contained in this Declaration or in the Amended and Restated Design Guidelines, the Board, at their discretion and from time to time, may approve the placement of and the use and maintenance of a backhaul antenna and related equipment on the Common Area or on any Lot within the Property for a period of up to twenty-four (24) months and under such terms and conditions as determined appropriate by the Board; provided that the placement and use and maintenance of a backhaul antenna and related equipment on an Owner's Lot shall be subject to the approval of the Owner of such Lot.

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 invested 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 Design Guidelines, 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. The members of the Board shall be elected or appointed as provided in the Bylaws. Unless the Association 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.

5.3 The Association Rules. The Board may, from time to time, and subject to the provisions of this 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, any recreational facilities situated upon the Areas of Association Responsibility; (ii) minimum standards for the Maintenance of Lots; or (iii) restrictions on the use of Lots. The Board may establish reasonable fees and charges for the use of property subject to its control and administration. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this 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 this Declaration.

5.4 Personal Liability. No director or officer of the Association, no member of the Architectural Review Committee or of any committee of the Association, and no other person acting on behalf of the Board shall be personally liable to any Member, or to any other Person for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence in the discharge of such person's duties and responsibilities under the Association Documents provided such person acted in good faith.

5.5 Implied Rights. The Association may exercise any right or privilege given to the Association expressly by the Association 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 Association 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 ceases for any reason, at

which time his membership in the Association shall automatically cease.

5.7 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 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 thereafter 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 Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

5.8 Transfer of Membership. The rights and obligations of any Member 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, intestate 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.

5.9 Conveyance, Lease or Encumbrance of Common Area.

(a) Except as provided in Subsection 5.9(b) of this Declaration, the Common Area shall not be mortgaged, transferred, dedicated or encumbered without the prior written consent or affirmative vote of the Owners representing at least two-thirds (2/3) of the votes entitled to be cast by Members of the Association.

(b) The Association may dedicate parts of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as the Board may determine to be in the best interests of the Association. The Association may grant permits, licenses and easements on, over, under and through the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Property.

5.10 Suspension of Voting Rights. If any Owner fails to pay any Assessments or other amounts due to the Association under the Association Documents within fourteen (14) days after such payment is due or if any Owner violates any other provision of the Association Documents and such violation is not cured within fifteen (15) days after the Association notifies the Owner of the violation, the Board shall have the right to suspend such Owner's right to vote until such time as all payments, including interest and attorneys' fees, are brought current, and until any other infractions or violations of the Association Documents are corrected.

ARTICLE 6.
COVENANT FOR ASSESSMENTS AND CREATION OF LIEN

6.1 Creation of Lien and Personal Obligation of Assessments. Each Owner, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments to the Association in accordance with this Declaration. All Assessments shall be established and collected as provided in this Declaration. The Assessments, together with interest, late charges and all costs, including but not limited to reasonable

attorneys' 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 attorneys' 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. No Owner shall be exempt from liability for Assessments because of such Owner's non-use of the Common Area, abandonment of such Owner's Lot or other circumstance. The obligation to pay Assessments is a separate and independent obligation on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association, the Board or the Architectural Review Committee to take some action or perform some function required of it.

6.2 Annual Assessments.

(a) For each Assessment Period, the Board shall prepare and adopt a budget for the Association containing an estimate of the total amount of funds which the Board believes will be required during the applicable Assessment Period which shall serve as the basis for determining the Annual Assessments for that Assessment Period. The budget shall contain the estimated Common Expenses for the applicable Assessment Period and the estimated income to the Association other than from Assessments and reflect the amount reasonably estimated by the Board to be required in order for the Association to be able to pay all Common Expenses during the Assessment Period. Based upon the applicable budget adopted by the Board, the Board, for each Assessment Period, shall assess against each Assessable Lot an annual Assessment which shall be set at an equal amount for each Assessable Lot. Provided that Lots 1, 2 and 3 shall be assessed one half of the Assessment for Common Expenses established for all other lots. Lots 1, 2 and 3 shall not be considered Assessable Lots for purposes of assessing Special Assessments, but will be considered Assessable Lots for purposes of Service Assessments.

(b) The Board shall give notice of the Annual Assessment and Service Assessment to each Owner at least thirty (30) days prior to the beginning of each Assessment Period, but the failure to give such notice shall not affect the validity of the Annual Assessment or Service Assessment established by the Board nor relieve any Owner from its obligation to pay the Annual Assessment or Service Assessment. If the board fails to adopt a budget for any Assessment Period, then until and unless such budget is adopted and an Annual Assessment and Service Assessment are levied by the Board for such Assessment period, the amount of the Annual Assessment and Service Assessment for the immediately preceding Assessment Period shall remain in effect. Unless approval or ratification of the budget or Annual Assessment, for any Assessment Period is required by law, neither the budget nor Annual Assessment shall be required to be ratified or approved by the Members. 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, the Board may amend the budget and increase the Annual Assessment for that Assessment Period and the revised Annual Assessment shall commence on the date designated by the Board.

6.3 Special Assessments. The Association may levy against each Assessable Lot 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. Any Special Assessment shall be levied in an equal amount for each Assessable Lot.

6.4 Assessment Period. The period for which the Annual Assessment is to be levied (the “Assessment Period”) shall be the calendar year. The Board in its sole discretion from time to time may change the Assessment Period.

6.5 Rules Regarding Billing and Collection Procedures. Annual Assessments shall be collected on an annual basis or such other basis as may be selected by the Board. 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 such Member’s liability for any Assessment or charge under this Declaration, but the Assessment Lien therefore 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 installment 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 prepayments, on a prorated basis, made by prior Owners.

6.6 Effect of Nonpayment of Assessments; Remedies of the Association.

(a) Any Assessment, or any installment of an Assessment, not paid within fourteen (14) 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 set 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 fifteen (15) calendar days after such payment was due.

(b) 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 costs, title report fees, costs and fees charged by any 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 whether or not suit is filed by the Association; (v) any amounts payable to the Association pursuant to Section 7.3 or 7.4 of this Declaration; and (vi) any other amounts payable to the Association pursuant to the Association Documents. 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 attorneys' 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, and all other amounts secured by the Assessment Lien. Each default shall constitute a separate basis for a demand, but any number of defaults may be included within the single demand. If the amounts

specified in the demand are not paid within thirty (30) days after delivery of the demand, the Association may proceed with recording a Notice of Lien against the Lot. If the Association records a Notice of Lien, the Association may charge the Owner of the Lot against which the Notice of Lien is Recorded a lien fee in an amount established from time to time by the Board.

(c) 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. 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 Assessments and charges against the Lot which accrue prior to such sale or transfer shall remain the obligation of the defaulting Owner of the Lot.

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

(e) 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 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.

6.7 Purposes for which Association's Funds May Be Used. The Association shall use 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) solely for the purpose of (i) discharging and performing the Association's duties and obligations under the Association Documents; (ii) exercising the rights and powers granted to the Association by the Association Documents; and (iii) the common good and benefit of the Project and the Owners, Lessees and Residents. In furtherance of such purposes, the Association may use funds and property of the Association for, among other things, the acquisition, construction, alteration, maintenance, provision and operation, by any manner or method whatsoever, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Project, which may be necessary, desirable or beneficial to the general common interests of the Project, the Owners, Lessees and Residents.

6.8 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 balances 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.

6.9 Transfer Fee. Each Person who purchases 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 to compensate the Association for the administrative cost resulting from the transfer of a Lot. The transfer fee is not intended to compensate the Association for the costs incurred in the preparation of the statement which the Association is required to mail or deliver to a purchaser under A.R.S. § 33- 1806A and, therefore, the transfer fee shall be in addition to the fee which the Association is entitled to charge pursuant to A.R.S. § 33-1806C.

6.10 Service Assessments. In addition to Common Expenses, the Board may assess a Service Assessment in order to provide expanded or improved services which the Board reasonably believes will improve the use and enjoyment of the property as well as enhancing the value of the Members' property. The Board may determine in its sole discretion the Service Assessment by dividing the cost of the Service either by the number of Assessable Lots or by the number of Assessable Lots (including lots 1, 2 and 3) with residential structures on them, provided that any Service Assessment shall have the assent of two-thirds of the votes entitled to be cast by Members who are voting in person or by absentee ballot at a meeting duly called for such purpose. The Service Assessment may be pro-rated to allow for the completion of a residential structure during the Annual Assessment Period.

ARTICLE 7. **MAINTENANCE**

7.1 Areas of Association Responsibility. The Association, or its duly delegated representative, shall be responsible for the management and Maintenance of the Common Area, and all Improvements located thereon, except for any part of the Common Area which any governmental entity is maintaining or is obligated to maintain. The Board shall be the sole judge as to the appropriate Maintenance of all Areas of Association Responsibility, but the Areas of Association Responsibility, and the Improvements located thereon, shall be maintained in good condition and repair at all times. No Owner, Resident or other Person shall construct or install any Improvements on the Areas of Association Responsibility or alter, modify or remove any Improvements situated on the Areas of Association Responsibility without the approval of the Board. No Owner, Resident or other Person shall obstruct or interfere with the Association in the performance of the Association's management or Maintenance of the Areas of Association Responsibility, and the Improvements located thereon.

7.2 Lots. Each Owner of a Lot shall be responsible for the Maintenance of his or her Lot, and all buildings, Residential Units, landscaping or other Improvements situated thereon, except for any portion of the Lot, or any Improvement situated thereon, 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 cultivated 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. Trees, shrubs, vines, plants and grass which die shall be removed. No yard equipment, woodpiles or storage areas may be maintained so as to be Visible from Neighboring Property or streets. All Lots upon which no Residential Units, buildings or other structures, landscaping or Improvements have been constructed shall be maintained in a natural manner.

7.3 Assessment of Certain Costs of Maintenance and Repair. In the event that the need for Maintenance of an Area of Association Responsibility is caused through the willful or negligent act of

any Owner, his family, tenants, guests or invitees, the cost of such Maintenance shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

74 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 Project 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 its obligations under the Association Documents, the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fourteen-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 reasonably available, the following insurance coverage:

- (a) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than one million dollars (\$1,000,000). 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 Project which the Association is obligated to maintain under this Declaration, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group or an Owner;
- (b) 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 insurable 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, foundations and other items normally excluded from a property policy.
- (c) Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners;
- (d) The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of 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 of 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) statement 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 mortgage 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 not be cancelled until thirty (30) days after notice of the proposed cancellation has 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 Association 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 two-thirds (2/3) of the total authorized votes in the Association vote not to repair or replace the damaged or destroyed Improvements. 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 affirmative vote or written consent, or any combination thereof, of Members representing more than fifty percent (50%) of the votes in the Association.

ARTICLE 9. **GENERAL PROVISIONS**

9.1 Enforcement. The Association or any Owner shall have the right to enforce the Association Documents in any manner provided for in the Association Documents or by law or in equity, including, but not limited to, an action to obtain an injunction to compel removal of any Improvements constructed in violation of this Declaration or to otherwise compel compliance with the Association Documents. The failure of the Association or an Owner to take enforcement action with respect to a violation of the Association Documents does not imply acceptance of the violation, shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce the Association Documents in the future. If any lawsuit is filed by the Association or any Owner to enforce the provisions of the Association Documents or in any other manner arising out of the Association Documents or the operations of the Association, the prevailing party in such action shall be entitled to recover from the other party all attorney fees incurred by the prevailing party in the action. In addition to any other rights or remedies available to the Association pursuant to the Association Documents or at law or in equity, the Board shall have the power to levy reasonable monetary penalties against an Owner for a violation of the Association Documents by the Owner, a Lessee of the Owner or, in the case of a Residential Lot, by a Resident of the Owner's Lot, provided the Owner is given notice and an opportunity to be heard.

9.2 Duration; Termination. The covenants, conditions, restrictions and easements contained in this Declaration shall run with the land and bind the Property and be in full force and effect in perpetuity unless terminated pursuant to this Section or amended as provided in Section 9.3 of this Declaration. 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. If the necessary votes and consents are obtained, the Board shall cause to be Recorded a Certificate of Termination, duly signed by the President and attested by the Secretary of the Association, with their signatures acknowledged. Thereupon this Declaration shall have no further force and effect, and the Association shall be dissolved pursuant to the terms set forth in its Articles.

9.3 Amendments.

(a) In addition to amendments made pursuant to Subsection 9.3(b) or 9.3(d) of this Declaration, the Declaration may be amended at any time by the written approval or the affirmative vote, or any combination thereof, of Owners of not less than seventy-five percent (75%) of the Lots.

(b) The Board may amend this Declaration without the consent of any other Owner for the purposes of correcting technical or clerical errors.

(c) Any amendment approved pursuant to Subsection 9.3(a) of this Declaration or by the Board pursuant to Subsection 9.3(b) or 9.3(d) of this Declaration shall be signed by the President or Vice President of the Association and shall be Recorded, and 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 amendment to this Declaration shall be effective upon the Recording of the amendment.

(d) Any challenge to an amendment to this Declaration for the reason that the amendment was not adopted by the required number of Owners or was not adopted in accordance with the procedures set forth in this Section must be made within one (1) year after the Recording of the amendment.

9.4 **Rights of First Mortgagees.**

(a) Any First Mortgagee will, upon written request, be entitled to (i) inspect the books and records of the Association during normal business hours; (ii) receive within ninety (90) days following the end of any fiscal year of the Association, a financial statement of the Association for the immediately preceding fiscal year of the Association, free of charge to the requesting party; and (iii) receive written notice of all meetings of the Members of the Association and be permitted to designate a representative to attend all such meetings.

(b) No Lot shall be partitioned or subdivided without the prior written approval of the holder of any First Mortgage on such Lot.

(c) Unless at least two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage owned) or Owners (other than the sponsor, developer or builder) of at least two thirds (2/3) of the Lots have given their prior written approval, the Association shall not be entitled to:

(i) Seek to abandon, partition, subdivide, sell or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Lots. The granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this Subsection;

(ii) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(iii) Change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots or the maintenance of the Common Area;

(iv) Fail to maintain coverage on common area or current replacement cost basis in an amount of at least one hundred percent (100%) of insurable value;

(v) Use hazard insurance proceeds for losses to any Common Area, other than the repair, replacement or reconstruction of such Common Area.

(d) No provision of this Declaration gives or shall be construed as giving any owner or other Person priority over any rights of a First Mortgagee of a Lot in the case of the distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Area.

(e) Any First Mortgagee who receives a written request from the Board to respond to or

consent to any action requiring the consent of the First Mortgagee shall be deemed to have approved such action if the Association has not received a negative response from such First Mortgagee within thirty (30) days of the date of the Association's request.

(f) In the event of any conflict or inconsistency between the provisions of this Section and any other provision of the Association Documents, the provisions of this Section shall prevail; provided, however, that in the event of any conflict or inconsistency between the provisions of this Section and any other provisions of the Association Documents with respect to the number or percentage of Owners or First Mortgagees that must consent to (i) an amendment of the Declaration, Articles or Bylaws; (ii) a termination of the Project; or (iii) certain actions of the Association as specified in Subsection 10.4(c) of this Declaration, the provision requiring the consent of the greatest number or percentage of Owners or First Mortgagees shall prevail; provided, however, that the Board, without the consent of any Owner or First Mortgagee being required, shall have the right to amend this Declaration, the Articles of the Bylaws in order to conform this Declaration, the Articles or the Bylaws 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 Project, the Plat or the Association Documents is required or requested by the Board.

9.5 Condemnation of Common Area. If all or any part of the Common Area is taken or condemned, or conveyed by the Association in lieu of or under threat of such condemnation with the written consent or affirmative vote of Owners representing at least eighty percent (80%) of the votes in the Association, by or to any authority having the power of condemnation or eminent domain, the award or other compensation paid as a result of such taking or conveyance shall be paid to the Association. If the taking involves a portion of the Common Area upon which Improvements have been constructed, then the Association shall construct replacement Improvements on the remaining Common Area to the extent land is available for such construction, unless within sixty (60) days after such taking the owners having at least eighty percent (80%) of the votes in the Association, by written consent or affirmative vote, or any combination thereof, instruct the Board not to build replacement Improvements. If such replacement Improvements are to be constructed, then the Association shall be entitled to use the award or other compensation made for such taking solely for the purpose of such construction. If the taking does not involve any Improvements on the Common Area or if the Owners representing more than eighty percent (80%) of the votes in the Association decide not to construct any replacement Improvements or if there are any net funds remaining after such construction is completed, then such awarded net funds shall be retained by the Association and used for such purposes as may be determined by the Board.

9.6 Interpretation. Except for judicial construction, the Association 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 Association'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, Association Rules or Design Guidelines, this Declaration shall control. In the event of any conflict between the Articles and the Bylaws, the Articles shall control. In the event of any conflict between the Bylaws and the Association Rules or the Design Guidelines, the Bylaws shall control.

9.7 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 hereof.

9.8 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.

9.9 Notice of Violation. The Association shall have the right to record a written notice of a violation by any Owner, Lessee or Resident of any restriction or other provision of the Association 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, Lessee or Resident violating, or responsible for the violation of, the Association 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. Failure by the Association to Record a notice of violation shall not constitute a waiver of any such violation, 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 Association Documents.

9.10 Laws, Ordinances and Regulations.

(a) 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 Review 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, and compliance with this Declaration shall not relieve an Owner or any other person from the obligation to also comply with all applicable laws, ordinances and regulations.

(b) 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 or all of the enforcement procedures set forth herein.

9.11 References to this Declaration in Deeds. Deeds to and instruments affecting any Lot or any other part of the Project 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 any instrument and his heirs, executors, administrators, successors and assignees.

9.12 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.

9.13 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 or to be used in determining the intent of context thereof.

9.14 No Absolute Liability. No provision of the Association Documents shall be interpreted or construed as imposing on Owners absolute liability for damage to the Common Area or the Lots. Owners shall only be responsible for damage to the Common Area or Lots caused by the Owners' negligence or intentional acts.

IV.

**AMENDED AND RESTATED DESIGN GUIDELINES OF
HIGHLAND ESTATES IMPROVEMENT ASSOCIATION**

**INCLUDING ALL AMENDMENTS ADOPTED
THROUGH OCTOBER 2018**

DESIGN GUIDELINES

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AMENDED AND RESTATED DESIGN GUIDELINES OF HIGHLAND ESTATES IMPROVEMENT ASSOCIATION

ARTICLE 1. DEFINITIONS

- 1.1 “**ARC**” shall mean the Architectural Review Committee whose duty is to adopt Design Guidelines and to consider and act on design proposals or plans pursuant to such Design Guidelines.
- 1.2 “**Association**” shall mean the Highland Estates Improvement Association, an Arizona non-profit corporation, and its successors and assigns.
- 1.3 “**Board**” shall mean the Board of Directors for the Association.
- 1.4 “**Builder**” shall mean any person or entity engaged by an Owner or who may also be one and the same, for the purpose of constructing any Improvement within Highland Estates.
- 1.5 “**Common Areas**” shall mean all real property, all easements and licenses, and all property and facilities owned by the Association for the common use and enjoyment of the Owners.
- 1.6 “**County**” shall mean Yavapai County, Arizona.
- 1.7 “**Covenants, Conditions and Restrictions (CC&Rs)**” are the legal documents by which residential development within Highland Estates is bound.
- 1.8 “**Design Guidelines**” shall mean the restrictions, review procedures, and construction regulations adopted and enforced by the ARC as set forth herein, as the same may be amended from time to time.
- 1.9 “**Excavation**” shall mean any disturbance to the land including trenching, but excluding tree salvage and planting operations.
- 1.10 “**Fill**” shall mean the addition of soil, rock, or other materials to increase the natural elevation of the land.
- 1.11 “**Home**” shall mean any building, or part thereof, situated on a Lot and intended for use and occupancy as a residence for a Single Family.
- 1.12 “**Improvement**” shall mean any changes or alterations to any Lot, site, or residential structure

within Highland Estates.

1.13 “**Landscape Project**” shall mean any project which alters the natural or current landscape, including: any road, driveway or parking area; any trees, plants, shrubs, grass or other landscaping improvements of any type and kind; any statuary, fountain, artistic work, craft work, figurine or ornamentation of any type or kind.

1.14 “**Lot**” shall mean and refer to a residential Lot into which any part of Highland Estates property is subdivided as set forth in any subdivision plats now recorded or to be recorded in the future.

1.15 “**Member**” shall mean any person entitled to membership in the Association.

1.16 “**Natural Area**” shall mean those portions of Highland Estates which shall remain undisturbed or if disturbed to accommodate streets, paths, building pads, or other Improvements, shall be revegetated to match the native landscape.

1.17 “**Owner**” shall mean the person or persons who individually or collectively own a fee title to a Lot within Highland Estates.

1.18 “**Single Family**” shall mean a group of individuals related by blood, marriage, or legal adoption, or a group of not more than three unrelated individuals maintaining a common household.

1.19 “**Visible from Adjacent Property**” shall mean, with respect to any given object, that such object is or would be visible to a six-foot tall individual standing at the same natural grade at which the object is standing level on the adjacent property.

1.20 “**Building Envelope**” shall mean the buildable area on the Lot which is set forth in 6.4.1 of the Guidelines as follows: Front and rear setbacks shall be a minimum of forty (40) feet each. Corner lots shall have a minimum setback of forty (40) feet from all roads regardless of the location of the designated front. Side setbacks shall be a minimum of twenty- five (25) feet except for corner lots as noted above. In the case of lots adjacent to Forest Service boundaries, modified setbacks may be considered, on a case by case basis, by the ARC.

1.21 “**Approval Process**” shall mean one of two paths FOR ARC TO accept a proposed Landscape or Building project. ALL PROJECTS MUST BE SUBMITTED TO ARC FOR EVALUATION as noted in article 4.

1.22 “**Interior Remodeling**” shall not be included in the Approval Process, no approval will be necessary.

ARTICLE 2. PHILOSOPHY

The design and building of a home should be a pleasant and memorable experience that allows for some individuality in expression. Because Highland Estates is a mature subdivision for this region, there is not currently, nor is there desired, uniformity in home design. Nevertheless, ours is a unique environment of red rocks and native vegetation into which homes are to be incorporated rather than imposed. It is our desire that homes be built into and blend with the land in profile, texture, and color. The Architectural Review Committee (ARC) is charged by our residents and the Board of Directors of Highland Estates to review and approve all new building and all exterior modifications of existing structures in order to accomplish these goals. They, as well as this document, are also a resource for information on building in this environment for those arriving from regions with different living conditions.

All owners of property within Highland Estates are strongly encouraged to familiarize themselves with the Declaration of Restrictions on record with Yavapai County as well as the Design Guidelines contained in this document. These directives are the grounds for decisions by the ARC of the Highland Estates Improvement Association.

In the course of their activities the ARC will give particular attention to:

- Compatibility of design with our local environment
- Impact on views from adjacent property and roads
- Retention of native vegetation

ARTICLE 3. INTRODUCTION

The intent of the Design Guidelines is to create a landscape and architectural character which is consistent with this community, and its geographic nature.

All development plans are subject to review and approval by the Highland Estates Improvement Association (HEIA) Architectural Review Committee (ARC). In addition, all development is subject to the approved Covenants, Conditions, and Restrictions (the CC&Rs) as well as applicable County ordinance.

ARTICLE 4. REVIEW AND APPROVAL PROCESS

ALL PROJECTS, NEW CONSTRUCTION, REMODELING OR LANDSCAPING, MUST BE SUBMITTED TO ARC. Once submitted in writing (emailed submittals for ARC’s preliminary viewing are acceptable) ARC will follow one of two paths:

1. If the project is deemed by ARC to have no effect (will not have an impact when “Visible from Adjacent Properties”) there will be no need to submit to the following process and forms will not be needed. ARC will then approve or as for changes via written answer or email. (This includes, but not limited to, painting the home the existing color, replacing or repairing roofing with the same materials, adding some items to the landscape.)

If the project is deemed to have an impact on the adjacent properties (“Visible from Adjacent Properties”), then all of the following steps will be followed, and forms returned to ARC.

4.1 Review Process. In order to assist Owners in taking full advantage of the unique opportunities of their Lots in the planning and design of their Home, a design review process administered by the ARC has been established. Under the Declaration, the ARC is charged with the responsibility of maintaining the standards set forth in the Design Guidelines. In its ongoing attempt to achieve the highest possible quality

in Highland Estates, the ARC may modify or create additional guidelines, policies, or procedures. Not reporting changes in current plans or to existing homes, including renovation, remodeling, landscape alterations, (Landscape Projects.) etc., to the ARC could result in a fine to be determined by the Board.

In general, the design review process is divided into five phases:

- Pre-Design Meeting
- Preliminary Submittal
- Final Submittal
- Construction Approval
- Final Construction Review

4.1.1 It is required that an Owner retain services of an Architect for planning and design. A thorough analysis and understanding of a particular Lot and the Owner's special needs and the skill to translate that into building form, as well as the ability to convey to the ARC the concept and design of a proposed Home or other Improvements, are all important elements of the design review process.

4.1.2 The design review process was developed to provide adequate checkpoints along the way in an effort to minimize time and money spent on designs which do not adhere to the Design Guidelines or to the overall philosophy of the Highland Estates Improvement Association. Each Owner is directly responsible for complying with the Guidelines, and all other applicable provisions of the Declaration, as well as all rules and regulations of the County or any other governmental authority, in order to bring the design review process to a speedy and satisfactory conclusion.

4.1.3 The ARC will conduct reviews of projects as needed. The ARC will respond in writing to the Applicant no later than thirty (30) days after a submittal has been reviewed by the committee. All official actions, responses, and communications from the ARC or any of its members will be conveyed in writing. Any responses an Owner may wish to make in reference to issues contained in the ARC notice following review of submittals shall be addressed to the ARC in writing.

4.2 **Submittal Process.** Although the ARC will enforce all provisions of the Design Guidelines, the following will be of particular concern:

4.2.1 Siting of the home to be sensitive to views and privacy from other Lots or open spaces.

4.2.2 Architectural character of buildings as viewed from all sides. The massing, texture, and materials of the design are critical.

4.2.3 Building heights and masses.

4.2.4 Finished floor elevations and Cut and Fill conditions.

4.2.5 Exterior elevations of the home, including a high level of aesthetic quality and the use of multiple materials, including stone.

4.2.6 Setbacks.

4.2.7 Exterior paint and natural material colors, as well as color usage and distribution.

4.2.8 Landscape character and plant materials appropriate to the environment.

4.3 **Pre-Design Meeting.** It is highly recommended that the Owner(s) meet with the ARC to discuss the home and explore and resolve any questions regarding building requirements in Highland Estates. Any amendments to these Guidelines, as well as the current policies and procedures, may be obtained at this time.

4.4 **The Preliminary Submittal.** Preliminary drawings, including all exhibits outlined below, must be submitted to the ARC. These documents are to be completed for all new construction whether from ground up, Remodeling or Landscape Projects. One complete set of all plans, specifications, or other materials submitted to the ARC for consideration may be retained by the Association. Preliminary Submittals shall include:

4.4.1 The Application Form with all information completed. An Application Fee of one hundred (\$100) is due with this and each subsequent set of plans.

4.4.2 A Survey at no less than 1"= 20' showing Lot boundaries and dimensions, easements, setbacks, centerline of adjacent streets, utility tap locations, existing surface contours at one to five feet intervals, major terrain features such as washes, and all vegetation with trunks of three (3) inches or greater that will be removed during construction or that are within twenty (20) feet of the proposed Improvements. Within the footprint of the planned Home or Improvements, the survey must show contours of two foot elevation changes. Each Owner submitting drawings for approval to the ARC shall be responsible for the accuracy of all information contained therein.

4.4.3 A Site Plan at the same scale indicated above showing the graphic locations and the numerical area calculations of the planned home and/or Improvements. Included should be horizontal ties to the property lines and property corners, driveway, centerline of adjacent streets, parking areas, patios, pools, walls, retaining walls, proposed utility service facilities and routes, site grading including existing and proposed contours, proposed drainage improvements, and topographic features such as washes, rock outcroppings and existing trees and major shrubs to be retained or relocated, and elevations of all building floors, patios, and terraces, shown in relation to site contour elevations. The removal of any vegetation with trunks larger than three (3) inches requires ARC approval.

4.4.4 Exterior Elevations of all sides of the home and/or Improvements in relation to existing topography, at the same scales as the floor plans, identifying all structure heights, delineating both existing and proposed grade lines and designating all exterior materials and general colors. Color selections may be general and not specific for the Preliminary Submittal.

4.4.5 To assist the ARC in its evaluation of the Preliminary Submittal, the Owner shall provide preliminary staking of the footprint of the Home or an Improvement. The stakes are to be connected by chalk lines.

4.4.6 A schedule of required inspections by the ARC will be provided.

4.5 **Final Submittal.** These submittals will be required for Ground Up and Remodeling Construction as well as Landscape Projects. Final submittals shall include:

4.5.1 The Application Form with updated information.

4.5.2 Four (4) copies of the Final Plan certified by an architect registered in the State of Arizona.

4.5.3 Samples of all exterior materials and colors, as well as window and glass specifications.

4.5.4 A complete Landscape Plan at the same scale as the survey showing proposed contours and grading.

4.5.5 A Hydrology Report performed by a civil engineer registered in the State of Arizona if required by the ARC.

4.5.6 An approximate milestone construction schedule indicating dates for (a) start of construction; (b) completion of slab/foundations; (c) completion of framing; (d) completion of exterior wall surfaces; (e) completion of roofing; (f) completion of all construction; (g) anticipated utility hook-up; (h) completion of landscaping; and (i) anticipated occupancy.

4.5.7 Accompanying information shall include the names, addresses and phone numbers of the Owner(s), architect, and Builder as well as the Lot and Parcel numbers.

4.6 **Final Submittal Approval.** Upon receipt of the complete Final Submittal, the ARC will review the submittal for conformance to the Design Guidelines and to any stipulations by the ARC resulting from review of the Preliminary Submittal. The ARC will provide a written response. If approved, the ARC will provide a Construction Permit. Neither site preparation nor construction may commence until that Permit is obtained.

4.6.1 Prior to beginning construction, or in the case of an extensive Landscape Project where heavy

machinery will be in use, a security deposit of between two thousand five hundred dollars (\$2,500.00) and five thousand dollars (\$5,000) will be required depending on the size of the scope of the work. Request for approval must be made to ARC, and ARC will determine the amount of the deposit required. These funds will be utilized to repair any damage to roads, Common Areas or adjacent properties, if any, caused by the Owner or his agents during the course of construction as well as to pay for periodic inspections by consulting architects or engineers, should they be required by the ARC. Upon final inspection and approval of the project by the ARC, any residual funds will be returned to the Owner. If, in the course of construction, the amount of expenses incurred exceeds the amount of the deposit, whether due to inspections or damage to roads, the homeowner will be required immediately to make a further deposit to bring the amount being held by ARC to an amount necessary to cover the projected costs.

4.7 Construction Approval. Obtaining plan approval from the County and securing of a building permit is the responsibility of the Owner and/or builder. Such approval by the County and issuance of a building permit does not constitute approval by the ARC on behalf of the Association. Construction shall be in accordance with the Final Submittal approved by the ARC. Any changes resulting from the County approval process must be submitted to the ARC for review.

4.8 Additional Construction and/or Exterior Changes. Any exterior changes to the approved drawings before, during, or after the construction of a home or improvement must first be submitted for review and approval by the ARC. Failure to do so may result in the removal and reconstruction of nonconforming portions at the expense of the Owner.

4.9 Resubmittal of Drawings. In the event of disapproval by the ARC of either a Preliminary Submittal or Final Submittal, any resubmission of drawings must follow the same procedure as the original submittal. A resubmittal fee of one hundred dollars (\$100) is required.

4.10 Commencement of Construction. Upon receipt of a Construction Permit from the ARC, the Owner must commence construction within one (1) year from the date of issuance of the Permit. If the Owner fails to comply with that deadline, any approval/Permit shall be deemed revoked unless, upon written request of the Owner made to the ARC within that one year period and upon a determination by the ARC that there has been no change in circumstances, the time for commencement of construction may be extended in writing by the ARC. Once construction has commenced, the Owner has one year to complete construction except when such completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, or natural calamities. An additional six month interval is allowed for completion of all Landscaping. If the Owner fails to comply with this paragraph, the ARC may notify the Board of Directors of such failure and the Association, at its option, may complete the exterior in accordance with the approved drawings or remove the Improvement(s), and the Owner shall reimburse the Association for all expenses incurred in connection therewith.

4.10.1 Property must be fenced during construction when the ARC deems it necessary.

4.10.2 A dumpster and port-o-potty will be provided on each job site where the ARC deems it necessary.

4.11 Final Construction Review. Upon completion of any Home or Improvement for which an ARC Construction Permit was provided, the Owner shall give written notice of completion to the ARC prior to occupancy by the Owner.

4.11.1 Within such reasonable time as the ARC may determine, but in no case exceeding thirty (30) days, the ARC shall review the Home and/or Improvement. If it is found that the work was not done in compliance with the approved Final Submittal, the ARC may notify the Owner in writing of such non-compliance, specifying in reasonable detail the particulars of non-compliance, and may require the Owner to remedy the same.

4.11.2 If, after receipt of Written Notice of Completion from the Owner, the ARC fails to notify the Owner of any failure to comply within the provided period following ARC review, the Home or Improvement shall be deemed to be in compliance with the approved Final Submittal.

4.12 Non-Waiver. The approval of the ARC of any drawings or specifications for any work done or proposed, or in connection with any other matter requiring such approval under these Design Guidelines or the Declaration, including a waiver by the ARC, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar drawing, specification, or matter whenever subsequently or additionally submitted for approval or of a non-conforming design or aspect that has not been identified earlier. For example, the ARC may disapprove an item not in conformance with the Design Guidelines shown on the Final Submittal even though it may be evident and could have been disapproved at the Preliminary Submittal.

4.13 Right of Waiver. The ARC reserves the right to waive or vary any of the procedures or standards set forth herein at its discretion.

ARTICLE 5. ARCHITECTURAL REVIEW COMMITTEE

5.1 Duties. The duty of the Architectural Review Committee is to adopt Design Guidelines and to review and approve design proposals or plans pursuant to such Design Guidelines and to perform the other such duties prescribed to the ARC in the CC&Rs.

5.2 Membership. Membership on the ARC is established by the HEIA Board of Directors.

5.3 Meetings. The ARC may meet from time to time as necessary to properly perform its duties. The vote or written consent of a majority of its members (with or without a meeting) shall constitute the act of the ARC. The ARC shall keep and maintain a record of all actions taken by the committee from time to time.

5.4 Compensation. Unless authorized by the Board, the members shall not receive any compensation

for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in the course their duties. Professional consultants retained by the ARC shall be paid such compensation as the ARC determines.

5.5 Amendment of Guidelines. The ARC may, from time to time, amend, supplement, and repeal all or any portion of these Guidelines with approval of the Board. Owners will be notified in writing by the Association of any such changes.

5.6 Reporting and Appeals. The Committee will maintain a reporting relationship to the Board. If necessary, decisions made by the ARC may be appealed to the Board.

5.7 Non-Liability. Neither the ARC nor the Board, nor any member of either, nor the Association shall be liable to any other Person for any damage, loss, or prejudice suffered or claimed on account of:

- the approval, disapproval, or failure to approve any plans, drawings, or specifications, whether or not defective;
- the construction or performance of any work, whether or not pursuant to approved plans, drawings, or specifications;
- the development, or manner of development, of any property within Highland Estates;
- the execution and filing of an estoppel certificate whether or not the facts therein are correct; provided, however, that such member has, with actual knowledge possessed by him or her, acted in good faith.

5.7.1 Every Owner or other person who submits plans to the ARC agrees, by submission of such plans and specifications, that he or she will not bring any action or suit against the ARC or any member thereof to recover damages. Approval of the ARC, or any member thereof, shall not be deemed to be a representation or warranty that the Owner's plans or specifications or the actual construction of a home or other improvement complies with applicable government ordinances or regulations, including, but not limited to, zoning ordinances and local building codes. It shall be the sole responsibility of the Owner or other person submitting plans to the ARC or performing any construction to comply therewith.

ARTICLE 6. **SITE DEVELOPMENT GUIDELINES**

The natural topography, vegetation, and environment in Highland Estates are unique and require special and detailed attention to site design and development. Each lot has its own unique features of topography, slope, views, drainage, vegetation, and access that need to be analyzed in the design process. The Committee stresses the importance of sensitivity in the design of the site and Home so that each home responds to the natural characteristics of each specific Lot. Given this requirement to be site- specific, it is important to realize that designs that work on one Lot may not on another. The following site development guidelines deal with issues of siting, grading, excavation, and landscaping. The natural landscape is fragile and may take years to naturally mitigate impacts of disturbance, therefore HEIA has developed regulations intended to provide protection of the natural areas.

6.1 The Building Footprint. The footprint is that portion of each Lot inside the structural walls supporting the home. Hardscape development outside of the footprint and its proximate areas should be minimized and follow other pertinent sections of these Guidelines. While retaining walls may be appropriate, particularly when “cut and fill” is utilized, Lot perimeter walls and fences are prohibited.

6.2 Natural Area. The Natural Area is that portion of the Lot which lies outside the footprint and its proximate development area. Care should be taken to preserve as much of the natural landscape as is possible. Dead vegetation should be removed. Indigenous vegetation may be added in the natural area.

6.3 Transitional Plant Care. Where some areas of preserved natural landscaping are damaged during construction, these areas should be replanted to match the Natural Area.

6.4 Minimum Setbacks. The County has setback ordinances with which the owner/architect/ designer must familiarize themselves. Setbacks established by the HEIA will often be more stringent and will control decisions by the ARC in the event of any conflict in definitions.

6.4.1 Maximum setbacks are encouraged. Front and rear setbacks shall be a minimum of forty (40) feet each. Corner lots shall have a minimum setback of forty (40) feet from all roads regardless of the location of the designated front. Side setbacks shall be a minimum of twenty- five (25) feet except for corner lots as noted above. In the case of lots adjacent to Forest Service boundaries, modified setbacks may be considered, on a case by case basis, by the ARC.

6.5 Site Work. Typically, Homes and Improvements should be nestled into the land, remaining low, so as to be a part of the site rather than perched on it. Where appropriate to slope, Homes and Improvements should step down slopes utilizing multi-level solutions in order to follow contours. When construction is completed, the natural grade around the Home and any site walls should lie against the walls and Home as near as possible to the original angle of slope on the site.

6.5.1 Once a Preliminary Plan is well enough defined, the corners of the building shall be staked out on the ungraded site and elevations taken at each corner with a transit. Using this information, the design can be fine-tuned or adjusted to minimize the structure’s height by making it conform more closely to the existing topography.

6.5.2 As stated at the outset of the Guidelines, the ARC will give strong consideration to the impact of any preliminary design on adjacent properties with respect to their privacy, preservation of views, and natural drainage.

6.5.3 While the natural topography within Highland Estates varies considerably from Lot to Lot, the following general limitations will apply in the absence of special circumstances justifying exceptions as may be approved by the ARC:

6.5.3.1 No change in natural or existing drainage patterns for surface waters shall be made on any Lot that could adversely impact another Owner.

6.5.3.2 Retaining walls shall not exceed six (6) feet in height measured vertically from the lowest finished grade adjacent to the wall along the exterior of the enclosure. On a case-by-case basis, the ARC may, in its opinion, consider heights in excess of six (6) feet when justified by topographic conditions and the extra height causes no adverse visual impact.

6.5.3.3 Screening walls not supporting structure (e.g. patios, courtyards, propane tanks) may not exceed five (5) feet as measured from finished grade along the exterior side of the enclosure in the manner described above.

6.6 **Cut and Fill.** The intent of this section is to have the Home or Improvement nestle into the natural land forms. The various land forms and slopes will dictate the extent to which Cut and Fill is applied. Wherever possible, significant Cut and Fill conditions should be contained within retaining walls. Cut and Fill conditions are evaluated based on conditions directly under the footprint of the Home as well as for the overall site Improvements, patios, and driveways.

6.7 **Site Drainage and Grading.** It is the responsibility of the Lot Owner to determine if a grading and drainage plan must be submitted and approved by the County. Site drainage and grading must be done with a minimum disruption to the Lot. Structures, roads and driveways, and any other Improvement should be designed to fit the existing contours of the site, minimizing Excavation rather than altering the site to fit a non-responsive structure or Improvement.

6.7.1 Designs should carefully evaluate the erosion potential and safety of the site drainage based on the percentage and direction of the slope, soil type, and vegetation. When a change in the natural drainage within a given Lot is absolutely necessary, avoid right angle diversions and create positive drainage in a logical and natural manner. Minimize soil erosion in disturbed areas through the use of native rock and plant materials. Any changes in drainage shall require contour grading and mature landscaping to return the drainage to a natural looking appearance.

6.7.2 The intent of these Design Guidelines is to discourage excessive Cut and Fill conditions. Grading may not be done outside the footprint and its proximate area unless such grading is demonstrated to be the only means of providing necessary flood protection or access.

6.8 **Washes and Drainage.** The topography of Highland Estates includes a large number of major and minor washes. Major washes should be either spanned or avoided. While minor washes may be redirected, it is unacceptable to divert such flows to adjacent property except as natural, existing washes may do so.

ARTICLE 7. **ARCHITECTURAL GUIDELINES**

The following architectural standards have been developed to achieve the aesthetic objectives of the HEIA. The intent of these Guidelines is to create a Home or Improvement that blends into the environment.

Special attention should be given in the design to:

- Building Height
- Exterior Color
- Visual Impact

7.1 Building Size and Displacement. The living areas of the proposed structure (excluding garages, covered patios/porches, decks, etc.) must cover or displace at least two thousand five hundred (2,500) square feet of lot space. Variations may be considered, at the sole discretion of the ARC, when a very unusual lot or site is involved.

7.2 Height Guidelines and Restrictions. Low profile homes are required. All structures should be designed to conform to existing land contours. This may necessitate significant areas of Cut and Fill. Two story homes are prohibited. In the event of severe slope or major washes on a lot, the ARC may consider stepped, multi-level designs.

7.2.1 No roof line shall extend higher than eighteen feet above average building footprint elevation. The “average building footprint elevation” shall be defined as the average elevation between the highest and lowest elevation within the structure footprint. Driveways and adjoining landscaping shall not be included for purposes of determining the structure footprint. All measurements will be taken from natural ground elevations prior to excavation.

7.2.2 It shall be the responsibility of the Owner to provide the ARC with the existing footprint elevations and proposed building footprint elevations.

7.2.3 Finally, it is important for the Owner to understand that the ARC will give strong consideration to the impact of any design on the views of adjacent lots.

7.3 Roofs. Since roofscapes may form an important part of the visual environment, they must be carefully designed. Except for parapet and “pueblo” type roofs, roof slope ratios shall be between “three in twelve” and “six in twelve” (i.e. 3/12 and 6/12 expressed as “rise over run”). Only the following types of materials will be allowed on sloped roofs: fireproof shake shingles, slate, tile, stone, or metal. In the case of metal, the finish must be matte. No light color roofs of any material will be allowed. All metal flashings, accessories, and roof penetrations must be painted or stained to blend with the roof material. Roof mounted evaporative coolers, air conditioners, and/or heat pump devices, solar systems and panels, turbine vents, etc. will not be permitted if visible from adjacent properties.

7.4 Colors. The intent of color restriction is to promote the blending of the exterior of all structures with the environment. Due to the low-key palette of our special landscape, the use of darker colors is encouraged. This will minimize the negative visual impact of stark contrasts and reflected light. All exterior surfaces of all structures shall have a Light Reflective Value (LRV) of less than, or equal to, thirty-four (34). This will apply to all new or to-be-refinished surfaces. Colors shall be in earth tones. In

the unusual circumstance of architecture where application of that LRV guideline might adversely affect the aesthetics of the structure in question, the ARC may consider, with Board concurrence, waiving those restrictions. In considering such a waiver, the visual impacts upon adjacent properties shall be an important consideration.

7.5 Retaining Walls. Retaining walls shall be minimized and are to repair Cut and Fill surfaces or provide protection against flood when necessary along washes.

7.6 Screen Walls. (e.g. patios, private areas, shielding of mechanical equipment) should be a visual extension of the Home and are limited to five (5) feet above grade on the exterior of the wall, and must be within the Building Envelope.

7.7 Reflective Finishes. No Highly reflective finishes, except glass, which may not be mirrored or opaque, shall be used on any exterior surface.

7.8 Materials – Exterior Surfaces. Exterior surfaces must generally be of materials that harmonize with the natural landscape. Stone masonry, adobe block, stucco, or integrally colored split face concrete block should be the predominant exterior surfaces. All exterior finish materials including stucco on all building walls, site walls, and screen walls must be continued down to below finish grade thereby eliminating unfinished foundation walls.

7.9 Building Projections. All projections from a building including, but not limited to, chimney caps, vents, gutters, scuppers, downspouts, utility boxes, porches, railings, and exterior stairways shall match the color of the surface from which they project or be an appropriate accent color unless otherwise approved by the ARC.

7.10 Antennas/Satellite Dishes. Antennas and satellite dishes for the reception of radio and television signals, short wave reception and transmission, and high-speed Internet access are permitted. Antennas and satellite dishes shall be installed as unobtrusively as possible.

7.11 Service Yard. All above ground garbage and trash containers, mechanical equipment, and other outdoor maintenance facilities must be completely screened from adjacent property, streets and Common Areas by screen walls that are no less than one (1) foot higher than its contents.

7.12 Garages. Every attempt should be made to minimize the visual impact of the garage and its doors. Careful siting and driveway orientation may assist in accomplishing this goal. No more than three (3) garage doors will be allowed, 3 individual garage doors or a single two car garage door and an individual car garage door. Door height shall be a maximum of nine (9) feet. Carports and Recreational Vehicle garages are prohibited.

7.13 Driveways. Driveways shall be stabilized decomposed granite, pavers, colored concrete or other surface material approved by the ARC. Driveways may not be changed or expanded without the approval

of the ARC.

7.14 Utility Services. All utility services from the street to the Home shall be placed underground. Location of meters and utility boxes require ARC approval.

7.15 Temporary Living Accommodations. The use of temporary living accommodations (e.g. motor homes or travel trailers) on the Lot during construction is prohibited.

7.16 Fencing/Walls. A fence will not be a solid wall and must be made of material that will blend with the environment. Chain-link fencing will not be allowed. No dog runs will be allowed. Fencing will be 2 feet from property lines but will not be on the portion of the lot that faces the road. If the property has two sides facing the road, one side can be fenced within 2 feet of the road. Note that placing a fence within two feet of a road is likely within the setbacks for utilities. This may result in removal of fencing should the utility provider require access to repair or service the utility. Any cost associated with fence removal and replacement will be borne by the homeowner. Walls can be built but must be within the Building Envelope permitted for the building of the home.

7.17 Solar Panels: Photovoltaic and hot water solar panels are allowed subject to Federal and State Laws. Framework of solar panels must be non-reflective materials and an architectural rendering of placement, including all dimensions must be presented to ARC, along with any information pertinent to the placement and technology used. Placement must take into consideration the impact it may have on neighbors. (Refer to Article 2 in the Design Guidelines concerning impact on views from adjacent properties and roads.) Upon review of all materials, if ARC determines it is necessary to consult an expert on placement and technology used, a review fee may be charged to the property owner.

7.18 Swimming Pools: Swimming pools must be constructed within the Building Envelope permitted for building the home. Only in ground pools permitted. An outside spa must not be Visible from Adjacent Properties.

ARTICLE 8.

LANDSCAPE DESIGN AND SITE IMPROVEMENTS

8.1 Landscape Character. Highland Estates enjoys the inherent views of naturally forested red sandstone mesas and buttes. The natural beauty of the area and surrounding vistas defines the character of proposed landscape development. Native vegetation and massings found within its varied terrain is the basis of the landscape philosophy for all developed areas.

8.1.1 The natural landscape of this area consists mainly of Pinon Pine, Manzanita, Yuccas, Mesquite, Junipers, Scrub Oak, Snake Weed, Buck Brush, Prickly Pear, and low grasses. Varieties typically grow in massings with accents of alternating varieties. The ground plane is another dominant feature that consists of red rock found throughout the Sedona area. All revegetated landscape areas should preserve the native soils to maintain the area's unique character.

8.1.2 The landscape intent is to preserve the regional character of the "Pinon-Juniper" belt while providing continuity with the undisturbed areas throughout the development. Plant materials

should be arranged in naturalistic compositions and massings to intensify the natural conifer character. The ultimate intent is to naturalize and preserve the existing character while providing for long term, low maintenance considerations.

8.1.3 Transitional Area landscaping directly visible along Adjacent Property and streets are areas that should preserve the native character, yet provide for individual interpretations that maintain continuity with the overall development. Private rear yard entries and walled areas allow homeowners the opportunity for greater flexibility of plant materials adapted to this climate.

8.2 Front Yard and Transitional Area Landscape. Conifer trees should establish the dominant character of front yard and transitional area landscaping. Trees should be arranged in massings that enhance views, frame units, shade drives, and screen undesired views. Shrubs should be used to support the tree theme with simple massive outcroppings. Medium height shrubs should be used as a foundation along the front of structures with lower varieties along street frontages to maintain visibility. Turf use should be minimized in order to preserve a natural appearing landscape.

8.2.1 The ground plane should maintain a slight mounded character with accent boulders that allows for necessary drainage. All transitional area landscaping shall be covered with a minimum of two (2) inches of decomposed granite or Sedona Red Rock or restored to a natural state. This landscape material shall compliment the color of the existing native ground specific to the Lot. River rock may also be used in appropriate locations as accent material. Driveways or walkways must be appropriately bordered using stone or wood.

8.3 Vegetation Maintenance. Trees in excess of three (3) inches in diameter require the notification and approval of the ARC prior to removal. The owner shall be responsible for watering, fertilizing, pruning, weeding and maintaining all plantings, and shall furnish and apply sprays as necessary to keep the plantings free of disease and insects.

8.3.1 The owner shall be responsible for the removal of any plants, trees, or branches, natural or planted, which are in an unhealthy or unsightly condition. All planted materials shall be pruned to maintain and to promote natural growth habits. The pruning of shrubs and trees into geometric shapes is not permitted. Turf areas are to be mowed as necessary to maintain a neat attractive appearance.

8.3.2 When choosing trees and large shrubs, consideration must be made of the views of neighboring properties, as is indicated in Article 2 in the Design Guidelines concerning impact on views from adjacent properties. No trees will be approved that have a mature height of over 20 feet. The use of native plants and trees is encouraged. Native trees growing on Lots prior to development are exempt.

8.3.3 Planting of lawns and plants not allowed by Guidelines, but desired by the homeowner, may be planted in areas that are not Visible from Adjoining Properties. Typically, these areas would be within an enclosed (walled) patio area. The homeowner is responsible for making sure that plants will not climb over the enclosed area or wall and become visible.

8.3.4 Owners shall complete the landscape of completed homes within six (6) months after completion of the residence, in conformance with the approved landscape plans.

8.4 Hardscape. Planters, paved walkways, and other site features Visible from Adjacent Property must be reviewed and approved by the ARC. Surface textures and colors should complement the colors and materials of the home and surrounding area.

8.5 Ornamentation. Ornaments in the landscape should be aesthetically harmonious with the neighborhood.

8.6 Flagpoles. Flagpoles are not allowed in residential areas at Highland Estates. Owners are advised to use brackets mounted on the house or garage to display the American Flag.

8.7 Sports Courts. Sport Courts are prohibited.

8.8 Lighting. Site lighting shall be carefully designed to complement building and landscaped features. The use of low voltage/wattage lighting is required and must adhere to Yavapai County Light Pollution Control Ordinance and Big Park “Dark Skies” Ordinance. The use of colored bulbs or lenses is prohibited. Lighting must be shielded and directed, so as not to impose a negative visual impact on Adjacent Property.

8.8.1 In any situation where exterior lighting of any type is desired, the Owner shall submit lighting plans to the ARC for approval. In addition to location and construction details lighting plans shall include the following specifications: type, number, material, color, voltage, and wattage requirements.

ARTICLE 9. COMMUNITY RULES

9.1 Criteria. The following community rules summarize selected provisions found in the CC&Rs as well as rules established by the Association. These rules are meant to guide activities for the benefit of all Homeowners in Highland Estates.

9.2 Trash Containers and Collection. No garbage or trash shall be kept on any Lot except in covered containers. Except for days of collection by the refuse collection company, these containers must be stored in garages, or trash enclosures, or otherwise maintained as to not be visible from neighboring property or the street.

9.3 Pets. Residents are allowed to keep a reasonable number of generally recognized house or yard pets. Animals cannot be kept or raised for commercial purposes, and they are not allowed to make an unreasonable amount of noise or become a nuisance to neighbors. No structure for housing such animals may be visible from neighboring property unless approved by the ARC. Pet owners shall respect the property of other residents by controlling their pets and picking up after their pets whether within their own Lot or while walking or exercising their pets throughout Highland Estates.

9.4 Machinery and Equipment. No machinery or equipment of any kind (except indoor hobby equipment) shall be placed, operated, or maintained upon any residential Lot except machinery or equipment used during the period of construction.

9.5 Vehicles, Campers, Boats and Recreational Vehicles. No motor vehicle classed by manufacturer rating as exceeding one (1) ton, mobile home, travel trailer, camper, boat, or other similar equipment or vehicle may be parked, maintained, or repaired on any Lot or on any street so as to be Visible from Adjacent Property, common area, or street.

9.6 Building Repair. No building or structure shall be permitted to fall into a state of disrepair. The Owner of every home or structure is responsible at all times for keeping the buildings in good condition, and adequately painted or otherwise finished. In the event any building or structure is damaged or destroyed, the Owner is responsible for immediate repair, reconstruction, or removal.

9.7 Exterior Storage. Exterior storage shall only be permitted in the side or rear yard if attached to the primary structure and shall be subject to the approval of the ARC. No free-standing storage structure shall be permitted.

9.8 Play Equipment and Basketball Goals. Equipment such as basketball goals, swing sets, gymnastic apparatus, and other outdoor recreational equipment shall not be placed on any Lot without the approval of the ARC. Such equipment is restricted to back yard areas. Temporary or portable basketball goals may be used in the front yard or driveway of the home; however, they must be stored in a garage or other area which is not Visible from Adjacent Property when not in use and overnight.

9.9 Clotheslines. Clotheslines or other outside facilities for drying clothes are not allowed.

9.10 Violation Enforcement. One of the most sensitive issues in a planned community is the enforcement of the CC&Rs and other rules which are violated, either knowingly or unknowingly, by residents. Cooperation is the norm in Highland Estates, and notifying an Owner of a violation generally results in the violation being corrected. However, if deemed appropriate by the Association, the Association will take legal action to ensure that violations are resolved and the rights of other Owners and the community as a whole are protected.

ARTICE 10. **CONSTRUCTION REGULATIONS**

The following construction regulations shall be enforced during the construction period. These regulations shall be made a part of the construction contract document specifications for each Home or other Improvements on a Lot and all Builders, Owners, and other persons shall be bound by these regulations. Any violation by a Builder shall be deemed to be a violation by the Owner of the Lot.

10.1 Debris and Trash Removal. Owners and Builders shall cleanup all trash and debris on the construction site at the end of each work day. Lightweight material, packaging, and other items shall be

covered or weighted down to prevent wind from blowing such materials off the construction site. Owners and Builders are prohibited from dumping, burying, or burning trash anywhere on the Lot or within Highland Estates, except in areas, if any, expressly designated by the ARC. During the construction period, each construction site shall be kept neat and organized. Any cleanup costs incurred by the ARC in enforcing these requirements will be billed to the Owner. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from public or private roads, open spaces, and driveways or other portions of Highland Estates at the Owner's or Builder's cost. Any construction-related debris found on the common areas shall be removed and all costs associated with such removal shall be the sole responsibility of the Owner.

10.2 Sanitary Facilities. Each Owner and Builder shall be responsible for providing adequate sanitary facilities for construction workers. Portable toilets or similar temporary toilet facilities shall be located only on the site itself in areas approved by the ARC.

10.3 Vehicles and Parking Areas. Construction crews shall not park on, or otherwise use, other Lots or any open space. Private and construction vehicles and machinery shall be parked only in areas designated by the ARC. All vehicles shall be parked so as not to inhibit traffic and within the designated areas so as not to damage the natural landscape. The Lot Owner shall be responsible for all costs associated with illegal parking or damage to natural landscape or other areas of Highland Estates.

10.4 Conservation of Landscaping Materials. Owners and Builders are advised of the fact that the Lots and open spaces contain valuable native plants and other natural landscaping materials that should be absolutely protected during construction, including topsoil, boulders, rock outcroppings and plant material. Materials that cannot be removed should be marked and protected by flagging, fencing, or barriers. The ARC shall have the right to flag major terrain features or plants which are to be fenced off for protection. Any trees or branches removed during construction must be promptly cleaned up and removed from the construction site. All costs of fencing shall be borne by the Owner or Builder.

10.5 Excavation Materials. Excavated material, not used on site, must be hauled away from Highland Estates.

10.6 Blasting. If any blasting is to occur, the ARC must be informed far enough in advance to allow it to make such investigation as it deems appropriate to confirm that all appropriate measures, including protective actions, have been taken prior to the blasting. No blasting or impact digging causing seismic vibrations may be undertaken without the approval of the ARC. Applicable governmental regulations should also be reviewed prior to any blasting activity. The ARC and HEIA shall not be held liable for any damages for blasting conducted within Highland Estates whether or not the ARC granted approval for such blasting.

10.7 Restoration or Repair of Other Property Damaged. Damage and scarring to other property, including, but not limited to, open space, other Lots, roads, driveways, and/or other Improvements will not be permitted. If any such damage occurs, it must be repaired and/or restored promptly at the expense of the person causing the damage or the Owner of the Lot. Upon completion of construction, each Owner and Builder shall clean his construction site and repair all property which was damaged, including but not limited to, restoring grades, planting shrubs and trees, and repair of street, driveways, curbs, pathways,

drains, culverts, ditches, signs, lighting, and fencing as required by the ARC. It is recommended that prior to construction, the Owner or contractor make a site walk with a representative of the ARC to mark any damaged areas (i.e. curbs, asphalt, meter boxes).

10.8 Miscellaneous and General Practices. All Owners will be absolutely responsible for the conduct and behavior of their agents, representatives, Builders, contractors, and subcontractors within Highland Estates. The following activities are prohibited at all times during construction:

10.8.1 Allowing concrete suppliers and contractors to clean their equipment other than at locations designated for that purpose by the ARC.

10.8.2 Removing any rocks, plant materials, topsoil, or similar items from any property of others within Highland Estates.

10.8.3 Using disposal methods or units other than those approved by the ARC.

10.8.4 Careless disposition of cigarettes and other flammable material. At least one ten-pound, ABC-rated dry chemical fire extinguisher shall be present and available in a conspicuous place on the construction site at all times.

10.8.5 Careless treatment or removal of any native plant materials not previously approved by the ARC.

10.8.6 The playing of radios or other audio and video equipment at a volume which disturbs the residents within Highland Estates or adjacent neighborhoods.

10.8.7 No pets will be allowed to roam at will throughout Highland Estates. In the event of any violation hereof, the ARC shall have the right to contact the County authorities to impound the pets, or to refuse to permit such Builder or subcontractor to continue work on Highland Estates property, or to take such other actions as may be permitted by law, the Guidelines, or the CC&R's.

10.9 Construction Access. The only approved construction access during the time a Home or other Improvements are being built will be over the approved driveway for the Lot unless the ARC approves an alternative access point.

10.10 Dust and Noise. The Owner or Builder shall be responsible for controlling dust and noise from the construction site.

10.11 Daily Operation Daily working hours for each construction site shall be from 6:00 a.m. to 5:00 p.m., Monday through Saturday. No construction is permitted on Sunday or legal holidays.

10.12 Building Site Inspection Sequence. All construction within Highland Estates will abide by the following requirements:

10.12.1 The footprint of the proposed structure including all patios, garage and driveways, will be indicated on the ground with chalk by the Owner or his agent. The ARC will then make a determination as to the aesthetic impact of the proposed structure on the surrounding environment.

10.12.2 If unavailable, a benchmark pin will be placed in the middle of the street, in front of the building site, by the Owner's surveyor. Its location shall be identified on the Site Plan.

10.12.3 When batter boards and string have been installed, the indicated elevation of the finished floor will be checked against the benchmark.

10.12.4 All stem walls will be checked against the benchmark for elevation before any finished floors are poured or constructed. Height of finished structure will be determined at this time and checked against the approved plans.

10.12.5 When the entire building, including roof structure, has been framed, it will be checked against benchmark for elevation. The structure will also be checked in detail against the approved plans.

10.12.6 Samples of roof materials will be submitted to the ARC and placed in one or more patches, measuring three (3) feet by three (3) feet, on the roof for ARC evaluation.

10.12.7 When plastering and/or siding is finished, exterior color will be evaluated by the placement of areas of paint, measuring three (3) feet by three (3) feet, on the stucco and/or siding so that the color can be evaluated in its relationship to the color of the roof and/or surrounding environment.

10.12.8 A final check of the entire project will be made by the ARC or a representative thereof before any portion of the deposit is returned to the Owner. This evaluation of the site will be to determine whether all of the requirements placed on the project by the ARC have been met.

10.12.9 Throughout this schedule, it will be the responsibility of the Owner or his agent to notify the chair of the ARC that the appropriate step in construction has been completed and is ready for inspection.

ARTICE 11.
FORMS

**ACKNOWLEDGMENT OF DECLARATION OF RESTRICTIONS AND
ARCHITECTURAL REVIEW COMMITTEE GUIDELINES**

I/We acknowledge that I/we have received and read the Declaration of Restrictions and Architectural Review Committee Guidelines for Highland Estates, and that I/we will abide by the procedures and provisions contained therein. The plans submitted herewith are, to the best of my/our knowledge, in conformance with the Declaration of Restrictions and the Architectural Review Committee Guidelines.

I/We acknowledge that we have read the Building Site Inspection Sequence [Design Guidelines, Section 10.12].

I/We acknowledge that part of the Security Deposit will be used to perform building inspections by consulting engineers. The unused portion, minus any amount needed to repair construction damage to streets or common areas, will be returned to the owner(s).

_____ Date: _____
(Owner's Signature)

_____ Date: _____
(Owner's Signature)

Name of Owner(s): _____ Lot Number: _____

Mailing Address: _____

Telephone Number: _____ Fax: _____ Email: _____

Name of Registered Architect: _____

Mailing Address: _____

Telephone Number: _____ Fax: _____ Email: _____

PRELIMINARY DESIGN APPLICATION

Name of Owner(s): _____ Date: _____

Mailing Address: _____

Telephone Number: _____ Fax: _____ Email: _____

Name of Registered Architect: _____

Mailing Address: _____

Telephone Number: _____ Fax: _____ Email: _____

Please include two (2) copies of the following:

A) Landscape Project: Landscape sketch with positioning of plantings, driveway, fencing, and any ornamentation as called for in the Design Guidelines.

B) Hardscape Projects (Ground Up, Remodeling, Additions, etc.)

Preliminary Structural Sketches or Plans

Topographical/Plot Map Indicating Building Outlines, all Setbacks and "Cut/Fill" Areas

Please also provide the following information for B) Hardscape Projects:

Anticipated Roof Height and Slope Ratio: _____

Total Living Area in Square Feet: _____ Number of Levels: _____

Lot Displacement by Structure in Square Feet: _____

Garage Area in Square Feet: _____ Covered Patios/Porches in Square Feet: _____

Please briefly describe the exterior materials to be used: _____

Owner's Signature: _____

Committee Approval (initial): 1 _____ 2 _____ 3 _____ Date: _____

**APPLICATION FOR ARCHITECTURAL REVIEW COMMITTEE
APPROVAL**

Name of Owner(s): _____ Date: _____

Lot Number: _____ Site Address: _____

Name of General Contractor: _____

Mailing Address: _____

Telephone Number: _____ Fax: _____ Email: _____

Name of Registered Architect: _____

Mailing Address: _____

Telephone Number: _____ Fax: _____ Email: _____

For Landscape Projects please include two (2) copies of the blueprint/layout including all types of planting, driveway material, fencing, groundcover and ornamentation.

For Hardscape Projects please including Ground Up Remodeling and Additions, Please include two (2) copies of the following:

Structure Plan, Topographical/Plot Plan and Landscape

Plan Please provide the following square footages:

First Floor Living Area: _____ Other Floor(s) Living Area: _____

Total Living Area: _____ Garage: _____ Decking: _____

Covered Patios/Porches: _____ Total Lot Displacement by Structure: _____

Please supply the following exterior materials information:

Type of Wall Construction/Materials/Color: * _____

Type of Windows (metal/wood): _____

Trim Color(s):* _____

Entry Door Type/Color:* _____

Garage Door Type/Color: * _____

Roof Material/Color: *

Chimney(s) Material/Color: *

Decking Materials/Color: *

Fencing Materials/Height/Color: *

Garden Wall Materials/Height/Color: *

Air Conditioning/Heat Pump Location(s) and Method of Concealment:

Television Antenna and/or Satellite Dish Location(s) and Method of Concealment

Trash Receptacle Location and Method of Concealment:

Other Remarks: _____

* Subject to final approval, during construction, by the Architectural Review Committee. Please enclose a check for \$100, payable to the Highland Estates Improvement Association, as your application fee.

Owner's Signature: _____

Receipt of Application Fee: _____ Date: _____

Committee Approval: 1 _____ Date: _____

2 _____ Date: _____

3 _____ Date: _____

CONSTRUCTION PERMIT
Highland Estates Improvement Association Architectural Review
Committee

Issued to [name]

Effective Date of Permit: [date]

This Permit constitutes permission to begin construction of a residence on Lot, Highland Estates Subdivision, subject to the following requirements and/or conditions:

[1] This Permit does NOT constitute final approval of exterior colors or finishes. These must be verified by the ARC prior to installation and/or application. Large (minimum 3 feet x 3 feet) areas of color must be applied to the exterior for Architectural Review Committee evaluation and written approval.

[2] The General Contractor must file his State License number, proof of Workman's Compensation Insurance and Liability Insurance, with the Architectural Review Committee prior to commencement of construction.

[3] Construction must commence within one (1) year from date of permit and be completed within one (1) year from commencement.

[4] Performance Deposit in the amount of \$5,000 received.

Approved:

ARC Chair: _____

Lot Owner: _____

Highland Estates Map

