

-Get to know your Community-

Welcome to Gladden Farms!

*Here are a few things you may
need to know about your
Community...*

Your Community's Management Team with CCMC

- The official website for the Gladden Farms Community Association (GFCA) can be found [here](#).

Register on our website to access Community Information and to receive *weekly* newsletters directly from your Management Team!

- Vanessa Lubinsky- Community Manager
- VLubinsky@ccmcnet.com
- Catherine Encinas -- Lifestyle Director
- CEncinas@ccmcnet.com
- Riley Gerrish- Community Standards Coordinator
- RGerrish@ccmcnet.com

1 South Church Ave
Suite 1200
Tucson, AZ 85701

P: 520-448-5300
F: 520-448-5101

What are my HOA Fees?

- Assessments are due **quarterly**- owed on the first of January, April, July, and October. \$20 late fees are added to the account if no payment is received 14 days after the due date.
- Starting in January 2022, assessments are **\$213**. Some homes have an additional **\$27** fee for their water irrigation, and are responsible for **\$240** in total- These homes are included in the Cortaro Marana Irrigation District, and receive non-potable water from the Town of Marana. Rather than receiving 2 separate water bills, CMID charges the Gladden Farms Community Association for this service, and in turn the GFCA adds the \$27 to the quarterly assessments. For more info, visit [CMID](#).

How can I make payments?

- Homeowners can sign up for **Direct Debit** with CCMC, and have their quarterly HOA dues withdrawn from their bank account every quarter on the starting date of their choice. Sign up [here](#).

- This option offers *no service fees* and is automatically updated by CCMC if Association dues change.

- Payments can be made **online** through the HOA Pacific Western Bank. Make a one-time payment or create an account to set up your own payment plan. Visit Pacific Western [here](#).

- Please note that card payments have a **\$14.95** processing fee. Banks payments or e-checks have no such fee.



You can also mail checks directly to the
CCMC Payment Processing Center

Make checks payable to **Gladden Farms Community Association, or GFCA**

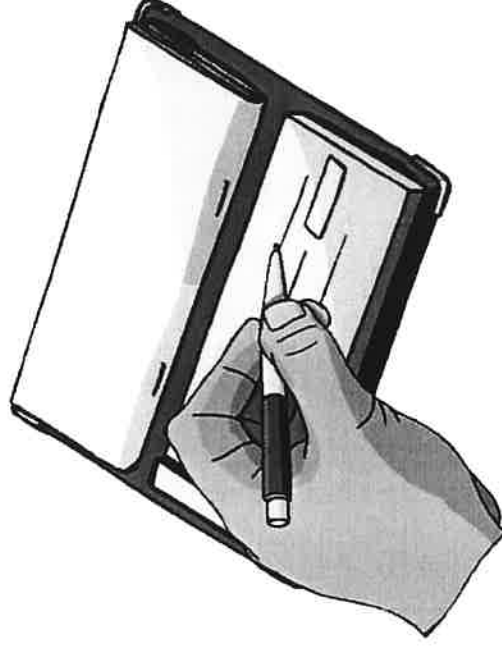
Checks can be mailed:

Gladden Farms Community Association

c/o CCMC

P.O. Box 533182

Atlanta, GA 30353-3182



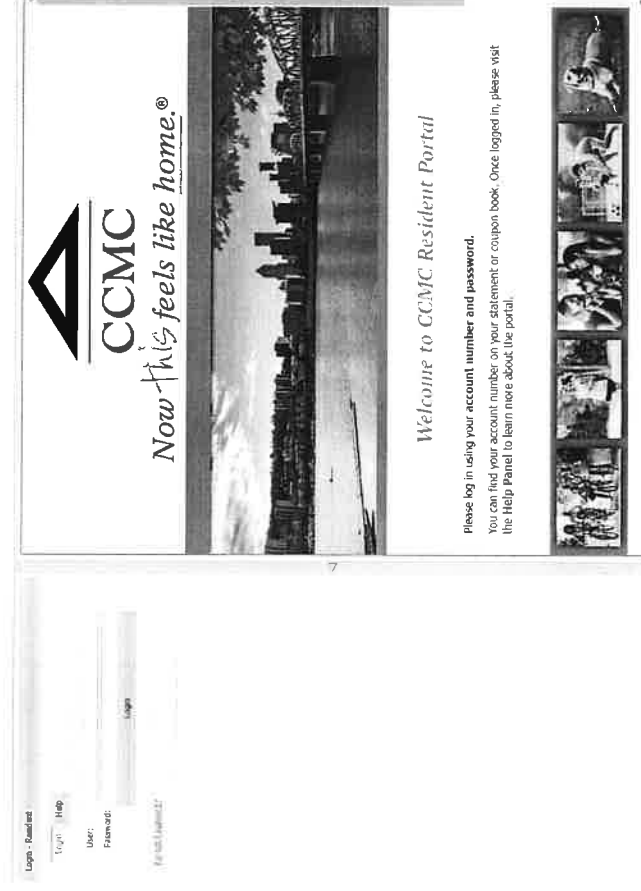
View your Account Status online with the Resident Portal

Sign in with the username and password on your **account statement** at

<https://vmsweb.ccmcnet.com/resident.aspx>

Once logged in, you'll have access to:

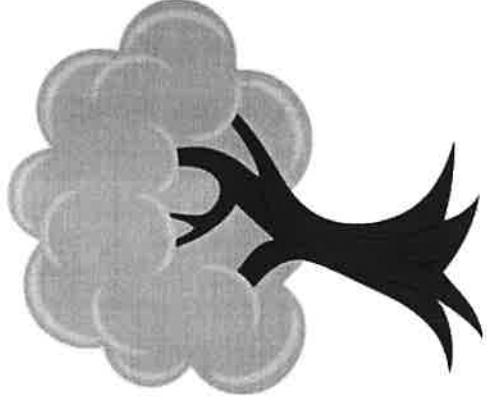
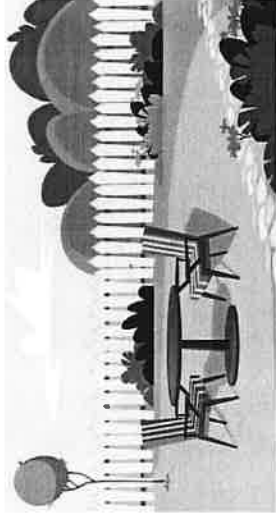
- Your association account balance
- Make online payments
- Sign up for e-Statements
- Self-service billing address and constant information changes
- Important community information



**With questions about your account or the web portal,
contact CCMC customer service at**

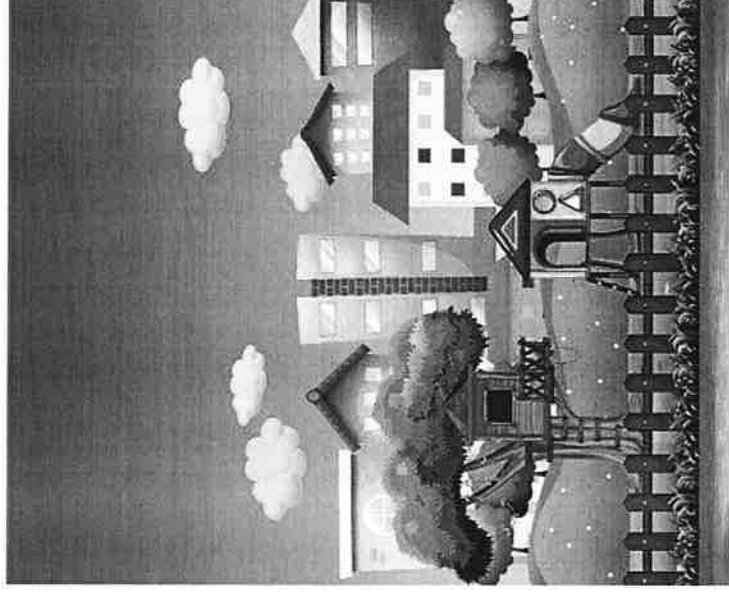
833-301-4538

Do I need HOA permission to landscape my backyard?



Any landscape, hardscape, or structural changes need to be reviewed by the Architecture Review Committee (ARC).

The reason for this Review Process is to ensure homeowners are following the Design Guidelines and not doing anything to their homes that can affect the integrity of common area such as walls and basin areas.



Common Architecture Requests...

- Security Screen Doors
- Sheds
- Solar Panels
- Pergola/Gazebo
- Patio Extension
- Pool
- AZ Sunroom



Please fill out an online ARC form here, and feel free to email your Team for any home project questions you have!

- The ARC meets twice a month to review Homeowner submittals. Be sure to include **diagrams, drawings, dimensions, colors, etc.** The more detail included, the quicker it can get approved!

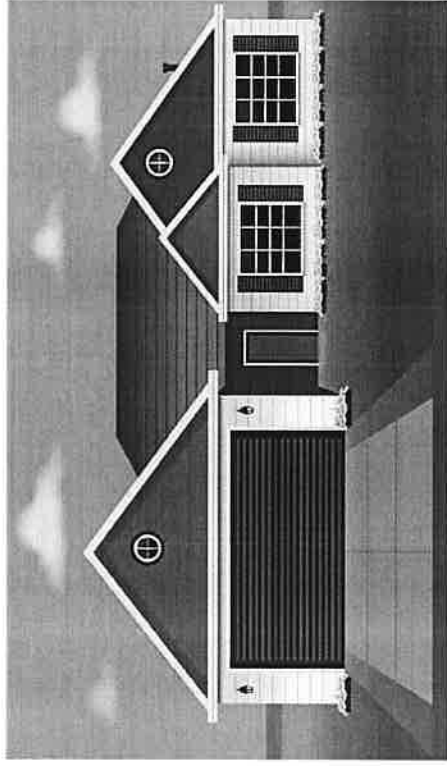
- Anything listed on the Approved Plant list is automatically going to be approved. Homeowners are welcome to submit for additional plants *not* on this list. It just needs to go the ARC for approval.



What are the rules on parking?

- Parking on the street overnight is prohibited. From 10pm-5am, no vehicles are allowed to be on the streets unless a waiver has been issued.
- The Board allows each home **30 temporary parking waivers** a year, starting January 1st of the year. For regular vehicles, one waiver is good *up to 3 nights*. For trailers, U-Hauls, campers, etc. one waiver is good for *one night only*, to load and unload. Even if a trailer is on your driveway, a waiver is still needed. This is to maintain the aesthetics of the community.
- Parking Waivers can be submitted online [here](#). Homeowners can also call the office/leave a message at **520-448-5300**, or email anyone directly on the team their vehicle information and the dates needed.

All homes in Gladden Farms have at least 4 parking spots- 2 in the garage and 2 in the driveway. Should you need more space, many homeowners have added **paver extensions** to their driveway, or added a **shed** to the backyard to clear out space in the garage.



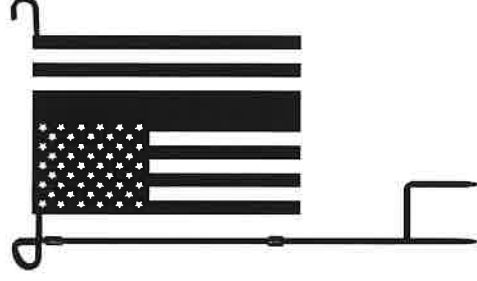
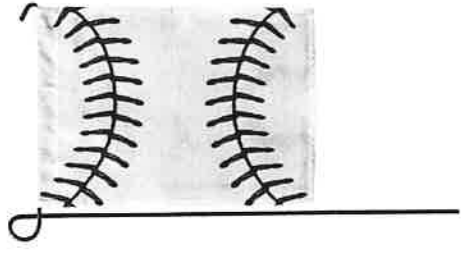
- Driveway extensions can be a maximum of 3 feet wide on either side, or to the end of the garage. Remember to review the Design Guidelines and submit an ARC form before starting the project!

What's the deal with flags?

The following flags are permitted:

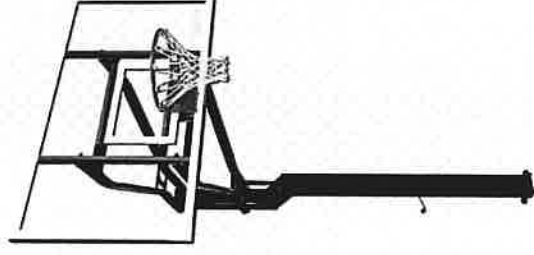
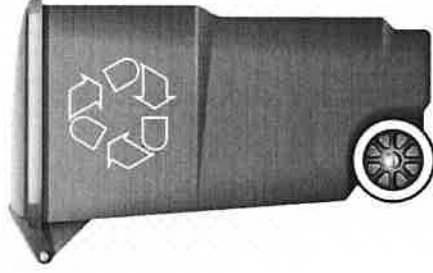
- USA Flag
- AZ Flag
- Gadsden Flag
- Any Military branch Flag
- POW/MIA Flag
- Arizona Indian Nations Flag

If you'd like to support a team or any other group, homeowners are encouraged to decorate their yards with garden flags or banners- these are considered yard décor.



What other rules do I need to know?

- Trash cans must be stored *out of sight* from the street and neighboring views. This means either in the garage or backyard, **not** on the side of the home.



- Basketball hoops cannot block the sidewalk or be on the street when not in use.

If you ever need anything, all you need to do
is contact your Gladden Farms Team!

- Need a payment extension? Let us know your situation and we are happy to work with you.



- Received a weed letter and need more than the standard 14 days to clean your yard? Just call us and we are happy to accommodate your schedule.



Again, welcome to the Community!

*Don't forget to register
on the website, [here!](#)*

- Vanessa Lubinsky- Community Manager
- VLubinsky@ccmcnet.com
- Catherine Encinas – Lifestyle Director
- CEncinas@ccmcnet.com
- Riley Gerrish- Community Standards Coordinator
- RGerrish@ccmcnet.com

1 South Church Ave
Suite 1200
Tucson, AZ 85701

P: 520-448-5300

F: 520-448-5101

GLADDEN FARMS COMMUNITY ASSOCIATION

PARKING ENFORCEMENT | POLICIES AND PROCEDURES

Included in our community guidelines, overnight parking in Gladden Farms does include restrictions to maintain a safe and orderly community. Our contracted patrol vendor, Oversii, conducts regular overnight parking inspections on a rotating basis



The Oversii patrol vehicles are white Toyota Corollas clearly marked for easy identification.



PARKING RULES AND RESTRICTIONS

Hours of Enforcement:

- **10:00 PM - 5:00 AM**

General Rules:

- No Overnight Street Parking: Parking on the street is prohibited overnight for any vehicle
- Vehicles are not allowed to park on any landscaped areas
- No commercial vehicles, recreational vehicles, mobile homes, trailers, campers, boats, other watercraft, other oversized vehicles, stored vehicles, unlicensed vehicles, or inoperable vehicles shall be parked within the property other than in enclosed garages

SOLUTIONS

Each household receives 30 temporary parking waivers per year

1 Waiver:

- **no more than three (3) consecutive nights for regular vehicles**
- **one (1) night for oversized vehicles**

Larger vehicles (such as campers, trailers, RVs, boats, and U-Hauls) require a waiver for both day and night parking, even if parked in your driveway. Each waiver is valid for only one night to allow for loading and unloading

Each home is allocated a minimum of four parking spaces:

- Two (2) spaces in the garage
- Two (2) spaces in the driveway

NOTIFICATIONS AND FINES

Courtesy Notice

1

A courtesy notice will be issued if a vehicle is found to be violating the parking restriction rules without a parking waiver on file

2

Immediate Violation - Notice of Fine

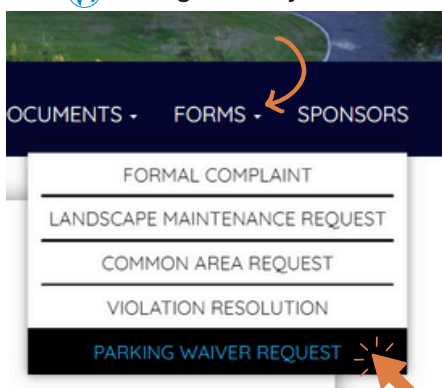
If a parking violation recurs within 12 months following a courtesy notice, it is considered an immediate violation with a \$25.00 fine per vehicle/per occurrence



The two-step notification process does not apply to unauthorized trailers, campers, boats, or mobile homes. These are considered immediate violations and are subject to fines on the first offense

REQUEST A PARKING WAIVER

 www.gfcalifestyle.com



OR



CONTACT US



520-895-3960





GLADDEN FARMS COMMUNITY ASSOCIATION

PARKING ENFORCEMENT | FAQ

FREQUENTLY ASKED QUESTIONS

Q: What is the purpose of enforcing overnight parking restrictions?

A: Parking restrictions for overnight street parking are in place to reduce congestion, enhance safety, and ensure that streets are clear for emergency vehicles to pass through easily

Q: Why do I need a waiver for oversized vehicles, even if they are in my driveway?

A: As stated in the parking regulations, commercial vehicles, recreational vehicles, mobile homes, trailers, campers, boats, other watercraft, other oversized vehicles, stored vehicles, unlicensed vehicles, or inoperable vehicles are restricted outside of an enclosed garage. Larger vehicles can still be a visual and logistical concern, even when parked in driveways

Q: Why can't I park in landscaped areas or on the sidewalk?

A: Parking in landscaped areas can damage the property, harm plant life, and detract from the community's overall appearance. Parking on sidewalks is prohibited to provide a safe pathway for pedestrians, including children, older adults, and individuals with disabilities. In cases of emergencies, obstructed sidewalks can delay first-responder access

Q: How do parking waivers benefit residents?

A: Parking waivers provide flexibility for residents with guests or who need to park oversized vehicles temporarily while still maintaining community standards

Q: What should I do if I need to park a vehicle that requires a waiver and it is after office hours?

A: If you need to park a vehicle that requires a waiver after office hours, you can complete the online form on our community website or leave a message with the association office

Thank you for your cooperation in helping us maintain a safe community for all residents. If you have any questions, please reach out to us:

Gladden Farms Community Association
(520) 895-3960



F. ANN RODRIGUEZ, RECORDER
RECORDED BY: NMB
DEPUTY RECORDER
1134 PE2

TENTI
GLADDEN FOREST LLC
333 E WETMORE RD STE 250
TUCSON AZ 85705



DOCKET: 12103
PAGE: 11266
NO. OF PAGES: 63
SEQUENCE: 20031462066
07/30/2003
REST 17:30

MAIL

AMOUNT PAID \$ 68.00

c/o Forest City Southwest
Attn: Kelly Penuela, Office Manager
333 East Wetmore Road, Suite 250
Tucson, Arizona 85705

60009026JK

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
GLADDEN FARMS

11266

63

TABLE OF CONTENTS

Article I	1
Definitions	1
1.1. <u>"Area of Common Responsibility"</u>	1
1.2. <u>"Articles"</u>	2
1.3. <u>"Association"</u>	2
1.4. <u>"Base Assessment"</u>	2
1.5. <u>"Benefitted Assessment"</u>	2
1.6. <u>"Board" or "Board of Directors"</u>	2
1.7. <u>"Builder"</u>	2
1.8. <u>"Business" and "Trade"</u>	2
1.9. <u>"Bylaws"</u>	2
1.10. <u>"Class "B" Control Period"</u>	2
1.11. <u>"Common Area"</u>	2
1.12. <u>"Common Expenses"</u>	3
1.13. <u>"Community-Wide Standard"</u>	3
1.14. <u>"Declarant"</u>	3
1.15. <u>"Design Standards"</u>	3
1.16. <u>"Director"</u>	3
1.17. <u>"Dwelling Unit"</u>	3
1.18. <u>"Exclusive Common Area"</u>	3
1.19. <u>"Gladden Farms"</u>	3
1.20. <u>"Governing Documents"</u>	3
1.21. <u>"Home Owner"</u>	3
1.22. <u>"Initial Use Restrictions"</u>	3
1.23. <u>"Lot"</u>	3
1.24. <u>"Master Plans"</u>	4
1.25. <u>"Maximum Number of Lots"</u>	4
1.26. <u>"Member"</u>	4
1.27. <u>"Modifications Committee" or "MC"</u>	4
1.28. <u>"Mortgage"</u>	4
1.29. <u>"Mortgagee"</u>	4
1.30. <u>"Neighborhood"</u>	4
1.31. <u>"Neighborhood Assessments"</u>	4
1.32. <u>"Neighborhood Association"</u>	5
1.33. <u>"Neighborhood Expenses"</u>	5
1.34. <u>"New Construction Committee" or "NCC"</u>	5
1.35. <u>"Office of the County Recorder"</u>	5
1.36. <u>"Owner"</u>	5
1.37. <u>"Person"</u>	5
1.38. <u>"Phase"</u>	5
1.39. <u>"Private Amenities"</u>	5

1.40.	<u>"Properties"</u>	5
1.41.	<u>"Public Report"</u>	6
1.42.	<u>"Record", "Recorded", "Filed" and "Recordation"</u>	6
1.43.	<u>"Special Assessment"</u>	6
1.44.	<u>"Supplemental Declaration"</u>	6
1.45.	<u>"Town"</u>	6
1.46.	<u>"Use Restrictions"</u>	6
1.47.	<u>"Voting Group"</u>	6
Article II		6
Property Rights		6
2.1.	<u>Common Area</u>	6
2.2.	<u>Exclusive Common Area</u>	8
2.3.	<u>Private Amenities</u>	8
Article III		9
Association Function, Membership, and Voting Rights		9
3.1.	<u>Function of Association</u>	9
3.2.	<u>Membership</u>	9
3.3.	<u>Voting</u>	9
3.4.	<u>Neighborhoods; Voting Groups</u>	10
Article IV		12
Rights and Obligations of the Association		12
4.1.	<u>Common Area</u>	12
4.2.	<u>Personal Property and Real Property for Common Use</u>	12
4.3.	<u>Enforcement</u>	12
4.4.	<u>Implied Rights; Board Authority</u>	12
4.5.	<u>Governmental Interests</u>	12
4.6.	<u>Dedication of Common Areas</u>	13
4.7.	<u>Security</u>	13
4.8.	<u>Powers Of the Association Relating to Neighborhoods</u>	14
4.9.	<u>Recycling Programs</u>	14
4.10.	<u>Provision of Services</u>	14
4.11.	<u>Change of Use of Common Areas</u>	15
4.12.	<u>View Impairment</u>	15
Article V		16
Maintenance		16
5.1.	<u>Association's Responsibility</u>	16
5.2.	<u>Owner's Responsibility</u>	17
5.3.	<u>Neighborhood's Responsibility</u>	17
5.4.	<u>Standard of Performance</u>	18
5.5.	<u>Party Walls and Party Structures</u>	18

Article VI	19
Insurance and Casualty Losses	19
6.1. <u>Association Insurance</u>	19
6.2. <u>Association Policy Requirements</u>	20
6.3. <u>Owner's Insurance</u>	22
6.4. <u>Damage and Destruction</u>	22
6.5. <u>Disbursement of Proceeds</u>	23
6.6. <u>Repair and Reconstruction</u>	23
Article VII	23
No Partition	23
Article VIII	23
Condemnation	23
Article IX	24
Annexation and Withdrawal of Property	24
9.1. <u>Annexation Without Approval of Membership</u>	24
9.2. <u>Annexation With Approval of Membership</u>	24
9.3. <u>Withdrawal of Property</u>	25
9.4. <u>Additional Covenants and Easements</u>	25
9.5. <u>Amendment</u>	25
9.6. <u>Phasing of Construction</u>	25
Article X	25
Assessments	25
10.1. <u>Creation of Assessments</u>	25
10.2. <u>Declarant's Exemption from Assessments</u>	26
10.3. <u>Computation of Base Assessment</u>	26
10.4. <u>Computation of Neighborhood Assessments</u>	27
10.5. <u>Reserve Budget and Capital Contribution</u>	28
10.6. <u>Special Assessments</u>	28
10.7. <u>Benefitted Assessments</u>	28
10.8. <u>Limitation of Increases of Assessments</u>	29
10.9. <u>Date of Commencement of Assessments</u>	29
10.10. <u>Lien for Assessments</u>	30
10.11. <u>Failure to Assess</u>	30
10.12. <u>Exempt Property</u>	30
Article XI	31
Architectural and Design Standards	31
11.1. <u>General</u>	31
11.2. <u>Architectural and Design Review</u>	31

1
2
1
0
3

1
1
2
6
9

17.1.	<u>Term</u>	46
17.2.	<u>Amendment</u>	46
17.3.	<u>Severability</u>	47
17.4.	<u>Perpetuities</u>	47
17.5.	<u>Cumulative Effect: Conflict</u>	47
17.6.	<u>Use of the Phrase "Gladden Farms"</u>	47
17.7.	<u>Compliance</u>	47
17.8.	<u>Notice of Sale or Transfer of Title</u>	48
17.9.	<u>Attorneys' Fees</u>	48
EXHIBIT "A"		50
EXHIBIT "B"		51
EXHIBIT "C"		52

**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS**

FOR

GLADDEN FARMS

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR GLADDEN FARMS (this "Declaration") is made as of July 29, 2003, by Gladden Farms, L.L.C., a Nevada limited liability company (the "Original Declarant") and Gladden Forest, L.L.C., an Arizona limited liability company (the "Declarant").

The Original Declarant Filed that certain Declaration of Covenants, Conditions, and Restrictions for Gladden Farms Master Planned Community ("Original Declaration"), which can be found at Docket 11742, Page 2830 in the official records of Pima County, Arizona. The Original Declaration was Recorded against the real property described in detail at Exhibit "A" ("Initial Property"). Declarant is now the owner of the Initial Property. Original Declarant and Declarant desire to amend and restate the Original Declaration as set forth in this Declaration. Original Declarant and Declarant desire to amend and restate the Original Declaration as set forth in this Declaration, and this Declaration shall supersede and replace in its entirety the Original Declaration.

This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance, and preservation of the Properties.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration shall be held, sold, used, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the desirability of and which shall run with the real property subjected to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns.

Article I

Definitions

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions, except as otherwise specified. Capitalized terms shall be defined as set forth below.

- 1.1. "Area of Common Responsibility": The Common Area, together with those areas,

if any, which by the terms of this Declaration, any Supplemental Declaration, other applicable covenants, or contract become the responsibility of the Association.

1.2. "Articles": The Articles of Incorporation of the Association, now or hereafter filed with the Arizona Corporation Commission, as the same may be amended from time to time.

1.3. "Association": Gladden Farms Community Association, an Arizona nonprofit corporation, its successors and assigns.

1.4. "Base Assessment": Assessments levied on all Lots subject to assessment under Section 10.9 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 10.1 and 10.3.

1.5. "Benefitted Assessment": Assessments levied under Section 10.7.

1.6. "Board" or "Board of Directors": The body responsible for administration of the Association, selected as provided in the Bylaws.

1.7. "Builder": Any Person purchasing: (a) one (1) or more Lots to construct Dwelling Units thereon for later sale to Home Owners; or (b) one (1) or more parcels of land within the Properties to subdivide, develop, and/or resell in the ordinary course of such Person's business.

1.8. "Business" and "Trade": Shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full- or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required to engage in such activity.

1.9. "Bylaws": The Bylaws of the Association, as the same may be amended from time to time.

1.10. "Class "B" Control Period": The period during which the Class "B" Members are entitled to appoint a majority of the Board members, as more particularly provided in the Bylaws.

1.11. "Common Area": All real and personal property which the Association now or hereafter owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners and their respective families, tenants, guests, and invitees, including, without limitation, paseos, detention basins, greenbelts, walking trails, parks, entry landscaping and monumentation, landscaped medians, and Exclusive Common Area. Such Common Area may include areas within or near the Properties that are owned by the Town and maintained by the Association.

1.12. "Common Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Lots, including a reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

1.13. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and/or the New Construction Committee.

1.14. "Declarant": Gladden Forest, L.L.C., an Arizona limited liability company, or any successor, successor-in-title, or assign who has or takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or resale in the ordinary course of business and who is designated as a Declarant or co-Declarant in a recorded instrument executed by the immediately preceding Declarant or co-Declarant.

1.15. "Design Standards": The architectural design, development, and other guidelines, standards, controls, and procedures, including, but not limited to, application and review procedures, adopted pursuant to Article XI and applicable to the Properties.

1.16. "Director": Any one member of the Board of Directors.

1.17. "Dwelling Unit": Any building or structure or portion of a building or structure situated upon a Lot and which is intended for use and occupancy as an attached or detached residence for a single family.

1.18. "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Owners, as more particularly described in Article II.

1.19. "Gladden Farms": The Properties, as more particularly described in Section 1.40.

1.20. "Governing Documents": This Declaration, any Supplemental Declaration, the Bylaws, the Design Standards, and any rules or regulations now or hereafter promulgated by the Association, as the same may be amended from time to time.

1.21. "Home Owner": An Owner other than the Declarant or Builders.

1.22. "Initial Use Restrictions": Those restrictions listed on Exhibit "C", attached hereto.

1.23. "Lot": A contiguous portion of the Properties, whether improved or unimproved, other than Common Area, common property of any Neighborhood Association, and property dedicated to the public, which may be independently owned and conveyed and which is intended to be developed, used, and occupied with an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements, including

any Dwelling Unit, thereon. The term shall include, by way of illustration but not limitation, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such. In the case of any structure containing multiple Dwelling Units, each Dwelling Unit shall be deemed to be a separate Lot. Prior to recordation of a subdivision plat, a parcel of vacant land or land on which improvements are under construction shall be deemed to contain the number of Lots designated for residential use for such parcel on the applicable Master Plan, preliminary plat, or the site plan approved by Declarant, whichever is more current. Until a Master Plan, preliminary plat, or site plan has been approved, such parcel shall contain the number of Lots set by Declarant in its sole and absolute discretion.

1.24. "Master Plans": The master plans for the development of Gladden Farms filed with the Town, as the same may be amended, updated, or supplemented from time to time, which plans include the property described on Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. The Master Plans may also include subsequent plans approved by the Town for the development of additional property which Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plans shall not, under any circumstances, obligate Declarant to subject such property to this Declaration nor shall the exclusion of property from the Master Plans bar its later annexation in accordance with Article IX.

1.25. "Maximum Number of Lots": The number of Lots from time to time approved by the Town for development under the Master Plans; provided, however, that nothing in this Declaration shall be construed to require the Declarant or any successor to develop the Maximum Number of Lots so approved. The current Maximum Number of Lots is two thousand twelve (2,012).

1.26. "Member": A Person entitled to membership in the Association.

1.27. "Modifications Committee" or "MC": As defined in Section 11.2.

1.28. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

1.29. "Mortgagee": A beneficiary or holder of a Mortgage.

1.30. "Neighborhood": Each separately designated residential area within the Properties, whether or not governed by a Neighborhood Association, as more particularly described in Section 3.4. By way of illustration and not limitation, a townhome development, cluster home development, or single-family detached housing development might each be designated as a separate Neighborhood, or a Neighborhood may be comprised of more than one housing type with other features in common. In addition, each parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development.

1.31. "Neighborhood Assessments": Assessments levied against the Lots in a particular

Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 10.1 and 10.4.

1.32. "Neighborhood Association": A homeowners association, if any, created by Supplemental Declaration, having subordinate, concurrent jurisdiction with the Association over any Neighborhood. Nothing in this Declaration shall require the creation of a Neighborhood Association for any Neighborhood, and no Neighborhood Association shall be created without the prior written approval of the Declarant.

1.33. "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Owners of Lots within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs, replacements, and improvements, as the Board may specifically authorize or as may be authorized herein or in a Supplemental Declaration applicable to a Neighborhood.

1.34. "New Construction Committee" or "NCC": As defined in Section 11.2.

1.35. "Office of the County Recorder": The Office of the County Recorder of Pima County, Arizona.

1.36. "Owner": One or more Persons who hold the record title to any Lot, except Persons holding an interest merely as security for the performance of an obligation, in which case the equitable owner will be considered the Owner.

1.37. "Person": A natural person, a corporation, a partnership, a trust, or any other legal entity.

1.38. "Phase": All Lots simultaneously subjected to this Declaration by recordation of this Declaration or by recordation of a Supplemental Declaration in the Office of the County Recorder. The property described on Exhibit "A" to this Declaration shall constitute the first Phase ("Phase I"). A Phase may be developed in smaller areas called "Subphases." All Lots within a particular Phase which are covered by an original Public Report obtained by Declarant or a Builder shall constitute a Subphase.

1.39. "Private Amenities": Real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise, including, without limitation, any golf course now or hereafter constructed within the vicinity of the Properties.

1.40. "Properties": The real property described in Exhibit "A" together with such additional property as is subjected to this Declaration in accordance with Article IX. Exhibit "A" and each of the Supplemental Declarations which subject additional property to the Declaration shall provide a

legal description of the Common Area included therein, if any.

1.41. **"Public Report"**: A document issued by the Arizona Real Estate Commissioner for the Lots within any Phase or Subphase of the Properties which authorizes the offering and sale of the Lots in the State of Arizona.

1.42. **"Record", "Recorded", "Filed" and "Recordation"**: With respect to any document, the recordation or filing of such document in the Office of the Pima County Recorder.

1.43. **"Special Assessment"**: Assessments levied under Section 10.6.

1.44. **"Supplemental Declaration"**: A supplement to this Declaration recorded in the Office of the County Recorder which, pursuant to Article IX, subjects additional property to this Declaration and identifies the Common Area within such additional property, if any, and/or which imposes, expressly or by reference, additional restrictions and obligations on the land described therein that are no less restrictive and not otherwise in conflict with this Declaration. The term shall also refer to an instrument filed by the Declarant pursuant to Section 3.4(b), which designates Voting Groups. No Supplemental Declaration shall be recorded by any Person without Declarant's prior written consent, absent which such Supplemental Declaration shall be voidable in whole or part by Declarant in Declarant's sole and absolute discretion. If there is any conflict between the provisions of any Supplemental Declaration and the provisions of this Declaration, the provisions of this Declaration shall control.

1.45. **"Town"**: The Town of Marana, a political subdivision of the State of Arizona.

1.46. **"Use Restrictions"**: Rules and regulations further described in Article 12.

1.47. **"Voting Group"**: One (1) or more Neighborhoods the Members of which are assigned by Declarant to vote on a common slate for election of directors to the Board, as more particularly described in Section 3.4(b).

Article II

Property Rights

2.1. **Common Area**. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;

(c) The right of the Board to adopt rules, regulations, or policies regulating the use and enjoyment of the Common Area, any recreational facilities therein, or any other portion thereof, including, without limitation, rules restricting use thereof to occupants of Dwelling Units and their guests and rules limiting the number of occupants and guests who may use the same;

(d) The right of the Board to suspend the right of an Owner and/or that of his or her family members, tenants, guests, and invitees to use the Common Area, any recreational facilities therein, or any other portion thereof: (i) for any period during which any charge against such Owner's Lot remains delinquent; or (ii) for a period not to exceed thirty (30) days for a single violation (or a longer period in the case of any continuing violation) of the Governing Documents after notice and an opportunity to be heard pursuant to the Bylaws;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to governmental entities pursuant to Section 4.6;

(f) The right of the Board to impose reasonable membership requirements and charge reasonable membership, admission, or other fees for the use of any recreational facility located within the Common Area;

(g) The right of the Board to permit use of any recreational facilities located within the Common Area by persons other than Owners, their families, tenants, guests, and invitees upon payment of use fees established by the Board;

(h) The right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 14.2;

(i) The rights of certain Owners to the exclusive use of those portions of the Common Area designated as Exclusive Common Areas, as more particularly described in Section 2.2; and

(j) The right of the Association to rent or lease any portion of the Common Area on a short- or long-term basis to any Person, including, without limitation the Declarant or any Builder, for the exclusive use of such Person and such Person's agents, employees, members, guests, and invitees.

Any Owner may extend his or her right of use, access, and enjoyment in and to the Common Area to the members of his or her family, co-occupants, tenants, guests, and invitees, subject to reasonable Board regulation. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the tenant of such Lot, unless the Board adopts a resolution permitting Owners to reserve such rights and such Owner provides the Board with written notice of such reservation.

The initial Common Area as identified in Exhibit "A" shall be conveyed to the Association

prior to or concurrent with the conveyance of the first Lot to a Home Owner.

2.2. Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area for the exclusive use or primary benefit of Owners, occupants, guests, and invitees of Lots within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Exclusive Common Area may include a clubhouse or other portion of the Common Area within a particular Neighborhood or Neighborhoods the use of which is restricted exclusively to the Owners, occupants, guests, and invitees of Lots within said Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Area shall be assessed as a Neighborhood Assessment against the Owners of Lots in those Neighborhoods to which the Exclusive Common Area is assigned.

So long as the Declarant owns any property described on Exhibits "A" or "B" for development and/or sale, Exclusive Common Area shall be designated and the exclusive use thereof assigned in a recorded instrument approved in advance by Declarant, such as the Supplemental Declaration or plat relating to such Exclusive Common Area or the deed conveying such Exclusive Common Area to the Association. No such assignment shall preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Lots and/or Neighborhoods, so long as the Declarant owns any property described on Exhibits "A" or "B" for development and/or sale. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of a particular Neighborhood or Neighborhoods, and Exclusive Common Area may be reassigned, only upon the vote of a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) to which the Exclusive Common Area is assigned, if applicable, and within the Neighborhood(s) to which the Exclusive Common Area is to be assigned.

The Association may, upon approval by a majority vote of the Owners within the Neighborhood(s) to which certain Exclusive Common Area is assigned or upon approval by the board of directors of the Neighborhood Association, if any, for such Neighborhood(s), permit Owners of Lots in other Neighborhoods to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Exclusive Common Area.

2.3. Private Amenities. Access to and use of the Private Amenities are strictly subject to the rules and procedures of the Private Amenities, and no Person automatically gains any right to enter or to use those facilities by virtue of membership in the Association, ownership of a Lot, or occupancy of a Dwelling Unit. No representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of, the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenities which are the subject thereof. The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time, and no consent of the Association, any Neighborhood

Association, or any Owner shall be required to effectuate such a transfer or conversion. Rights to use the Private Amenities will be granted only to such Persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

Article III

Association Function, Membership, and Voting Rights

3.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may from time to time adopt. The Association shall also be responsible for administering and enforcing the Design Standards. The Association shall perform its functions in accordance with the Governing Documents and applicable laws.

3.2. Membership. Every Owner shall be a Member of the Association. However, there shall be only one (1) membership per Lot. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3 and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is a corporation, partnership, trust, or other legal entity may be exercised by any officer, director, partner, trustee, or any other authorized individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.3. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A" Members. Class "A" Members shall be all Owners except the Class "B" Members, if any. Class "A" Members shall be entitled to one (1) vote for each Lot owned by such Members that is subject to assessment pursuant to Section 10.9; provided, however, that in no event shall more than one (1) vote be cast with respect to any such Lot. Notwithstanding the foregoing or any other provision of the Governing Documents and unless otherwise specified in an agreement between Declarant and a Builder, the Declarant exclusively shall retain and may exercise all Class "A" votes allocable to Lots and parcels owned in whole or part by such Builder (and each Builder, by acquiring or owning title to any portion of the Properties, shall be unconditionally deemed to have agreed to and accepted exclusive retention by Declarant of such voting rights), until each such Lot is conveyed in its entirety to one (1) or more Home Owners (at which time the Home Owner(s) shall have the right to exercise the Class "A" vote allocable to the Lot).

(b) Class "B" Members. The Class "B" Members shall be the Declarant. The

Class "B" Members shall be entitled to three (3) votes for each Lot owned by such Members. The Class "B" membership shall cease and be converted to Class "A" membership upon the earlier to occur of the following:

(i) when seventy-five percent (75%) of the Maximum Number of Lots are owned by Home Owners;

$\rightarrow = \frac{1850}{75\%}$

Home Owner lots 1388

(ii) the fifteenth (15th) anniversary of the close of escrow for the first sale of a Lot to a Home Owner, provided that, in the event that the Declarant annexes additional property pursuant to Article IX, the fifteen (15) year period for conversion shall be extended for additional seven (7) year periods from the date of recording of the most recent Supplemental Declaration to annex additional property; or

(iii) when, in its discretion, the Declarant so determines.

From and after the earliest to occur of the foregoing events, the Class "B" Members shall be deemed to be Class "A" Members entitled to one (1) vote for each Lot that they own. Notwithstanding the foregoing sentence, the Declarant shall retain the right to disapprove actions of the Board and committees as provided in the Bylaws.

(c) Multiple Owners. Anything in the Governing Documents to the contrary notwithstanding, when there is more than one (1) Owner of a particular Lot, the vote(s) allocated to such Lot shall be exercised as the Lot Owners determine among themselves and advise the Secretary of the Association in a written instrument signed by a majority in interest of said Owners prior to the meeting at which the vote is to be cast. Absent such notice to the Association, the Lot's vote(s) shall be suspended if more than one (1) such Owner seeks to exercise the vote(s) or if one (1) or more such Owners notifies the Association of any disagreement between or among such Owners relative to the subject matter of the vote.

(d) Exercise of Voting Rights. Owners shall be entitled personally to cast the votes attributable to their respective Lots on any issue requiring a vote of the Members under the Governing Documents. Unless applicable provisions of the Governing Documents require a higher percentage for approval or disapproval of a particular issue or matter (in which case such higher percentage shall be required to approve or disapprove the issue or matter), the vote or written consent, or any combination thereof, of a majority of the votes allocated to each class of Members entitled to vote on the issue or matter shall be sufficient to approve or disapprove the issue or matter.

3.4. Neighborhoods: Voting Groups.

(a) Neighborhoods. Every Lot shall be located within a Neighborhood. The Lots within a particular Neighborhood may be subject to additional covenants and/or the Lot Owners may also be members of a Neighborhood Association. However, nothing in this Declaration shall require the creation of a Neighborhood Association for any Neighborhood, and no Neighborhood

Association shall be created without the prior written approval of the Declarant.

Any Neighborhood(s) may, upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of Lots within such Neighborhood(s), request that the Association provide an increased level of service or special services for the benefit of Lots in such Neighborhood(s), the costs of which, if approved by the Board, shall be assessed against the Lots within such Neighborhood(s) as a Neighborhood Assessment pursuant to Article X.

Exhibit "A" to this Declaration, and each Supplemental Declaration recorded in the Office of the County Recorder to subject additional property to this Declaration, shall initially assign the property described therein to an existing or newly created Neighborhood by name. Subject to any applicable law, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries; provided, two (2) or more Neighborhoods shall not be combined without the consent of Owners of a majority of the Lots in the affected Neighborhoods.

(b) Voting Groups. The Declarant may designate Voting Groups consisting of one (1) or more Neighborhoods for the purpose of electing directors to the Board, in order to promote representation on the Board of various groups having dissimilar interests and to avoid a situation in which Owners within similar Neighborhoods are able, due to the number of Lots in such Neighborhoods, to elect the entire Board and thereby exclude representation of others. Following termination of the Class "B" Control Period, the number of Voting Groups, if any, within the Properties shall not exceed the total number of directors to be elected by the Members pursuant to the Bylaws. The Members within the Neighborhoods assigned to each Voting Group shall vote on a separate slate of candidates for election to the Board, with each Voting Group being entitled to elect the number of directors designated by Declarant.

The Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Declarant's right to annex property pursuant to Article IX, by filing with the Association and in the Office of the County Recorder, a Supplemental Declaration identifying the Lots within each Voting Group. Such designation may be amended from time to time by the Declarant, acting alone, at any time prior to the expiration of Declarant's right to annex property pursuant to Article IX.

After expiration of the Declarant's right to annex property pursuant to Article IX, the Board shall have the right to file or amend such Supplemental Declaration upon the vote of a majority of the total number of directors. Neither recordation nor amendment of such Supplemental Declaration shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph.

Until such time as Voting Groups are established, all of the Properties shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been recorded by Declarant in the Office of the County Recorder and unless otherwise amended by Declarant, any and all portions of the Properties which are not assigned to a specific Voting Group

1
2
1
0
3

1
1
2
0
2

shall constitute a single Voting Group.

Article IV

Rights and Obligations of the Association

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and common landscaped areas) and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, consistent with this Declaration and the Community-Wide Standard.

4.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the properties described in Exhibits "A" or "B," personal property, and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed. The Declarant shall convey the initial Common Area as identified in Exhibit "A" to the Association prior to or concurrent with the conveyance of the first Lot to a Home Owner.

4.3. Enforcement. The Association may impose sanctions for violations of the Governing Documents in accordance with procedures set forth in the Bylaws, including reasonable monetary fines, suspension of the right to vote, and/or suspension of the right to use the Common Area, any recreational facilities therein, or any other portion thereof. In addition, in accordance with the Bylaws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Lot of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Association may levy Benefitted Assessments to cover costs incurred in bringing a Lot into compliance in accordance with Section 10.7(b) and may seek relief in any court for violations or to abate nuisances.

4.4. Implied Rights: Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Governmental Interests. So long as the Declarant owns any property described on Exhibits "A" or "B," the Declarant may designate sites within the Properties for fire, police, and utility facilities, public schools and parks, and other public facilities in accordance with the Master Plans and applicable laws. The sites may include Common Areas if otherwise permitted by the Master Plans.

4.6. Dedication of Common Areas. The Association may dedicate or grant easements over portions of the Common Areas to any local, state, or federal governmental entity, subject to such approval as may be required by Section 14.2.

4.7. Security. The Association may maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be; provided, however, that the Association shall not be obligated to maintain or support such activities except as provided in Section 4.11.

Neither the Association, the management company of the Association, a Builder, the Declarant, nor any successor declarant shall in any way be considered insurers or guarantors of security within the Properties. Neither the Association, the management company of the Association, a Builder, the Declarant, nor any successor declarant shall be held liable for any loss or damage for failure to provide adequate security or ineffectiveness of security measures undertaken.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge that the Association and its Board of Directors, the management company of the Association, a Builder, the Declarant, any successor declarant, the New Construction Committee, and the Modifications Committee do not represent or warrant that any entry gate, patrolling of the Properties, any fire protection system, burglar alarm system, or other security system designated by or installed according to guidelines established by the Declarant or the New Construction or Modifications Committees may not be compromised or circumvented; nor that any entry gate, patrolling of the Properties, fire protection system, burglar alarm system, or other security systems will prevent loss by burglary, theft, hold-up, or otherwise; nor that entry gate, patrolling of the Properties, fire protection system, burglar alarm system, or other security systems will in all cases provide the detection or protection for which the system is designed or intended.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge and understand that the Association, its Board and committees, the management company of the Association, a Builder, the Declarant, or any successor declarant are not insurers.

All Owners and occupants of any Lot and all tenants, guests, and invitees of any Owner assume all risks for loss, damage, or injury to or within the Lots, and to the contents of Lots and further acknowledge that the Association, its Board and committees, the management company of the Association, a Builder, the Declarant, or any successor declarant have made no representations or warranties, nor has any Owner, occupant, or any tenant, guest, or invitee of any Owner relied upon any representations or warranties, expressed or implied, relative to any entry gate, patrolling of the Properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties.

4.8. Powers Of the Association Relating to Neighborhoods. Since a Neighborhood Committee is a committee of the Association, the Board shall have all of the power and control over any Neighborhood Committee that it has under applicable law over other committees of the Association.

No action of any Neighborhood Association shall become effective or be implemented until and unless the Association shall have been given written notice of such proposed action and the opportunity to disapprove the proposed action or unless such action is in strict compliance with guidelines set by the Board. The Association shall have fifteen (15) days from receipt of the notice to disapprove any proposed action. The Association may disapprove any action taken or contemplated by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard.

The Association also may require specific action to be taken by any Neighborhood Association to fulfill its obligations and responsibilities under this Declaration or any other applicable covenants. Without limiting the generality of the foregoing, the Association may: (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Association; or (b) require that a proposed Neighborhood budget include the cost of such work.

Any action specified by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood Association shall be taken within the reasonable time frame set by the Association in such written notice. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association.

To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Lots in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Section 10.7. Such assessments may be collected as a Benefitted Assessment hereunder and shall be subject to all lien rights provided for herein.

4.9. Recycling Programs. The Board may establish a recycling program and recycling center within the Properties, and in such event all occupants of Dwelling Units shall support such program by recycling, to the extent practical, all materials which the Association's recycling program or center is set up to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

4.10. Provision of Services. The Association may provide services and facilities for the Members of the Association and their families, tenants, guests, and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the

Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein may be relied upon as a representation as to what services and facilities, if any, will be provided by the Association.

4.11. Change of Use of Common Areas. During the Class "B" Control Period without the approval or consent of any Member or other Person, and after the Class "B" Control Period upon (a) adoption of a resolution by the Board stating that, in the Board's opinion, a service provided by the Association pursuant to Section 4.7 or the then present use of a designated part of the Common Area is no longer in the best interest of the Owners or is no longer necessary or appropriate for the purpose intended, and (b) the approval of such resolution by a majority of the Class "A" votes cast at a meeting duly called for such purpose, and (c) the consent of Declarant (so long as Declarant owns any property described on Exhibits "A" or "B"), the Board shall have the power and right to terminate such service or to sell, exchange, convey, or abandon such Common Area or change the use thereof (and, in connection therewith, construct, reconstruct, alter, or change the buildings, structures, and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided that any such new use (i) shall be for the benefit of the Owners, (ii) shall be consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Areas, and (iii) shall be consistent with the then effective Master Plans. Regardless of the above, if the Board determines, and the resolution of the Board recites, that any transaction involving the disposition or exchange of Common Area will not have an adverse effect on the Association and the Owners, the Board may, in lieu of calling a meeting pursuant to (b) above, give notice to all Owners of the proposed transaction and of any right to object thereto which might be available hereunder and, if less than ten percent (10%) of the Class "A" votes object in writing to the Association within thirty (30) days after the giving of such notice, the transaction shall be deemed approved by the Class "A" Members and the meeting of the Class "A" Members shall not be necessary.

4.12. View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across the open space from adjacent Lots will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to prune or thin trees or other landscaping except as set forth in Article V. The owner of the open space shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the open space from time to time subject to any applicable laws and provisions of the Governing Documents. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

1
2
1
0
3

1
1
2
0
0

Article V

Maintenance

5.1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all Common Area;
- (b) all landscaping and other flora, parks, signage, structures, and improvements, including any bike, pedestrian, and equestrian pathways and trails, situated upon the Common Area;
- (c) any private streets, including any asphalt repairs thereto, situated upon the Common Area;
- (d) all walls and fences situated upon the Common Area, subject, however, to the allocation of responsibility for maintenance and repair of party walls and party fences set forth in Section 5.5;
- (e) open space corridors, vista corridors, scenic corridors, buffers, major boulder outcroppings, and washes situated upon the Common Area;
- (f) landscaping, sidewalks, street lights, and signage within public rights-of-way abutting the Properties to the extent such responsibility is allocated to the Association and permitted by the Town and/or applicable law;
- (g) landscaping and other flora within any public utility easements and scenic easements within the Common Areas (subject to the terms of any easement agreement relating thereto);
- (h) any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any plat of any portion of the Properties, or any contract or agreement for maintenance thereof entered into by the Association; and
- (i) any property and facilities owned or controlled by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members and identified by written notice from the Declarant to the Association until Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to any property which the Association is obligated to maintain by this Declaration or any Supplemental Declaration, either by agreement with the Neighborhood

Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of such maintenance shall be assessed as a Neighborhood Assessment against the Lots within the Neighborhood(s) to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association may also maintain other property which it does not own, including, without limitation, property owned by the Town or otherwise dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by the Town and/or applicable law.

Except as otherwise specifically provided herein, all costs for maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense allocated among all Lots as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the Persons responsible for such work pursuant to this Declaration, other recorded covenants, or agreements with such Persons. All costs associated with maintenance, repair, and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment against the Lots within the Neighborhood(s) to which the Exclusive Common Areas are assigned.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Lot and Dwelling Unit and all other structures, parking areas, landscaping, and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 10.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Neighborhood's Responsibility. Upon Board resolution, the Owners of Lots within any Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood, which may include, without limitation, the costs of maintaining any signage, entry features, rights-of-way, or open space between the Lots within the Neighborhood and adjacent public or private streets within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same. Alternatively, the Board may resolve that such maintenance shall be performed by the applicable Neighborhood Association, if any.

All maintenance required of a Neighborhood Association under this Declaration or any additional covenants or agreements shall be performed consistent with the Community-Wide Standard. If any Neighborhood Association fails to perform such maintenance, the Association may perform it and assess the costs against all Lots within such Neighborhood as provided in Section 10.7.

5.4. Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties (including irrigation) as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board. The Board may establish a maintenance standard that is higher than Community-Wide Standard for environmentally sensitive areas and require additional maintenance for such areas to reflect the nature of such property. Anything in the Governing Documents to the contrary notwithstanding, neither the Association nor any Owner or Neighborhood Association shall be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own, unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.5. Party Walls and Party Structures.

Each wall and fence built as a part of the original construction on the Lots:

- (a) any part of which is built upon or straddling the boundary line between two (2) adjoining Lots or between a Lot and the Common Area; or
- (b) which is constructed within four (4) feet of the boundary line between adjoining Lots or between a Lot and the Common Area, has no windows or doors, and is intended to serve as a privacy wall for the benefit of the adjoining Lot; or
- (c) which, in the reasonable determination of the Board, otherwise serves and/or separates two (2) adjoining Lots or a Lot and the Common Area, regardless of whether constructed wholly within the boundaries of one (1) Lot

shall constitute a party wall or party fence (herein referred to as "party structures"). The owners of the property served by a party structure (the "Adjoining Owners") shall own that portion of the party structure lying within the boundaries of their respective properties and shall have an easement for use and enjoyment and, if needed, for support, in that portion, if any, of the party structure lying within the boundaries of the adjoining property. Each Adjoining Owner shall be responsible for maintaining a property insurance policy on that portion of any party structure lying within the boundaries of such Owner's Lot, as more particularly provided in Section 6.3, and shall be entitled to all insurance proceeds paid under such policy on account of any insured loss.

With respect to party structures between Lots, the responsibility for the repair and

maintenance of party structures and the reasonable cost thereof shall be shared equally by the Adjoining Owners. To the extent damage to a party structure from fire, water, soil settlement, or other casualty is not repaired out of the proceeds of insurance, any Adjoining Owner may restore it. If other Adjoining Owners thereafter use the party structure, they shall contribute to the restoration cost in equal shares without prejudice to any Owner's right to larger contributions from other users under any rule of law. Any Owner's right to contribution from another Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

With respect to party structures between Lots and Common Area, the Association shall be responsible for all maintenance and repair thereof, subject to the provisions of Section 10.7(b), except that each Adjoining Owner shall be responsible for painting and making cosmetic repairs to the portion of the party structure, other than any wrought iron comprising such party structure, facing his or her Lot. The Association shall be responsible for all maintenance and repair, including painting and cosmetic repairs, of all wrought iron comprising party structures between Lots and Common Area. The costs incurred by the Association in maintaining and repairing party structures pursuant to this Section shall be a Common Expense allocated among all Lots as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the Persons responsible for such work pursuant to this Declaration, other recorded covenants, or agreements with such Persons.

Article VI

Insurance and Casualty Losses

6.1. Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect if reasonably available the following types of insurance:

(a) Blanket property insurance covering risks of physical loss on an "all-risk" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair, and/or replacement in the event of a casualty. Such insurance shall include coverage for flood and earth movement to the extent that such insurance is reasonably available. In addition, the Association may, upon request of a Neighborhood Association, and shall, if so specified in a Supplemental Declaration applicable to the Neighborhood Association, obtain and continue in effect property insurance covering risks of physical loss on an "all risk" basis for all insurable improvements in the Neighborhood. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full insurable replacement cost of the insured property. Costs of property insurance obtained by the Association on the behalf of a Neighborhood shall be charged to the Owners of Lots within the benefitted Neighborhood as a Neighborhood Assessment;

(b) Commercial general liability insurance on the Area of Common

Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf and including coverage for non-owned automobile liability. If generally available at reasonable cost, the commercial general liability insurance shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage;

(c) Workers compensation insurance and employers liability insurance if and to the extent required by law;

(d) Directors and officers liability insurance or equivalent Association liability insurance;

(e) Commercial crime insurance, including employee fidelity insurance, in an amount determined by its reasonable business judgment but not less than one-fourth (1/4) of the annual Base Assessments on all Lots plus reserves on hand. Such commercial crime insurance shall cover funds held by the Association's management company, unless such management company's insurance insures the Association against crimes committed by or against such management company. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation; and

(f) Such additional insurance as the Board, in its reasonable business judgment, determines advisable.

The Association shall have no insurance responsibility for any part of property of any Private Amenity.

6.2. Association Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be familiar with insurable replacement costs in the Pima County, Arizona area.

Except as otherwise provided in Section 6.1 with respect to property within a Neighborhood, premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment. However, premiums for insurance on Exclusive Common Area may be included in the Neighborhood Assessment of the Neighborhood(s) benefitted unless the Board reasonably determines that other treatment of the premiums is more appropriate.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence

1
2
1
6
3
1
1
2
9
1

or willful conduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots in accordance with Section 10.7.

(a) All insurance coverage obtained by the Board shall:

(i) Be written with a company authorized to do business in the State of Arizona which satisfies the requirements of the Federal National Mortgage Association or such other secondary mortgage market agencies or federal agencies as the Board requires;

(ii) Be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Area shall be for the benefit of the Association and its Members. Insurance coverage secured on behalf of a Neighborhood shall be for the benefit of the Neighborhood Association, if any, the Owners of Lots within the Neighborhood, and their Mortgagees, as their interests may appear;

(iii) Not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees; and

(iv) Contain replacement cost coverage.

(b) In addition, the Board shall secure, if reasonably available, insurance policies providing the following:

(i) A waiver of subrogation as to any claims against the Owners and the Association's Board, officers, employees, and manager;

(ii) A waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) An endorsement preventing the Association's insurance carrier from invoking its "other insurance" clause to obtain any contribution from any insurance maintained by individual Owners;

(iv) An endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) A cross liability provision;

(vi) A provision vesting the Board with exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss; and

(vii) A provision listing the Lot Owners as additional insureds under the policy.

6.3. Owner's Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full insurable replacement cost on its Lot(s), less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of the Dwelling Unit or any other structures on or comprising his or her Lot, he or she shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specification approved in accordance with Article XI of this Declaration. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lots within such Neighborhood and the standards for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

6.4. Damage and Destruction.

(a) Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless at least seventy-five percent (75%) of the total Class "A" votes and the Declarant, as long as the Declarant owns any property described in Exhibits "A" and "B" of the Declaration, decide within sixty (60) days after the loss not to repair or reconstruct.

Any damage to or destruction of the common property of any Neighborhood Association shall be repaired or reconstructed unless the Owners representing at least seventy-five percent (75%) of the total vote of the Neighborhood Association decide within sixty (60) days after the damage or destruction not to repair or reconstruct. If the Neighborhood Association's covenants, if any, require a greater percentage of Owners within the Neighborhood to approve, then such provision shall control.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then

1
2
1
0
3

1
1
2
9
3

the period shall be extended for not more than sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area or common property of a Neighborhood Association shall be repaired or reconstructed.

(c) If determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Neighborhood Association shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association or the Neighborhood Association, as applicable, in a neat, clean, attractive, and landscaped condition consistent with the Community-Wide Standard.

6.5. Disbursement of Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood Association, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

6.6. Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Class "A" Members, levy Benefitted Assessments against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1.

Article VII

No Partition

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof without the written consent of all Owners and Mortgagees.

Article VIII

Condemnation

Whenever any part of the Common Area shall be taken or conveyed under threat of condemnation by any authority having the power of eminent domain, each Owner shall be entitled to notice thereof. The Board may convey Common Area under threat of condemnation only if approved in writing by at least sixty-seven percent (67%) of the total Class "A" votes in the Association and Declarant, as long as Declarant owns any property described on Exhibits "A" or "B."

The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

1
2
1
0
3

1
1
2
3
4

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and at least sixty-seven percent (67%) of the total Class "A" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Sections 6.5 and 6.6 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such available funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article IX

Annexation and Withdrawal of Property

9.1. Annexation Without Approval of Membership. Prior to the issuance of the first Public Report, Declarant may unilaterally subject to the provisions of this Declaration all or portions of the real property described in Exhibit "B" until all property described on Exhibit "B" has been subjected to this Declaration or thirty (30) years after the recording of this Declaration, whichever is earlier. After the issuance of the first Public Report, Declarant may unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B", until all of the Lots in the Properties have been conveyed to Home Owners.

Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Office of the County Recorder describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall not require the consent of the Class "A" Members but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration, unless otherwise provided therein.

9.2. Annexation With Approval of Membership. The Association or the Declarant may subject any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of sixty-seven percent (67%) of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as

Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Office of the County Recorder describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

9.3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

9.4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property and shall require the written consent of the owner(s) of such property, if other than the Declarant.

9.5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibits "A" or "B."

9.6. Phasing of Construction. In addition to and not in lieu of the rights provided in this Article, and subject to any applicable regulations of any governing jurisdiction, and subject to the Declarant's prior written approval, any Builder or Declarant shall have the right to develop their Lots in Subphases, which include less than all Lots in a Phase.

Article X

Assessments

10.1. Creation of Assessments. The Association may levy assessments against each Lot for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments for Neighborhood Expenses benefitting only Lots within a particular Neighborhood or Neighborhoods; (c) Special

Assessments as described in Section 10.6; and (d) Benefitted Assessments as described in Section 10.7. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

All assessments (except as otherwise provided in Section 10.7(b)), together with interest from the due date of such assessment at a rate determined by the Association (not to exceed the highest rate allowed by Arizona law), late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is levied until paid, as more particularly provided in Section 10.10. Each such assessment, together with interest, late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, also shall be the personal obligation of the Owner of such Lot. Upon any transfer of title to the Lot, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which notice of the transfer is received by the Board in accordance with Section 17.8 hereof. No first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in four (4) equal installments in advance on the first day of each quarter. If any Owner is delinquent in paying any assessments or other charges levied against his or her Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon request by an Owner or the Owner's authorized representative, furnish to the Owner a certificate in writing signed by an officer or authorized agent of the Association setting forth whether assessments for such Owner's Lot have been paid and any delinquent amount. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

No Owner may exempt himself or herself from liability for assessments by nonuse of Common Area, abandonment of his or her Lot or Dwelling Unit, or any other means. The obligation to pay assessments is a separate and independent covenant 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 or Board to take some action or perform some function required of it or for inconvenience or discomfort arising from repairs or improvements or other action taken by it.

10.2. Declarant's Exemption from Assessments. Anything in the Governing Documents to the contrary notwithstanding, Declarant shall not be obligated to pay any assessments provided for herein. Declarant may, but shall not be obligated to, subsidize, loan money to, or provide services and materials to the Association.

10.3. Computation of Base Assessment. The Board shall prepare a budget covering the

Common Expenses estimated to be incurred during the coming year pursuant to the terms and provisions set forth in the Bylaws. The budget shall include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 10.5.

The Base Assessment shall be levied equally against all Lots subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment under Section 10.9 on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 10.2), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be disclosed as a line item in the Common Expense budget of the Association. Payment of such subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

In accordance with the Bylaws, the Board shall send a copy of the budget, or a summary thereof, and notice of the amount of the Base Assessment for the following year to each Owner not less than thirty (30) nor more than sixty (60) days prior to the beginning of the fiscal year for which it is to be effective.

10.4. Computation of Neighborhood Assessments. The Board shall prepare a separate budget for each Neighborhood covering the estimated Neighborhood Expenses, if any, expected to be incurred on behalf of such Neighborhood during the coming year pursuant to the terms and provisions set forth in the Bylaws. The Board shall be entitled to set such budget only to the extent that: (a) the Governing Documents specifically authorize the Board to assess certain costs as a Neighborhood Assessment; or (b) the Association expects to incur expenses to provide additional services for the Neighborhood. Any Neighborhood may request that additional services or an increased level of services be provided by the Association, and if the Board approves such additional services or increased level of services, any additional costs attributable thereto shall be added to such budget. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood.

Neighborhood Expenses shall be levied as a Neighborhood Assessment against all Lots within the benefitted Neighborhood(s) and shall be allocated equally among those Lots. If specified in the Supplemental Declaration(s) applicable to such Neighborhood(s) or if directed by petition signed by a majority of the Owners within the Neighborhood(s), any portion of the assessment intended for exterior maintenance of Dwelling Units or other structures, insurance on Dwelling Units

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

or other structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefitted Lots in proportion to the benefit received. Such proportion shall be specified in the Supplemental Declaration applicable to such Neighborhood(s), or if not so specified, shall be approved by a majority of the Owners within the Neighborhood(s) (and by Declarant as long as Declarant owns any property within such Neighborhood(s)).

The Board shall cause a copy of each Neighborhood budget, or a summary thereof, and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner of a Lot in the Neighborhood not less than thirty (30) nor more than sixty (60) days prior to the beginning of the fiscal year.

10.5. Reserve Budget and Capital Contribution. The Board shall prepare, on an annual basis, reserve budgets for both general and Neighborhood purposes which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of each asset. The Board shall include in Base Assessments and Neighborhood Assessments capital improvement amounts sufficient to meet these projected needs.

10.6. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted, subject to the limitations set forth in Section 10.8. Such Special Assessment may be levied against the entire membership, if for Common Expenses, or against the Lots within any Neighborhood, if for Neighborhood Expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

10.7. Benefitted Assessments. The Board may levy Benefitted Assessments against particular Lots for expenses incurred or to be incurred by the Association, as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, caretaker service, etc.), which assessments may be levied in advance of the provision of the requested benefit, item, or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Lot into compliance with the terms of the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing before levying a Benefitted Assessment under this Section 10.7(b).

The Association may also levy a Benefitted Assessment against the Lots within a Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into

12131415161718192021222324252627282930313233343536373839404142434445464748495051525354555657585960616263646566676869707172737475767778798081828384858687888990919293949596979899100101102103104105106107108109110111112113114115116117118119120121122123124125126127128129130131132133134135136137138139140141142143144145146147148149150151152153154155156157158159160161162163164165166167168169170171172173174175176177178179180181182183184185186187188189190191192193194195196197198199200201202203204205206207208209210211212213214215216217218219220221222223224225226227228229230231232233234235236237238239240241242243244245246247248249250251252253254255256257258259260261262263264265266267268269270271272273274275276277278279280281282283284285286287288289290291292293294295296297298299300301302303304305306307308309310311312313314315316317318319320321322323324325326327328329330331332333334335336337338339340341342343344345346347348349350351352353354355356357358359360361362363364365366367368369370371372373374375376377378379380381382383384385386387388389390391392393394395396397398399400401402403404405406407408409410411412413414415416417418419420421422423424425426427428429430431432433434435436437438439440441442443444445446447448449450451452453454455456457458459460461462463464465466467468469470471472473474475476477478479480481482483484485486487488489490491492493494495496497498499500501502503504505506507508509510511512513514515516517518519520521522523524525526527528529530531532533534535536537538539540541542543544545546547548549550551552553554555556557558559560561562563564565566567568569570571572573574575576577578579580581582583584585586587588589590591592593594595596597598599600601602603604605606607608609610611612613614615616617618619620621622623624625626627628629630631632633634635636637638639640641642643644645646647648649650651652653654655656657658659660661662663664665666667668669670671672673674675676677678679680681682683684685686687688689690691692693694695696697698699700701702703704705706707708709710711712713714715716717718719720721722723724725726727728729730731732733734735736737738739740741742743744745746747748749750751752753754755756757758759760761762763764765766767768769770771772773774775776777778779780781782783784785786787788789790791792793794795796797798799800801802803804805806807808809810811812813814815816817818819820821822823824825826827828829830831832833834835836837838839840841842843844845846847848849850851852853854855856857858859860861862863864865866867868869870871872873874875876877878879880881882883884885886887888889890891892893894895896897898899900901902903904905906907908909910911912913914915916917918919920921922923924925926927928929930931932933934935936937938939940941942943944945946947948949950951952953954955956957958959960961962963964965966967968969970971972973974975976977978979980981982983984985986987988989990991992993994995996997998999100010011002100310041005100610071008100910101011101210131014101510161017101810191020102110221023102410251026102710281029103010311032103310341035103610371038103910401041104210431044104510461047104810491050105110521053105410551056105710581059106010611062106310641065106610671068106910701071107210731074107510761077107810791080108110821083108410851086108710881089109010911092109310941095109610971098109911001101110211031104110511061107110811091110111111121113111411151116111711181119112011211122112311241125112611271128112911301131113211331134113511361137113811391140114111421143114411451146114711481149115011511152115311541155115611571158115911601161116211631164116511661167116811691170117111721173117411751176117711781179118011811182118311841185118611871188118911901191119211931194119511961197119811991200120112021203120412051206120712081209121012111212121312141215121612171218121912201221122212231224122512261227122812291230123112321233123412351236123712381239124012411242124312441245124612471248124912501251125212531254125512561257125812591260126112621263126412651266126712681269127012711272127312741275127612771278127912801281128212831284128512861287128812891290129112921293129412951296129712981299130013011302130313

the Maximum Number of Lots in any Phase or other portion of the Properties that it owns commencing on the date of conveyance of the Phase or other portion of the Properties to the Builder; provided, however, that for the first six (6) months after conveyance of the Phase or other portion of the Properties to the Builder, the Builder shall only pay fifty percent (50%) of all such assessments and thereafter shall pay one hundred percent (100%) of all such assessments. Each Home Owner shall pay all assessments provided for herein on any Lot that he or she owns commencing on the date of conveyance of the Lot to the Home Owner. Declarant shall be exempt from the obligation to pay assessments, as more particularly described in Section 10.2.

10.10. Lien for Assessments. All assessments authorized in this Article, excluding Benefitted Assessments under Section 10.7(b), shall constitute a lien against the Lot against which they are levied until paid unless otherwise specifically precluded in this Declaration. The lien shall also secure payment of interest, late charges (subject to the limitations of Arizona law), and costs of collection (including attorneys' fees, lien fees, and administrative costs). Such lien shall be superior to all other liens, except: (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Association may enforce such lien, when delinquent, by suit, judgment, foreclosure, and any other available remedies.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged to such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, a Mortgagee holding a first Mortgage of record or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 10.9, including such acquirer, its successors and assigns.

10.11. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

10.12. Exempt Property. The following property shall be exempt from payment of Base

Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area;
- (b) all property dedicated to and accepted by any governmental authority or public utility; and
- (c) all property owned by a Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, the Declarant shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

Article XI

Architectural and Design Standards

11.1. General. No improvements (including staking, clearing, excavation, grading, and other site work), exterior alteration of existing improvements (including painting), placement or posting of any object or thing on the exterior of any Lot, Dwelling Unit, other structure or the Common Area (e.g., fences, signs, antennae, clotheslines, playground equipment, lighting, temporary structures, and artificial vegetation), planting or removal of landscaping materials, or installation or removal of any irrigation system shall take place except in compliance with this Article and the Design Standards and upon approval of the appropriate committee under Section 11.2.

Any Owner may remodel, paint, or redecorate the interior of structures, including the Dwelling Unit, on his or her Lot without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to this Article and approval as set forth below. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

This Article shall not apply to the activities of the Declarant. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

11.2. Architectural and Design Review. Responsibility for administration of the Design Standards and review of all applications for construction and modifications under this Article shall be handled by the two committees as described in Sections 11.2(a) and (b) below. The members of the committees need not be Members of the Association or representatives of Members and may, but need not, include architects, engineers, or similar professionals, whose compensation, if any,

shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

(a) New Construction Committee. The New Construction Committee ("NCC") shall consist of at least three (3), but not more than five (5), persons and shall have exclusive jurisdiction over all original construction on any Lot, Area of Common Responsibility, or other portion of the property described on Exhibit "A" and Exhibit "B." Until all Dwelling Units have been developed and conveyed to Home Owners in the normal course of development and sale, the Declarant may appoint all members of the NCC, who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to development and conveyance of all Dwelling Units to Home Owners, except in a recorded instrument executed by Declarant. Upon expiration or surrender of such right, the Board of Directors may appoint the members of the NCC, who shall serve and may be removed at the discretion of the Board of Directors, or it may dissolve the NCC and transfer all its jurisdiction to the Modifications Committee established under Section 11.2(b) below.

(b) Modifications Committee. The Board of Directors shall establish a Modifications Committee ("MC") to consist of at least three, and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Board. The MC shall have exclusive jurisdiction over modifications, additions, and alterations made on or to existing structures on any Lot, Area of Common Responsibility, or other portion of the property described on Exhibit "A" and Exhibit "B" and shall assume exclusive jurisdiction over original construction on all such property upon termination of the NCC's jurisdiction over Lots owned by Home Owners as specified in Section 11.2(a) above. The MC may delegate its authority as to a particular Neighborhood to the Neighborhood Association, if any, so long as the MC has determined that such Neighborhood Association has in force review and enforcement practices, procedures, and appropriate standards at least as stringent to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. Declarant shall have sole and absolute discretion to veto any action taken by the MC or any Neighborhood Association until all Dwelling Units have been developed and conveyed to Home Owners. Thereafter and until such time, if ever, as the NCC is dissolved pursuant to Section 11.2(a) above, the NCC shall have the right to veto any action taken by the MC or any Neighborhood Association which the NCC determines, in its sole discretion, to be inconsistent with the Design Standards.

11.3. Guidelines and Procedures. The Declarant shall prepare the initial Design Standards which shall apply to all construction activities within the Properties, except as provided in Section 11.1. The Design Standards may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one (1) portion of the Properties to another depending upon the location, unique characteristics, intended use, the Master Plans, and any applicable zoning ordinances.

The NCC shall adopt such Design Standards at its initial organizational meeting and thereafter shall have sole and full authority to amend or supplement them from time to time. Any

amendments to the Design Standards shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The NCC shall make the Design Standards available to Owners and Builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Standards. In the Declarant's discretion, such Design Standards may be recorded in the Office of the County Recorder, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Standards was in effect at any particular time.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Standards and subject to review and approval or disapproval by the NCC.

11.4. Submission of Plans and Specifications.

(a) No construction or improvements shall be commenced, erected, placed, or maintained on any Lot, nor shall any exterior addition, change, or alteration be made thereto, until the plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, and screening therefor shall have been submitted to and approved in writing by the NCC or MC, as appropriate. The Design Standards shall set forth the procedure for submission of the Plans.

(b) In reviewing each submission, the NCC or MC, as appropriate, may consider, without limitation, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life. The committees may require relocation of native plants within the construction site or the installation of an irrigation system for the landscaping including the natural plant life on the Lot as a condition of approval of any submission.

The NCC or the MC, as appropriate, shall, within the period specified in the Design Standards, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Standards, the reasons for such finding, and suggestions for the curing of such objections. In the event the appropriate committee fails to advise the submitting party by written notice within the period specified in the Design Standards of either the approval or disapproval of the Plans and suggestions for curing the objections of the committee, approval shall be deemed to have been denied. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the

1110304

submitting party.

(c) If construction of any modifications, additions, or alterations approved by the MC does not commence within one hundred twenty (120) days after such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans thereof to the MC for reconsideration. In addition, if any such construction is not completed within the period set forth in the Design Standards or in the MC's approval, such approval shall be deemed withdrawn and such incomplete construction shall be deemed to be in violation of this Article.

11.5. No Waiver of Future Approvals. Each Owner acknowledges that the members of the NCC and the MC will change from time to time and that interpretation, application and enforcement of the Design Standards may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter required to be approved shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

11.6. Variance. Both the NCC and MC may authorize variances in writing from their respective guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations; (b) when unique circumstances dictate such as unusual topography, natural obstructions, hardship, or aesthetic or environmental considerations require; and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. Any variance granted by the MC must also have the Board's prior written approval. Neither the inability to obtain nor the terms of any governmental approval or financing shall be considered a hardship warranting a variance. A record of all variances shall be maintained by the Association.

11.7. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes or other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot.

11.8. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the requester or restore the property, Lot, and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the

maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Benefitted Assessment, unless otherwise prohibited in this Declaration.

All acts by any contractor, subcontractor, licensee, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, licensee, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Standards may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association nor its officers or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the NCC and MC.

Article XII

Use Restrictions

12.1. Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties under this Declaration in order to protect all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the community. The Properties are subject to Design Standards as set forth in Article XI and other restrictions governing land development, architectural and design control, and conduct within and uses of the Properties. This Declaration, including the Initial Use Restrictions attached hereto as Exhibit "C" and incorporated by this reference, and the rules and resolutions now or hereafter adopted by the Board or the Members establish affirmative and negative covenants, easements, and restrictions on the Properties.

All provisions of this Declaration and any rules shall apply to all Owners, occupants, tenants, guests and invitees of any Lot. Any lease on any Lot shall provide that the tenant and all occupants of the leased Lot shall be bound by the Governing Documents.

12.2. Authority to Promulgate Use Restrictions and Rules.

(a) Subject to the terms of this Article and in accordance with its duty of care and undivided loyalty to the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the Initial Use Restrictions set forth on Exhibit "C." The Board shall send notice by mail to all Owners concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

1
2
1
0
3
1
1
3
0
6

Any such rules shall become effective after compliance with Section 12.2 (c) below unless such rules are disapproved at a meeting by at least sixty-seven percent (67%) of the total Class "A" votes (and by the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B"). The Board shall have no obligation to call a meeting of the Class "A" Members to consider disapproval, except upon receipt of a petition signed by the requisite percentage of Class "A" Members required to call special meetings as set forth in the Bylaws. If a meeting to consider disapproval of a rule is requested by the Class "A" Members prior to the effective date of such rule, the rule may not become effective until after such meeting is held.

(b) Alternatively, the Class "A" Members, at a meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and previously adopted rules by a vote of sixty-seven percent (67%) of the total Class "A" votes (and the approval of the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B").

(c) At least thirty (30) days prior to the effective date of any action under Sections 12.2(a) or (b), the Board shall Record the rule and send a copy of the rule to each Owner specifying the effective date of such rule. The Association shall provide, without cost, a copy of the Use Restrictions and rules then in effect to any requesting Member or Mortgagee.

12.3. Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are given notice that: (a) their ability to use their privately owned property is limited thereby; and (b) the Board and/or the Members may add, delete, modify, create exceptions to, or amend the Use Restrictions in accordance with Sections 12.2, 12.3, and 17.2.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Restrictions and rules may change from time to time.

12.4. Rights of Owners. Except as may be specifically set forth in the Initial Use Restrictions, neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Speech. The rights of Owners and occupants to display on their Lot political signs and symbols of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods in individually owned property shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating signs and symbols which are visible from outside the Lot.

(c) Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating displays which are visible from outside the Lot.

(d) Household Composition. No rule shall interfere with the freedom of occupants of Dwelling Units to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Dwelling Unit on the basis of the size and facilities of the Dwelling Unit and its fair share use of the Common Area.

(e) Activities Within Dwelling Units. No rule shall interfere with the activities carried on within the confines of Dwelling Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Dwelling Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Dwelling Unit, or that create an unreasonable source of annoyance.

(f) Pets. The Association may adopt reasonable rules designed to minimize damage and disturbance to other Owners and occupants, including rules requiring damage deposits, waste removal, leash controls, noise controls, and pet occupancy limits based on size and facilities of the Lot and fair share use of the Common Area; provided, however, any rule prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Properties prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No Owner shall be permitted to raise, breed, or keep animals or poultry of any kind for commercial or Business purposes.

(g) Allocation of Burdens and Benefits. Except as permitted by Section 2.2 or otherwise specifically provided herein, the initial allocation of financial burdens and rights to use Common Areas among the various Lots shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the use of the Common Areas as provided in Section 4.11, from adopting generally applicable rules for use of Common Areas, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article X.

(h) Alienation. No rule shall prohibit the leasing or transferring of any Lot, or require consent of the Association or Board for leasing or transferring of any Lot; provided, the

Association or the Board may require a minimum lease term of up to six (6) months. The Association may require that Owner use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Lot greater than an amount reasonably based on the costs to the Association of its costs to administer that lease or transfer.

(i) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop in accordance with the Master Plans, including, but not limited to, the rights of the Declarant as set forth in Article XV.

(j) Abridging Existing Rights. Any rule which would require Owners to dispose of personal property being kept on the Properties shall apply prospectively only and shall not require the removal of any property which was being kept on the Properties prior to the adoption of such rule and which was in compliance with all rules in force at such time unless otherwise required to be removed by law.

The limitations in this Section 12.4 apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with Section 17.2.

Article XIII

Easements

13.1. Easements of Encroachment. Declarant reserves unto itself, so long as it owns any property described on Exhibits "A" or "B" of this Declaration, easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of the Declarant.

13.2. Easements for Utilities, Etc. Declarant reserves unto itself, so long as it owns any property described on Exhibits "A" or "B" of this Declaration, and grants to the Association an easement for the purpose of access and maintenance upon, across, over, and under all of the Properties to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. The Declarant and/or the Association may assign these rights to any local utility supplier, cable company, security company, or other company providing a service or utility to Gladden Farms, subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems,

facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically grants to the local utility suppliers easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any utilities be installed or relocated on the Properties, except as approved by the Board or Declarant.

13.3. Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

13.4. Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected property and the Board.

13.5. Right of Entry. Authorized agents of the Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot, for emergency, security, and safety reasons. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner thereof. This easement includes the right to enter any Lot to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

13.6. Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot to: (a) perform its maintenance responsibilities under Article V; and (b) make inspections to ensure compliance with the Governing Documents. Except

1
2
1
0
3

1
1
3
1
0

in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

The Association also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment.

13.7. Rights to Stormwater Runoff and Water Reclamation. Declarant hereby reserves for itself and its designees, all rights to ground water, surface water, and storm water runoff within the Properties, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such right shall include an easement over the Properties for access and for installation and maintenance of facilities and equipment to capture and transport such water and runoff.

Article XIV

Mortgage Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

14.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Declaration or Bylaws relating to such Lot or the Owner or Occupant which is not cured within sixty (60) days. Notwithstanding this provision, any holder of a first Mortgage is entitled to written notice upon request from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or By-Law's which is not cured within sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

14.2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent (67%) of the first Mortgagees or at least sixty-seven percent (67%) of the total Association vote entitled to cast consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this Section 14.2(a));

(b) Change the method of determining obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Neighborhoods or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration.);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance, or maintenance of Lots and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

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

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

14.3. Other Provisions for First Lien Holders. To the extent possible under Arizona law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots

subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

14.4. Amendments to Documents. The following provisions do not apply to amendments to the constituent documents or termination of the Association made as a result of destruction, damage, or condemnation pursuant to Section 14.3(a) or (b), or to the addition of land in accordance with Article IX.

(a) The consent of at least sixty-seven percent (67%) of the Class "A" votes (and of the Declarant, so long as Declarant owns any property described on Exhibits "A" or "B" of this Declaration) and the approval of the Eligible Holders of first Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots subject to a Mortgage appertain shall be required to terminate the Association.

(b) The consent of at least sixty-seven percent (67%) of the Class "A" votes (and of the Declarant, so long as Declarant owns any property described on Exhibits "A" or "B" of this Declaration) and the approval of Eligible Holders of first Mortgages on Lots to which at least fifty-one percent (51%) of the votes of Lots subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, Bylaws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of the Properties;
- (vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;
- (viii) boundaries of any Lot;
- (ix) leasing of Lots;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;

(xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or

(xii) any provisions included in the Declaration, Bylaws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Lots.

14.5. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.6. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

14.7. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of its respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.

14.8. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Arizona law for any of the acts set out in this Article.

14.9. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Article XV

Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the Bylaws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Office of the County Recorder. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any

manner whatsoever.

Each Owner, by accepting title to a Lot and becoming an Owner, and each other Person, by acquiring any interest in the Properties, acknowledges awareness that Gladden Farms is a master planned community, the development of which is likely to extend over many years, and agrees not to protest or otherwise object to: (a) zoning, density, or uses of the Properties or any changes thereto; or (b) changes in any conceptual or master plan for the Properties, including, but not limited to, the Master Plans, provided that such changes are or would be lawful (including, but not limited to, lawful by special use permit, variance, or the like) and are not inconsistent with this Declaration.

So long as construction and initial sales of Lots shall continue, the Declarant and Builders authorized by Declarant may maintain and carry on upon the Common Area and any property owned by the Declarant such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, sales offices, and storage of building materials. The Declarant and authorized Builders shall have easements for access to and use of such facilities. The Declarant's or Builder's unilateral right to use the Common Area for purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Areas by Owners, unless leased pursuant to a lease agreement with the Association providing for payment of reasonable rent.

Without the specific written approval of the Declarant, neither the Association nor any Neighborhood Association shall adopt any policy, rule, or procedure that:

(a) Limits the access of the Declarant, any Builder, their successors, assigns, and/or affiliates or their personnel and/or guests, including visitors, to the Common Area of the Association or to any property owned by any of them;

(b) Limits or prevents the Declarant, any Builder, their successors, assigns and/or affiliates or their personnel from advertising, marketing, or using the Association or its Common Area or any property owned by any of them in promotional materials;

(c) Limits or prevents purchasers of new residential housing constructed by the Declarant, any Builder, their successors, assigns and/or affiliates in Gladden Farms from becoming members of the Association or enjoying full use of its Common Areas, subject to the membership provisions of this Declaration and the Bylaws;

(d) Discriminates against or singles out any group of Association members or prospective members or the Declarant or any Builder [this provision shall expressly prohibit the establishment of a fee structure (i.e., assessments, Special Assessments, and other mandatory fees or charges) that discriminates against or singles out any group of Association members or the Declarant, but shall not prohibit the establishment of Benefitted Assessments];

(e) Impacts the ability of the Declarant, any Builder, their successors, assigns,

and/or affiliates, to carry out to completion its development plans and related construction activities for Gladden Farms, as such plans are expressed in the Master Plans, as such may be amended and updated from time to time. Policies, rules, or procedures affecting the provisions of existing easements established by the Declarant and limiting the establishment by the Declarant of easements necessary to complete Gladden Farms shall be expressly included in this provision. Easements that may be established by the Declarant shall include, but shall not be limited to, easements for development, construction, and landscaping activities and utilities; or

(f) Impacts the ability of Declarant, any Builder, their successors, assigns and/or affiliates to develop and conduct customer service programs and activities in a reasonable manner.

Neither the Association nor any Neighborhood Association shall exercise its authority over the Common Area (including, but not limited to, any gated entrances and other means of access to the Properties or the Exhibit "B" property) to interfere with the rights of the Declarant set forth in this Declaration or to impede access to any portion of the Properties or the Exhibit "B" property over the streets and other Common Area within the Properties.

No Person shall record any Supplemental Declaration, declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of the Properties without Declarant's prior review and prior written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of: (a) twenty (20) years after the conveyance of the first Lot to a Home Owner after the issuance of the first Public Report; or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Thereafter, the Declarant and Builders may continue to use the Common Area for purposes stated in this Article only pursuant to a rental or lease agreement between the Declarant and/or such Builder and the Association which provides for reasonable rental payments.

Article XVI

Dispute Resolution

The Association, Declarant, Owners, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that it shall attempt to resolve all claims, grievances, and disputes between such Bound Party and any other Bound Party involving the Properties, including, without limitation, any claims, grievances, or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents (collectively "Claim") through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes,

the Board may adopt alternative dispute resolution procedures applicable to all Bound Parties. However, nothing herein shall be construed to require the Association, Declarant, Owners, or any other Person to submit to this Article.

Article XVII

General Provisions

17.1. Term. This Declaration shall run with and bind the Properties and shall inure to the benefit of and shall be enforceable by the Association or any Owner (including Declarant) and their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded in the Office of the County Recorder. After such time, this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by sixty-seven percent (67%) of each class of Members, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein.

17.2. Amendment.

(a) By Declarant. Prior to the conveyance of the first Lot to a Home Owner, Declarant may unilaterally amend or terminate this Declaration at any time and for any reason. After the conveyance of the first Lot to a Home Owner, Declarant may unilaterally amend this Declaration only if such amendment is: (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make or purchase Mortgage loans on the Lots; (iv) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots; (v) otherwise necessary to satisfy the requirements of any governmental agency, including, without limitation, the Town; and (vi) in order to correct technical errors or for clarification. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. Thereafter and otherwise, this Declaration may only be amended in accordance with Section 17.2(b).

(b) By Owners. Unless the Declarant has the right to amend this Declaration in accordance with Section 17.2(a), this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of each class of Members.

In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the Office of the County Recorder unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months after its recordation or such amendment shall be conclusively presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

17.3. Severability. Invalidity of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

17.4. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

17.5. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any Neighborhood and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions of any Neighborhood; provided, however, in the event of conflict between or among such covenants, restrictions, or provisions of any articles of incorporation, bylaws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood shall be subject and subordinate to those of the Association and its Governing Documents. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

17.6. Use of the Phrase "Gladden Farms". No Person shall use the phrase "Gladden Farms" or any derivative, or any other term which Declarant may select as the name of this development or any component thereof, in any printed or promotional material without the Declarant's prior written consent; provided, however, that Owners may use the phrase "Gladden Farms" in printed or promotional matter solely to specify that particular real property is located within the Properties, and further provided that the Association shall be entitled to use the phrase "Gladden Farms" in its name.

17.7. Compliance. Every Owner and occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association, by the Declarant, and/or, in a proper case, by any aggrieved Lot Owner(s).

17.8. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least ten (10) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

17.9. Attorneys' Fees. In the event of an action instituted to enforce any of the provisions contained in the Governing Documents, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs, including administrative and lien fees, of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Benefitted Assessment with respect to the Lot(s) involved in the action.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 29 day of JULY, 2003.

GLADDEN FOREST, L.L.C.,
an Arizona limited liability company

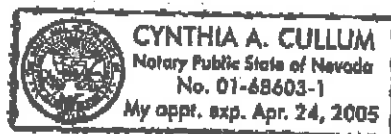
By: John M. Keilly

Name: John M. Keilly

Title: _____

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me this 29th day of JULY, 2003, by John Keilly, the Managing Member of GLADDEN FOREST, L.L.C., an Arizona limited liability company.



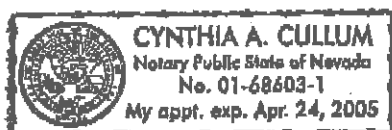
Cynthia A. Cullum
Notary Public

GLADDEN FARMS, L.L.C.,
a Nevada limited liability company

By: To the Ancestral
Name: JOHN M. KELLY
Title: MANAGER, MEMBER

STATE OF NEVADA)
COUNTY OF CLARK) ss.

The foregoing instrument was acknowledged before me this 22nd day of JULY, 2003, by John Keirri, the Managing Member of GLADDEN FARMS, L.L.C., a Nevada limited liability company.



Cynthia A. Cull
Notary Public

EXHIBIT "A"

Legal Description of the Properties Initially Subject to this Declaration

EXHIBIT "B"

Legal Description of the Land Subject to Annexation

Abstract

Exhibit "B"

Blocks 1 through 10, and 13 through 25 of Gladden Farms, according to the map
recorded in Book 55 of Maps, Page 60, records of Pima County, Arizona

1
2
1
0
3

1
1
3
2
4

EXHIBIT "C"

Initial Use Restrictions

(a) General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration), subject to applicable laws. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose more restrictive covenants than those contained in this Declaration, and the Association shall have standing and the power to enforce such standards.

(b) Prohibited Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

(i) The posting or display of any sign, poster, circular, billboard, advertising devise, or other display of any kind so as to be visible from the outside any Dwelling Unit, except as may otherwise be specifically permitted in this Declaration or by the Modifications Committee;

(ii) Subdivision of a Lot into two (2) or more Lots after a subdivision plat including such Lot has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Lot, except that the Declarant and Builders, with Declarant's consent, shall be permitted to subdivide or change the boundary lines of Lots which they own;

(iii) Active use of any bodies of water within the Properties. Neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of any bodies of water within or adjacent to the Properties;

(iv) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Dwelling Units which it owns;

(v) Occupancy of a Dwelling Unit by more than two (2) persons per bedroom in the Dwelling Unit. For the purposes of this provision, "occupancy" shall be defined as staying overnight in the Dwelling Unit more than thirty (30) days in any six (6) month period;

(vi) Capturing, trapping, or killing wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons or pets using the Properties, and raising, breeding or keeping of animals or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted on a Lot. However, those

pets which are permitted to roam free or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the Owners or occupants of other Lots shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet;

(vii) Activities that are or may be detrimental to or destroy the vegetation, wildlife, or air quality within the Properties or which result in unreasonable levels of sound or light pollution;

(viii) Discharge of firearms or explosives within the Properties. The term "firearms" includes "BB" guns, pellet guns, and other firearms of all types, regardless of size; and

(ix) Any Business, Trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as: (A) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (B) the business activity conforms to all zoning requirements for the Properties; (C) the business activity does not involve regular visitation of the Lot or Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (D) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

This Section (b)(ix) shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Lots which it owns within the Properties, including the operation of a timeshare or similar program.

The leasing of a Dwelling Unit shall not be considered a Business or Trade within the meaning of this Section (b)(ix). "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwelling Units may be leased only in their entirety. No fraction or portion may be leased. No structure on a Lot other than the primary residential Dwelling Unit shall be leased or otherwise occupied for residential purposes. There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing.

No transient tenants may be accommodated in a Dwelling Unit, and all leases shall be for an initial term of no less than six (6) months.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Lot Owner within ten days of execution of the lease. The Owner must make available to the tenant copies of the Declaration, Bylaws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

(c) Prohibited Conditions. The following shall be prohibited within the Properties:

(i) Exterior antennas, acrials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind unless completely contained within the Lot so as not to be visible from outside the Lot or otherwise approved pursuant to Article XI; provided, however, that the Declarant and the Association shall have the right, without obligation, to erect or install and maintain such apparatus for the benefit of all or a portion of the Properties, and provided further that the restrictions set forth in this Section (c)(i) shall be subject to any applicable laws or regulations, including regulations of the Federal Communications Commission;

(ii) Walls, dog runs, animal pens, or fences of any kind on any Lot except as approved in accordance with Article XI;

(iii) Open garage doors. Garage doors shall remain closed at all times except when entering and exiting the garage;

(iv) Excessive exterior lighting on any Lot. The Board shall in its sole discretion determine whether any exterior lighting is excessive;

(v) Tents, shacks, or other structures of a temporary nature on any Lot except as approved in accordance with Article XI or as may be authorized by the Declarant during initial construction within the Properties. Temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair; and

(vi) Storage of furniture, fixtures, appliances, machinery, equipment, or other goods and chattels not in active use on the Common Area or any portion of a Lot which is visible from outside the Lot, except as approved in accordance with Article XI.

(d) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other portion of the Properties. Woodpiles or other material shall be stored in a manner so as not to be visible from outside the Lot and so as not to be attractive to native rodents, snakes, and other animals and to minimize potential hazards, including fire hazards. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Properties. No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted on the Properties, except in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace.

1
2
1
0
3

1
1
3
2
7

(e) 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 in accordance with Article XI or as required by the applicable governing jurisdiction. In no event shall such containers be maintained so as to be visible from outside the Lot, unless they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, and garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

(f) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any Lot.

(g) Vehicles and Parking. The term "vehicle(s)," as used in this Section (g), shall include, without limitation, automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles. No vehicle may be parked on any Lot except in the garage, on the driveway, or behind the side yard block wall or gate and otherwise adequately screened from public view, all as determined by the Board in its sole and absolute discretion. No vehicle may be parked or stored upon any other portion of the Properties except in areas specifically designated for such purposes by the Board. No Commercial vehicles, recreational vehicles, mobile homes, trailers, campers, boats, other watercraft, other oversized vehicles, stored vehicles, unlicensed vehicles, or inoperable vehicles shall be parked within the Properties other than in enclosed garages. This Section (g) shall not apply to emergency vehicle repairs, loading and unloading vehicles, and cleaning vehicles.