

Carpenter, Hazlewood, Delgado & Bolen, LLP

Attorneys at Law

1400 E. Southern Avenue, Suite 400

Tempe, Arizona 85282

t 480.427.2800 | f 480.427.2801

minuteentries@carpenterhazlewood.com

charlene@carpenterhazlewood.com

(Charlene Cruz 026692)

tessa.hustead@carpenterhazlewood.com

(Tessa Hustead 034014)

VILLAGEOAK.0067

Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI**

Village of Oakcreek Association,

Plaintiff,

v.

**Lance E. Bonham; JOHN DOES I-V,
inclusive; JANE DOES I-V, inclusive;
BLACK CORPORATIONS I-V,
inclusive; WHITE PARTNERSHIPS I-V,
inclusive; Unknown Heirs and Devisees of
each of the above-named Defendants, if
deceased, Defendants.**

Case No. V1300-CV2021-80081

**STIPULATION OF MATERIAL FACTS
AND EXHIBITS**

(Assigned to Hon. Linda Wallace)

Plaintiff Village of Oakcreek Association (“Plaintiff” or “Association”), and
Defendant Lance E. Bonham (“Defendant”) hereby stipulate to the following:

1. The Association is a planned community in Yavapai County, Arizona.
2. The Association is governed by the Master Declaration of Restrictive Covenants for all Property in the Village of Oakcreek Restated & Amended, recorded at Document Number 2014-0021505 on May 13, 2014, as amended (“the Declaration”).

- 1 3. Defendant is the record owner of the real property at 40 Rio Circle, Sedona, Arizona,
2 86351 (“the Property”).
- 3 4. The Property is located within the Association and thus is subject to its Declaration.
- 4 5. Defendant’s mother originally acquired title to the Property in 1989 and the Property
5 was ultimately vested to Defendant by virtue of a Quit Claim Deed on January 23,
6 2017, at Document Number 2017-0003706, official records of Yavapai County, by
7 Defendant as the Trustee of his mother’s trust.
- 8 6. Section 4.23 of the Declaration is an amendment to Article 4 of the Declaration
9 regarding Leasing of Lots and Units; Restrictions and Limitations. By stipulating to
10 this fact, Defendant is still contesting the validity of the Amendment and is not waiving
11 his right to do so.
- 12 7. On May 3, 2017, the Association recorded with the Yavapai County Recorder, at
13 Document No. 2017-0021951, another amendment for the sole purpose of correcting
14 the 2016 recorded Amendment by removing the text that was not part of the original
15 Leasing and Fines Amendment voted upon by the members. By stipulating to this fact,
16 Defendant is still contesting the validity of the Amendment and is not waiving his right
17 to do so.
- 18 8. Defendant does not live at the Property as his primary residence.
- 19 9. Defendant rents/leases the Property for terms of less than thirty days.
- 20 10. Defendant rents the Property for pecuniary gain.
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1 11. Between May 1, 2021 and February 28, 2022, Defendant has rented the Property for a
2 period of less than thirty days, on more than five occasions.

3 12. As of June 3, 2022, the Property, has rentals of less than thirty days through November
4 of 2022.

5 13. Through this Stipulation, Defendant agrees to a Limited Preliminary Injunction that
6 requires him to cease accepting any further rentals, by any means, of less than thirty
7 days, starting June 7, 2022, through and including October 8, 2022.
8

9 **Exhibits**

- 10 1. Bonham Quitclaim Deed (dated January 23, 2017), attached as **Exhibit A**.
11 2. The Village of Oakcreek Association Master Declaration of Restrictive Covenants For
12 All Property in the Village of Oakcreek recorded at Document No. 2014-0021505 on
13 May 13, 2014, official records of Yavapai County, attached as **Exhibit B**.

14 RESPECTFULLY SUBMITTED this 8th day of June, 2022.

15 **CARPENTER, HAZLEWOOD,**
16 **DELGADO & BOLEN, LLP**

THE BAINBRIDGE LAW FIRM, LLC

17 By: /s/ Tessa Hustead
18 Charlene Cruz, Esq.
19 Tessa Hustead, Esq.
1400 East Southern Avenue, Suite 400
20 Tempe, Arizona 85282-5691
Attorneys for Plaintiff

By: /s/ Mark J. Bainbridge
Mark J. Bainbridge
8161 E. Indian Bend Rd. Ste 103
Scottsdale, Arizona 85250
Attorney for Defendant

1 ORIGINAL filed this 8th day of June, 2022 with:

2 The Clerk of the Court
3 Yavapai County Superior Court
4 www.AZTurboCourt.gov

5 COPY of the foregoing electronically delivered this 8th day of June, 2022 to:

6 The Honorable Linda Wallace
7 Yavapai County Superior Court

8 Mark Bainbridge, Esq.
9 The Bainbridge Law Firm, LLC
10 Office: 8161 E. Indian Bend Road, Suite 103
11 Scottsdale, AZ 85020
12 Mailing: 7000 N. 16th Street, Suite 120 #424
13 Phoenix, AZ 85020-5547
14 mark@bainbridgelawfirm.com
15 info@bainbridgelawfirm.com

16 By: /s/ Katie M. Lilje

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EXHIBIT A



When Recorded Return to/
Send all Tax Statements to:

Lance E. Bonham
1019 Pilinut Court
Sunnyvale, California 94087

Affidavit of Value Exemption
Per A.R.S. § 11-1134(B)(8)

QUIT CLAIM DEED

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, LANCE E. BONHAM, sole Trustee of the "BETTE SIMMONS LIVING TRUST," dated September 30, 1996, GRANTOR, does hereby grant and quit claim to LANCE E. BONHAM, a married man as his sole and separate property, GRANTEE, all right, title and interest of the GRANTOR in and to the following described real property situated in Yavapai County, Arizona:

Lot 75, CATHEDRAL VIEW, according to the plat of record in Book 16 of Maps, page 91, records of Yavapai County, Arizona.

TOGETHER WITH all improvements and structures situated thereon and all rights and privileges appurtenant thereto, to have and to hold unto GRANTEE, his successors and assigns forever.

SUBJECT TO current taxes and other assessments, reservations and patents, and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

In compliance with the provisions of A.R.S. §33-404(B), the names and addresses of the beneficiaries of the BETTE SIMMONS LIVING TRUST, dated September 30, 1996,

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

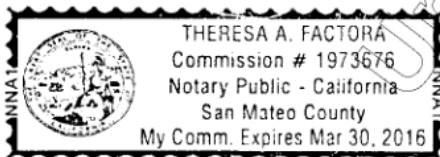
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of SAN MATEO

Subscribed and sworn to (or affirmed) before me
on this 23RD day of DECEMBER, 2017,
by _____
Date Month Year

(1) LANCE BONHAM

(and (2) _____),
Name(s) of Signer(s)



proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature Theresa A. Factora
Signature of Notary Public

Seal
Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

EXHIBIT B

AD



Recorded at the request of:

VOCA

Nancy Shelley

When Recorded, MAIL TO:

690 Bell Rock Blvd
SeDona, Az 86351

VOCA master Decs

THE VILLAGE OF OAKCREEK ASSOCIATION

Master Declaration of Restrictive Covenants

For All Property in the Village of Oakcreek

Restated & Amended

FEBRUARY 16, 1988

SEPTEMBER 21, 1996

OCTOBER 17, 1998

SEPTEMBER 6, 2003

APRIL 17, 2010

APRIL 19, 2014

(State of Arizona)
)ss
County of Yavapai

Original of the within instrument was filed and recorded at request of MOORE & SCHUYLER on June 17, A.D. 1981 at 4:10 o'clock PM; Books 1389 Official Records, Page 950-976 of Yavapai County, Arizona.

WITNESS my hand and official seal the day and year first above written.
Patsy C. Jenny, County Recorder
By Linda Weedon, Deputy

Amendments to the original instrument filed and recorded at the request of FAVOUR WEAVER al on March 9, 1988, Time 16:10 Book 2023, Page 810, pages:007.

Amendments to the original instrument filed and recorded on October 7, 1996: time 09:40; Book 3290: Page 298, Pages 004.

Amendments to the original instrument filed and recorded on November 6, 1998; Time 01:53; Book 3614; Page 976.

Amendments to the original instrument filed and recorded on January 3, 2012; Time 2:35; Book 4854; Page 98;

Amendments to the original instrument filed and recorded on January 3, 2012; Time 2:35: Book 4854; Page 99;

Amendments to the original instrument filed and recorded on May 13, 2014;

Time NA : Book NA ; Page NA

**MASTER DECLARATION OF RESTRICTIVE
COVENTANTS FOR ALL PROPERTY IN THE
VILLAGE OF OAKCREEK**

KNOW ALL MEN BY THESE PRESENTS:

1. PURPOSE AND INTENT:

The Village of Oakcreek Association, an Arizona non-profit corporation, is a homeowners association of owners of real property in the Village of Oakcreek as reflected in Exhibit A attached hereto and incorporated herein by this reference. The common areas of the Village of Oakcreek Association are also located in the Village of Oak Creek geographical area.

By Declarations of Restrictive Covenants presently in force, certain properties within the Village of Oakcreek are subjected to diverse covenants, restrictions and conditions. It is desirable that there be basic covenants, restrictions and conditions which apply to all Property in the Village of Oakcreek for the purpose of establishing:

- A. A uniform plan for the improvement and development of the Property.
- B. Uniform basic covenants relating to the use, occupancy and enjoyment of the Property without surrender by the Owners of the restrictions of specific use in an area under any special Declarations now or hereafter in existence.
- C. Ownership and management of the common area by the Association.

D. Powers of regulation, control and enforcement of covenants, conditions and restrictions.

The Village of Oakcreek Association has adopted the within Master Declaration of Restrictive Covenants for all Property in the Village of Oakcreek as a prototype Declaration with the intent that the terms hereof may be adopted or incorporated in to the Declaration affecting Property in the Village of Oakcreek by reference to this instrument of record in the Office of the Yavapai County Recorder. The only members of the Village of Oakcreek Association are those properties described in the following subdivisions set forth on plats of record in the offices of Yavapai County, Arizona, recorded on the book of Maps and at the pages set forth below:

Subdivision	Book	Page
Bell Rock Plaza	12	58
Bell Rock Vista	13	6
Bell Rock Vista Unit Two	14	1
Bell Rock Vista III	14	60
Bell Rock Vista Four	14	59
Cathedral View	16	91
Fairway Oaks	12	64
Oakcreek	12	36
Oakcreek Unit II	12	67
Oakcreek Country Club East	13	25
Oakcreek Country Club West	14	71
Oak Shadows	14	75
Pine Creek	12	94
Pine Creek II	14	37
Red Rock Cove East	13	85
Red Rock Cove West	13	84
Ridgeview	13	38
Ridgeview Heights	15	36
Village Square Amended	14	51

2. DEFINITIONS:

Unless the content clearly indicates a different meaning, the following terms as used in this Declaration are defined as follows:

- A. **“Articles”** means the Articles of Incorporation of Village of Oakcreek Association that are filed in the Office of the Arizona Corporation Commission, as the Articles may be amended.
- B. **“Association”** means Village of Oakcreek Association, an Arizona non-profit corporation, its successors and assigns, formed as an entity through which the Owners may act in accordance with the Declaration , Articles, and By-Laws.
- C. **“Board”** means the Board of Directors of the Association.
- D. **“Committee”** means the Architectural Review and Restrictions Committee of the Association
- E. **“Common Area”** means real property, together with all Improvements situated thereon, owned by the Association and maintained for the common use and enjoyment of Owners and shall include, but not be limited to, the golf course, community center, community facilities, swimming pools, driveways, parking areas, and all other development or improvements thereon. “Common Area” shall not include any real property, improvements, or personal property acquired by the Association in lieu of foreclosure or trustee’s

sale or through attachment, foreclosure, Sheriff's sale, Trustee's sale tax sale, redemption, or any other judicial, quasi-judicial, bankruptcy, or regulatory action.

- F. **"Declaration"** means a Declaration of Restrictive Covenants of a Subdivision, adopting or incorporating the provisions of this Master Declaration.
- G. **"Guest"** means an agent, servant, tenant, licensee or invitee of an Owner or any person or entity who has acquired any title or interest in a Lot or Unit by or through an Owner, including a lessee, mortgagee or any agent, servant, tenant, invitee or licensee of such person or entity.
- H. **"Lot"** means each parcel of real property designated as a lot on the Plat, and , where the context indicates or requires, shall include any Residential Unit, building, structure or other (s) that constitute a lien on a Lot or Unit.
- I. **"Master Declaration"** means this instrument, as it may be amended or restated from time to time.
- J. **"Member"** means a member of the Association. Members of the Association are the Owners of a Lot or Unit. There may only be one Member per Lot or Unit.
- K. **"Mortgage"** means a mortgage, deed to trust or other security instrument(s) that constitute a lien on a Lot or Unit.
- L. **"Owner"** means the record owner, whether one or more persons of Legal, beneficial or equitable title to fee simple interest to a Lot or Unit. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to A.R.S., Section 33-801, *et seq.*, the Trustor shall be deemed to be the "Owner." "Owner" shall also include a purchaser under a contract for the conveyance of real property subject to the provisions of A.R.S., Section 33-741, *et seq.*, "Owner" shall not include (i) a person or entity holding an interest in a Lot or Unit merely as security for the performance of an obligation, or (ii) a lessee. "Owner" shall not include purchasers under contracts and receipts, escrow instructions or similar executory contracts that are intended to control the rights and obligations of the parties to such executory contracts pending the closing of sale or purchase transaction.
- M. **"Property"** means the common areas and all Lots and Units that become subject to the Master Declaration.
- N. **"Rules"** means the rules adopted and promulgated by the Board and the Committees.
- O. **"Subdivision"** means a subdivision in the Village of Oakcreek geographical area having a Declaration of Restrictions that adopts or incorporates the Master Declaration of Restrictive Covenants.
- P. **"Unit"** means any parcel of property described other than by subdivision lot number and includes a condominium unit as recognized and described by the Arizona Horizontal Property Regime.
- Q. **"Active Member"** means a Member who has made timely payment of annual assessments, dues, fees and/or fines and is in compliance with all rules and regulation adopted by the Association.
- R. **"Single Family"** means a group of one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a adoption, or a group of not more than three (3) persons not all so related, who maintain a common household in a Residential Unit.
- S. **"Visible from Neighboring Property"** means with respect to any given object, that the object is or would be visible to a person six feet tall standing at ground level on any part of the neighboring property.
- T. **"Exterior Alteration"** means any construction, installation, addition, alteration, repair, change, change of color, landscaping, removal, demolition, or other work that alters the exterior appearance of the Lot or Improvements located thereon.
- U. **"Improvement"** means any building, fence, wall or other structure or any swimming pool, tennis court, road, driveway, parking area, or any trees, plants, shrubs, grass or other landscaping Improvements of every type and kind.

3. BUILDING AND IMPROVEMENT STANDARDS:

3.01 Approval of Committee

No alteration of the terrain or improvement shall be erected, added, altered, placed or permitted to remain on any Lot or Unit (Exterior Alterations”), unless the plans and specifications therefore have been previously delivered to and approved in writing by the Committee.

3.02 Plans & Specifications

The plans and specification shall be submitted in duplicate and shall show in detail the design, elevations and heights, structural details, materials, finishes, site location and grades and shall include a landscaping and site plan of the building site proposed to be improved. A copy of the plans and specifications as finally approved shall be retained in the records of the Committee for three years.

3.03 Site Plans

Site Plans shall show:

1. Location of all easements
2. Dimensions and bearings of the boundaries of the Lot or Unit.
3. Existing grades and grade changes.
4. Structure Location.
5. Front, side and rear set-backs.
6. Driveways and parking areas.

3.04 Landscaping

A landscaping plan for each improved Lot shall be prepared in accordance with the Architectural Review Regulations and submitted to the Committee for approval prior to occupancy. Landscaping must be substantially completed in accordance with the approved plan within five-months from the date the plan is approved, unless otherwise permitted by the Committee.

3.05 Retaining Walls

Unless suitable retaining walls are constructed to support the earth, the natural angle of repose of the ground shall not be altered by excavation within five (5) feet of any boundary line of any Lot by other than a slope of twelve (12) inches horizontal to eight (8) inches vertical, provided, however, that nothing in this paragraph shall be construed to prevent any such alteration in any manner with or without retaining walls, as approved by the Committee.

3.06 Authority of Committee

The Committee shall have the authority to refuse to approve any plans or specifications or site plans, which are not compatible with the natural environment of the Village of Oak Creek or are not suitable or desirable, in its discretion, for aesthetic reasons, and in acting upon plans, specifications and grading plans, it shall have the right to take into consideration the architectural design of the proposed improvement or structure, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings and the effect of the proposed improvement or structure on the view or outlook from adjacent or neighboring property.

- 3.06.01** The approval by the Committee of any Exterior Alteration pursuant to this Section shall not be deemed a waiver of the Committee’s right to withhold approval of any similar alteration subsequently submitted for approval

- 3.06.02** The Committee shall have the right to set and charge fees for reviewing requests for approval of any Exterior Alteration pursuant to this Section which fee shall be payable at the time of the application for approval is submitted to the Committee.
- 3.06.03** The approval required of the Committee pursuant to this Section shall be in addition to, and not in lieu of, any approval or permits that may be required under any federal, state, or local law, statute, ordinance, rule or regulation.
- 3.06.04** The Committee Rules may include approval requirements and criteria which, unless specifically preempted, are more restrictive than those established by any federal, state or local law, statute, ordinance, rule, or regulation.
- 3.06.05** The Committee may, at its option and in extenuating circumstances, grant variances from the restrictions, limitations, rules and regulations of the Association and the Committee, if the Committee determines in its discretion that (i) a restriction, limitation, rule or regulation would create unreasonable hardship or burden on the Owner or Lessee and (ii) that the Exterior alteration permitted under the variance will not have any substantial adverse effect on the other Owners or Lessees and is consistent with the high quality of life intended for the members of the Association.

3.07 Additional Permitted Structures

No improvements other than Committee-approved structures shall be erected, moved onto, or permitted to remain on any Lot or Unit.

3.08 Contractors and Time of Completion

Each structure (for purposes of this section only, "structure" does not include sheds or other small out buildings) shall be constructed by a contractor licensed by the State of Arizona for the work. Construction must be pursued diligently and all building shall be substantially completed and present a finished exterior appearance within five months after commencement of construction.

The Committee may waive the licensed contractor requirement for any Owner it deems qualified to act as his own prime contractor, provided a bond or collateral is posted to insure completion of the building. The amount of such bond shall be fixed by the Committee.

- 3.08.01** Upon receipt of approval from the Committee for an Exterior Alteration, the Owner who requested such approval shall commence work on the Exterior Alteration approved by the Committee as soon as practicable.
- 3.08.02** Any change, deletion, or addition to the plans and specifications approved by the Committee, including plans deemed approved as a result of the Committee's failure to act, must be submitted and approved in writing by the Committee. Failure to submit change, deletions, or additions to previously approved plans shall void the original approval.

4. GENERAL LAND USE REGULATIONS:

4.01 No Unlawful Activities

No offensive or unlawful activity shall be permitted on the Property, nor shall anything be done thereon which may become an annoyance or nuisance to occupants of any portion of the Property.

4.02 Residential Use

Where restricted by the Declaration for residential use by a Single Family, an Owner shall not occupy or use his or her Lot or Unit or permit the same or any part thereof to be occupied or used for any purpose other than for personal residential purposes by the Owner, his family or guests.

4.03 Commercial Business

No store, office or other place of business of any kind and no hospital, sanitarium or other place for the care or treatment of the physically or mentally ill shall be erected or permitted, and no business of any kind or character whatsoever shall be conducted from or located on any Lot or Unit other than:

1. The activities of the Association in furtherance of its powers and purposes; or
2. As expressly permitted in the Declaration; or
3. Home occupations prescribed by the rules and regulations of the Board and conducted according to the Rules.

4.04 Home Occupation

It is recognized by this Declaration that certain home occupations can be conducted by an Owner on his or her Lot or Unit without violation to the principal purpose of the residential use and enjoyment of the Property. Subject to applicable zoning regulations, the Rules may allow such commercial activities as may be unobtrusively conducted at a residence without odor, noise, traffic or parking congestion or any other noxious condition that would interfere with the residential use and enjoyment of the Owners of adjacent or neighboring Property. Any permitted home occupation shall be conducted as a matter of grace resting in the sole discretion of the Board, and shall be allowed only as long as the Rules permit such occupation. The operation of any home occupation shall strictly conform with the Rules governing such activities which Rules may, without limitation of the scope of such Rules, restrict the number of employees and the hours of operation.

4.05 Drilling Operations

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on the Property.

4.06 Animals

No animals, livestock or poultry of any kind shall be raised, bred or kept except that dogs, cats or other household pets may be kept on the Owner's Lot or Unit, subject to the Rules adopted by the Board.

4.07 Fencing

There shall be no fencing except for specific purposes such as screening, child containment, animal control or architectural effect. Plans showing the length, height, design, materials, finishes and colors of fences must be submitted to and approved in writing by the Committee.

4.08 Storage of Personal Property

Tools, machinery, household effects, toys containers, boxes, materials, or other items that degrade the appearance of the yards shall be so stored as to be concealed from public view, except that basketball hoops may be erected which are visible from neighboring property.

4.09 Laundry Areas

Any exterior laundry drying area shall be screened so as to not be visible from adjacent or neighboring Property or any common area or roadway. Such screening may be trees, bushes, shrubbery or other materials approved by the Architectural Committee.

4.10 Limitation on Habitation

Unless expressly permitted by the Declarations, no structure of a temporary character, motor home, mobile home, trailer, camper, tent shack or basement or garage shall be used on any Lot or Unit at any time for human habitation.

4.11 Rubbish, Trash and Garbage

All rubbish, trash, garbage or other waste materials shall be kept in covered, sanitary containers or shall be promptly removed from the property. The sanitary containers shall be stored in the garage, in a screened area approved by the Committee, or other suitable location, which is not visible from the roadways, common areas or adjacent or Neighboring Property.

The sanitary containers may be exposed to public view for such period as is reasonably necessary for proper disposal. All containers must be promptly removed to the storage area following proper disposal of the contents.

4.12 Noxious Activities

No noxious, offensive or unlawful activity shall be conducted on the Property, nor shall any condition be created or allowed to exist on the Property that may be or become an annoyance, nuisance or hazard to others. No sounds that are unreasonably loud or annoying and no odor which is noxious or offensive to others, shall be emitted from any Lot or Unit.

No unreasonably bright light, or light which causes unreasonable reflection shall be permitted, and all exterior lighting must be properly shaded or diffused so as to not create a nuisance or annoyance to others.

4.13 Limitation of Vehicles

Where restricted by the Declaration for residential use, no repair or maintenance work shall be performed on any motor vehicle or other piece of equipment, except wholly inside a garage. Disabled Vehicles and equipment shall be stored in a garage or removed from the Property. Adequate paved off-street parking space to accommodate the intended use of the Owner's Lot shall be provided and no Owner shall park or permit others to park on unpaved portions of the Property. Unless expressly permitted by the Declaration, no commercial vehicle, industrial equipment, recreational vehicle, boat trailer, utility trailer, mounted or un-mounted camper, motor home, travel trailer or mobile home shall remain on the Property unless located inside a closed garage or area screened from public view in a manner approved by the Committee.

4.14 Lot Split

Unless otherwise prohibited by the Declaration, a lot may be divided for sale or encumbrance but no part of a Lot shall be improved unless:

1. The part to be improved is included in the building site designated on a site plan approved by the Committee, and
2. The improvement or structure approved for construction will not increase the density of the subdivision, or
3. In the case of the re-subdivision of a tract in a subdivision, the re- subdivision is approved by the Board.

4.15 Antennas, Towers, Etc.

There shall be no exterior television, radio or other electronic antenna, mast or tower on the Property without prior written approval of the Committee.

4.16. Easements

4.16.01 Utility Easement Easements for utilities, drainage or other purposes shall not be obstructed in a manner which interferes with the purpose of the easement., The area of each Lot or Unit encumbered by any easement shall be maintained by the Owner of the Lot or Unit.

4.16.02 Easement in Favor of the Association The Lots are hereby made subject to the following easement in favor of the Association and its directors, officers, agents, committees, employees, and independent contractors:

- a. For the inspection of the Lots at reasonable times to verify the performance by Owners of all items of maintenance and repair for which they are responsible;

- b. For inspection and remediation of violations of the use restrictions contained in this Master Declaration or the adopted Covenants, Conditions and Restrictions which are in force;
- c. For correction of emergency conditions in one or more Lot;
- d. For the purpose of enabling the Association, Board, Architectural Review Committee, the Restrictions Committee, or any other committees appointed by the Board, and their agents or employees to exercise and discharge their respective rights, powers and duties under the Association's Articles of Incorporation, By-Laws, Master Declaration, rules, and regulations.
- e. For the purpose of inspection of the Lots (a) to verify that the provisions of the Master Declaration are being complied with by the Owners, their guests, tenants, invitees, and other occupants of the Lot, and (b) to satisfy disclosure requirements, if any, of applicable law.

4.17 Easements on the Common Area

Every Owner shall have the non-exclusive right and easement of use and enjoyment in the common areas subject to the following provisions;

- 1. The right of the Board to charge reasonable admission and other fees for the use of any Association facilities situated upon the common areas;
- 2. The right and power of the Board to sell or encumber common areas pursuant to the provisions of this Declaration, the Articles and By-Laws;
- 3. The right of the Board to prohibit access to, restrict and control the use of the common areas;
- 4. Active Members shall have voting rights and the right to use Association facilities; and
- 5. The right and power of the Board to grant easements or licenses on common areas to:
 - a. Any CATV, public utility or municipal corporation, or sanitary or improvement district.
 - b. Any lot Owner for drainage or access purposes.
- 6. The right of Association to suspend the right of an Owner or Lessee and such Owner's or Lessee's family, tenants and guests to use the Common Area if such Owner is more than fifteen (15) days delinquent in the payment provisions of the Mater Declaration, rules or regulation of the Association and has failed to cure such violation with fifteen (15) days after the Association notifies the Owner of the violation.

4.18 Licenses to Guests

Guests, including, but not limited to members of the public, shall have such revocable licenses for the use of the common areas, including the Golf Course, as are specifically provided by the Rules & Regulations of the Board.

4.19 Limitations to Land Use of Golf Course

This Declaration is made by the Village of Oakcreek Association ("Declarant"), as present owner of, and to establish the nature of use and enjoyment of, the real property located in Yavapai County, Arizona, which is more particularly described in Exhibit B attached hereto (The "Golf Course"). Declarant declares the Golf Course to be subject to the following express covenants, stipulations and restrictions, all of which are to be construed as restrictive covenants running with the title to the Golf Course:

- 1. The Golf Course shall be used solely as a golf course, as such term is defined in A.R.S. 42-13151 or any successor statute thereto.
- 2. The covenants and restrictions set forth in Paragraph 1 hereof shall run with the land and shall bind all owners of the Golf Course and their heirs, legal representatives, successors, and assigns for a period of eleven years; provided however, that on the date one year from the effective date hereof and each anniversary date thereafter, the term of the covenants and restrictions set forth in Paragraph 1 hereof shall be extended automatically by one year (so that the restriction will always apply for at least ten years) unless and until the holder(s) of the legal and equitable title to the Golf Course execute and record an amendment to this Declaration that specifies otherwise.
- 3. Except as otherwise provided in Paragraph 2 hereof, or in A.R.S.42-146, no third party shall, by reason of this Declaration, acquire any rights of interest with respect to the use of the Golf Course.

4.20 Limitations to Land Use of Common Areas

This Declaration is made by the Village of Oakcreek Association ("Declarant"), as present owner of, and to establish the nature of use and enjoyment of, the real property located in Yavapai County, Arizona, which

is more particularly described in Exhibit C attached hereto (the "Common Areas"). Declarant declares the Common Areas to be subject to the following express covenants, stipulations and restrictions, all of which are to be construed as restrictive covenants running with the title to the Common Areas:

1. The Common Area shall be used solely as common area of the Association, as such term is defined in A.R.S.42-13402 or any successor statute thereto.
2. The covenants and restrictions set forth in Paragraph 1 hereof shall run with the land and shall bind all owners of the Common Areas and their heirs, legal representatives, successors and assigns for a period of eleven years; provided however, that on the date one year from the effective date hereof and each anniversary date thereafter, the term of the covenants and restrictions set forth in Paragraph I hereof shall be extended automatically by one year (so that the restriction will always apply for at least ten years) unless and until the holder(s) of the legal and equitable title to the Common Area execute and record an amendment to this Declaration that specifies otherwise.

4.21 Drainage

No residential unit, structure, building, landscaping, fence, wall, or other Improvement shall be constructed, installed, placed, or maintained in any manner that would obstruct, interfere with, or change the direction or flow of water in accordance with the established drainage plans or pattern, or any part thereof, or for any Lot as shown on the drainage plans on file with Yavapai County.

4.22 Variances

The Board may, at its option and in extenuating circumstances, grant variances from the restrictions, limitations, rules and regulations set forth in this Article, the Association Rules, or the Architectural Rules if the Board determines in its discretion that (a) a restriction, limitation, rule, or regulation would create an unreasonable hardship or burden on an Owner or Lessee, and (b) that the activity permitted under the variance will not have any substantial adverse effect on the other Owners or Lessees or the Association and is consistent with the high quality of life intended for the residents of the Association.

5. THE ARCHITECTURAL REVIEW & RESTRICTIONS COMMITTEE

5.01 Committee Composition

The membership of the Architectural Review and Restrictions Committee (ARRC) shall be fixed by the Board of three (3) to seven (7) regular Committee members and two (2) alternate Committee members. No Committee member shall be required to be an architect. A Committee member may not be an officer of the Association but must be an Active Member of the Association. *A.R.S. § 33-1817* (2013) requires membership shall include at least one member of the Board of Directors who shall serve as chairperson of the Committee.

5.02 Alternate Members

In the event of the absence or anticipated absence from a Committee meeting of any regular Committee member for any reason, the regular Committee members in attendance, even though less than a quorum, shall designate an alternate Committee member to act in the place of each absent regular Committee member.

5.03 Appointment and Removal

The right to appoint or remove any one, or all regular or alternate Committee members at any time, shall be and is hereby vested solely in the Board.

5.04 Resignations

A regular or alternate Committee member may resign from the Committee by giving written notice thereof to the Board.

5.05 Duties

It shall be the duty of the Committee to consider and act upon all proposals or plans submitted to it; to enforce property restriction in the Master Declaration, Declaration, and Architectural Control Regulations (collectively the "Restrictions") by levying fines on violators pursuant to a schedule of fines which the Committee shall adopt; to perform other duties delegated to it by the Board; to understand the necessary Committee rules, requirements, regulations, definitions and standards; and to carry out all other duties imposed on it by the Master Declaration, Declaration, By-Laws, Rules and Regulations.

The Committee's authority to levy fines shall not preclude an action by the Committee for injunctive relief as provided in the Master Declaration, or Architectural Control Regulations. In any particular case the Committee, at its sole discretion, may levy a fine, seek injunctive relief, or pursue both remedies.

5.06 Meetings

The Committee shall meet as necessary to perform its duties. The vote or written consent of a majority of the Committee, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any provision of the Master Declaration, Declaration, By-Laws, Rules or Regulations. The Committee shall keep and maintain a written record of all actions taken by it at meetings or otherwise.

5.07 Architectural Review and Restrictions Committee Control Regulations

The Committee may, in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "Architectural Control Regulations". The Regulations shall interpret and implement the Master Declaration and any other Declarations by setting forth the standards and procedures for Committee review, and the guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Property.

5.08 Schedule of Fines

The Committee, by majority vote or written consent, shall adopt a schedule specifying the recommended fines (or ranges of fines) for particular violations (or categories of violations) of the restrictions; provided, however, that no fine shall exceed the sum of \$50.00 per day per violation. Subject to the \$50.00 limitation, the schedule may be amended by the Committee by majority vote or written consent. The Committee may also adopt, amend, and repeal, by majority vote or written consent, such procedures, rules and regulations, not inconsistent with the Master Declaration, Declaration, or By-Laws, as may be desirable for the performance of its duties.

5.09 Waiver

The approval by the Committee of any plans or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, specification or matter subsequently submitted for approval.

5.10 Non-Waiver

Any failure to act by the Committee with respect to a particular violation of the restrictions shall not be deemed a waiver of the Committee's right to act with respect to subsequent violations by the same Owner or others. Any action with respect to a particular violation shall not be deemed a waiver of the Committee's right to take a different action with respect to subsequent violations.

5.11 Liability

Neither the Committee nor any Committee shall be liable to the Association, any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of:

- a. The approval or disapproval of any plans, or specifications, whether or not defective;
- b. The construction or performance of any work, whether or not pursuant to approved plans or specifications;
- c. The development of portion of the Property;
- d. The execution and filing of any estoppel certificate, whether or not the facts therein are correct; or

- e. Any action of the Committee or any Committee member thereof in connection with Committee business; provided, however, that with respect to the liability of a committee member, the committee member has acted in good faith on the basis of information possessed by him or her. Without in any way limiting the generality of any of the foregoing provisions of this section, the Committee, or any Committee member may, but is not required to, consult with or hear the view of the Association or any Owner with respect to any plans, specifications, or any other matter submitted to the Committee.

5.12 Request for Approval of Plan and/or Specifications

Request for the Committee's approval of plans or specifications, together with the plans or specifications and any other information which the Committee may reasonably request, shall be submitted in writing to the Committee at least twenty (20) business days prior to the date on which construction is to commence, the Committee shall notify the Owner in writing of its decision either approving or rejecting the plans and specifications. In the event the Committee rejects the plans and specification, the Committee shall set forth in the notice the reason for the rejection. The decision of the Committee shall be final if the Owner fails to request a hearing in accordance with the procedures outlined in Section 5.14.

5.13 Failure to Act on Plans and/or Specifications

In the event the Committee shall fail to approve, disapprove or otherwise act on plans or specifications within twenty(20) business days after receipt of the written request, plans, specifications, or other information requested by the Committee, approval thereof shall be deemed to have been given; provided, however, any dwelling, building or structure embraced by the plans and specifications shall be of masonry or frame construction and the location and size of the dwelling, building or structure shall not be in violation of any of the restrictions contained in the Master Declaration, Declaration, or any applicable law, rule, or regulation of any governmental body or agency having jurisdiction thereof.

5.14 Right of Hearing on Plans and/or Specifications

Should the Committee reject or disapprove the plans and specifications as submitted, the Owner, within ten (10) business days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The request for the hearing shall be mailed or delivered to the Committee at the Association's principal office, 690 Bell Rock Boulevard, Sedona, Arizona 86351. The Committee upon receipt of the written request for a hearing, shall fix a date, time, and place for the hearing and shall notify the Owner in writing of the date, time and place of the hearing at least five (5) business days prior to the hearing date. The date of the hearing shall be fixed no later than twenty (20) business days after receipt of the written request for hearing. At the hearing, the Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall determine, by majority vote, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Written notice of the Committee's decision shall be mailed to the Owner within five (5) business days from the date of the hearing. The decision of the Committee shall be final if the Owner fails to exercise the right of appeal in accordance with the procedures set forth in Section 5.15.

5.15 Right of Appeal on Plans and/or Specifications

In the event the Owner is dissatisfied with the decision of the Committee rendered in accordance with Article V, Section 14, the Owner may appeal the decision to the Board. The right of appeal shall be exercised by the Owner within ten (10) business days from the date the Committee mails notice of its decision to the Owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of the written notice of appeal, shall fix a date, time and place for the hearing on appeal and shall notify in writing the Committee and the Owner of the date, time and place of hearing at least five (5) business days prior to the hearing date. The date of the hearing shall be fixed no later than twenty (20) business days after receipt of the notice of appeal. At the hearing on appeal both the Committee and the Owner shall be afforded an opportunity to be heard and to present evidence, both oral and documentary, concerning the decision of the Committee. Upon conclusion of the hearing on appeal, the Board shall then determine, by majority vote of all Directors, whether the decision of the Committee shall be affirmed or reversed. Written notice of the Board's decision shall be mailed to the Committee and

the Owner within five (5) business days from the date of the hearing on appeal. The decision of the Board shall be final.

5.16 Notice of Violation

No action shall be taken with respect to any reported violation of the restrictions until the Compliance Coordinator has observed the property to determine that violation exists. If the Compliance Coordinator is denied access to the property by the Owner, the violation shall be deemed to exist.

The Compliance Coordinator shall provide written notice of each violation to the Owner of the property on which the violation exists, as determined with reference to the Association's membership book. The notice shall specify:

- a. The nature of the violation, including the particular restriction being violated;
- b. The date of the violation or the date the violation was observed;
- c. The first and last name of the person who observed the violation;
- d. The process the unit/lot owner must follow to contest the notice;
- e. The steps required to comply with the restriction;
- f. The time period allowed for compliance (i.e., before a fine will be assessed); and
- g. The consequences of noncompliance, including the potential fine.

The notice may be issued by any Compliance Coordinator and mailed or delivered to the Owner. The unit/lot owner who receives the written notice that the condition of the property owned by the unit/lot owner is in violation of a requirement of the Association's documents may provide VOCA with a written response by sending the written response by certified mail to VOCA principal office with ten (10) business days.

5.17 Report of Noncompliance/Notice of Fine

As soon as practicable after the compliance deadline stated in the notice of violation, the Compliance Coordinator shall inspect the property to determine whether the violation has been cured. If the Compliance Coordinator is denied access to the property by the Owner, the violation shall be deemed to be continuing. The Compliance Coordinator who inspects the property shall prepare a brief report of compliance or noncompliance. If the violation has not been cured, the report shall recommend an appropriate fine pursuant to the Committee's schedule of fines. The Committee shall review the report and, pursuant to the vote or written consent of a majority of the Committee, shall accept, reject, or modify the recommended fine. Written notice of the fine (or other action of the Committee) shall be issued to the Owner as soon as practicable.

5.18 Assessment of Fine

A. The notice of fine shall specify:

- a. The amount of fine. Any fine computed on a daily basis shall be retroactive to the deadline for compliance specified in the original notice of violation.
- b. Deadline for payment.
- c. Method of payment.
- d. Procedure for requesting a hearing.
- e. Consequences of non-payment.

The Schedule of fines is maintained at the VOCA Office and is available for review by Owners.

B. In the case of continuing or persistent violations:

1. Each day the violation continues after written notice thereof shall be deemed a separate and distinct violation, and shall be subject to a separate daily fine of, up to a maximum of sixty (60) daily fines.
2. For any such violation that cannot be cured within the time allowed in the Notice of Violation, no further fines shall be levied after such time as the Member begins a good faith cure of the same, within a reasonable time frame approved by the Architectural Review and Restrictions Committee.

C. Remediation:

1. If such a persistent or continuing violation is not cured within sixty (60) days, the Architectural Review and Restrictions Committee or its agent, in its absolute discretion, may enter onto the Lot and effect remediation of the violation. The cost of such remediation shall be provided to the owner of the Lot upon completion of the remediation. If such cost of remediation is not paid to the Association within (15) days, than such cost shall be subject to the same terms and conditions as any other past due charges against the property.
 2. The Architectural Review and Restrictions Committee may require the Member to post a bond or other form of security to ensure future compliance.
- D. For any period during which any fines and penalties, together with interest and late charges, cost of collection, remediation and reasonable attorney's fees levied against or charged to a Lot or Owner thereof remain unpaid, the Board may suspend (i) the Owner's right to vote as a member of the Association and (ii) the Owner's right to use any of the recreational facilities which are part of the Common Area.

5.19 Right of Hearing on Violations and/or Fines

If the Owner wishes to dispute the fine, a written request for hearing shall be provided to the Committee within ten (10) business days after the Owner receives the notice of fine. The request for hearing shall be mailed or delivered to the Committee at the Association's principal office, 690 Bell Rock Boulevard, Sedona, Arizona 86351. As soon as practicable after receiving the request for hearing, the Committee shall fix a date, time, and place for the hearing and shall notify the Owner in writing at least ten (10) business days before the hearing date. The hearing date shall be no later than twenty (20) business days after the Committee receives the request for hearing.

The Chairperson of the Committee shall preside at the hearing, which shall be an informal proceeding. A written record, which need not be a verbatim transcript, shall be kept unless the parties agree to have the hearing recorded on tape. The Owner may be represented by an attorney or other qualified person, provided that written notice is given to the Committee at least three (3) business days before the hearing. The Owner shall be solely responsible for any fees or other expenses of such attorney or representative. With five (5) business days after the hearing, the Committee shall inform the Owner of its decision in writing. The Committee may take any action which seems reasonable under the circumstances including, without limitation, upholding, reducing, or vacating the fine or extending the time for compliance. The action shall be approved by the vote or written consent of a majority of the Committee.

5.20 Right of Appeal on Violation and/or Fines

The Committee's decision shall be final unless the Owner mails or delivers a written notice of appeal to both the Committee and the Board within ten (10) Business days after receiving the Committee's decision. As soon as practicable after receiving the notice of appeal, the Board shall fix a date, time and place for a hearing and shall notify the Owner in writing at least five (5) business days before the hearing date. The hearing date shall be no later than twenty (20) business days after the Board receives that notice of appeal. The hearing shall be conducted in substantially the same manner as the hearing before the Committee. Both the Owner and the Committee may present documentary evidence and testimony. The decision of the Committee shall be upheld unless majority of the Board finds the decision was arbitrary or clearly not supported by substantial evidence. Upon such finding, the Board may take any action as seems reasonable under the circumstances. The Board's decision shall be communicated to the Owner and the Committee within five (5) business days after the hearing and shall be final.

5.21 Fines have same effect as Assessments

Excepting that a lien may not be recorded for unpaid fines or penalties, the effect of a fine, as well as the respective rights and obligations of the Association and the Owner with respect to a fine, shall be the same as for assessments under the following sections of Article VIII: Section 3, Collection of Assessments; Section 4, Personal Obligations of Member; and Section 7 Estoppels Certificate.

6. VILLAGE OF OAKCREEK ASSOCIATION:

6.01 The Association

The Association is a non-profit Arizona Corporation charged with the duties and invested with the powers prescribed by law and set forth in the Declaration, The Master Declaration, the Articles, By-Laws and Rules of the Association as the same may be amended from time to time.

6.02 Membership and Voting Rights

All Owners shall be members of the Association and each shall automatically become a member upon becoming an Owner. There shall be one (1) membership for each Lot or Unit. Each Member shall be entitled to one (1) vote for each Lot or Unit owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Unit.

6.03 Board of Director and Officers

The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint, in accordance with the Articles and the By-Laws, as the same may be amended.

6.04 Personal Liability

No member of the Board or any Committee of the Association, nor any officer, agent or employee of the Association shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, its Board or Committee or any officer agent or employee of the Association, or any member of the Board or Committee, provided that such person has, upon the basis of such information as may be possessed by him or her, acted in good faith, without willful or intentional misconduct .

7.00 THE BOARD:

7.01 General Powers

The Board shall manage the business and affairs of the Association and may exercise all such authority and power of the Association and do all such lawful acts and things as are not by law, the Declaration, Articles and By-Laws directed or required to be exercised or done by the members. The powers of the Board shall encompass, but not be limited to, all of the rights and duties of the Board as set forth elsewhere in this Declaration, Articles and By-Laws.

7.02 Association Rules

The Board shall have the power to adopt, amend, repeal and enforce such rules ("Rules") as are consistent with its general powers. Without limitation of the foregoing, the Rules may restrict and govern the use of the private roadways common areas, and Association facilities, and establish charges for the use of the common areas and Association facilities. The Board may delegate the duties of enforcement of the Rules as appear in the best interests of the Association and to the extent permitted by law. A copy of the Rules as adopted, amended or repealed shall be mailed or otherwise delivered to each Owner.

7.03 Variances

Subject to applicable zoning regulations, the Board may upon a joint application of an Owner and the Committee authorize in specific case such variance from the Building and Improvement Standards (Section 3) and the General Land Use (Section 4) provisions of this Declaration as will not be contrary to the general interests of the Property, where owing to specific conditions, a literal enforcement of the provisions will in the Board's opinion result in unnecessary hardship

8.00 ASSESSMENTS:

8.01 Duty of Membership

For the purpose of construction, maintenance and improvement of common areas and Association facilities, and of any and all common community services of every kind and nature necessary or desirable in areas owned, acquired by or under the jurisdiction of the Association for the general benefit and use of members, each Owner, in accepting a deed or contract of purchase for any Lot or Unit, whether or not it shall be expressed in the deed or contract, agrees to and shall be a member of and be subject to the obligations, duly enacted By-Laws, and Rules, and to pay any assessment levied against the Owner's Lot or Unit by the Association pursuant to this Declaration.

8.02 Levy of Assessments

The Association shall have the right and power to levy yearly Assessments against each Lot and Unit. All such assessment shall be equalized for all Lot or Unit owners in the sum of one hundred eighty dollars (\$180.00). They shall be billed annually and are payable within thirty (30) days of the date due. Unpaid assessments shall be subject to a reasonable late charge and shall bear interest in an amount and at a rate fixed by the Board.

8.02.01 Transfer, Refinance and Disclosure Fees

Each Purchaser of a Lot shall pay to the Association immediately upon becoming the Owner of the Lot a transfer fee in such amount as may be established from time to time by the Board. Any owner of a Lot who sells or refinances his or her Lot and requires a status or disclosure statement from the Association in connection therewith shall pay to the Association a refinance or disclosure fee in such amount as may be established by the Board from time to time. Fees charged pursuant hereto shall be secured by a lien against the Lot as provided in Section 8.05.

8.03 Collection of Assessments

Each Owner of a Lot or Unit agrees to the enforcement of the assessments in the manner herein specified. In the event the Association employs an attorney or attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, such Owner in default agrees to pay reasonable attorney fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against the Owner in default. In the event of a default in payment of any assessment when due, and in addition to any other remedies herein or by law provided, the Association may enforce each obligation in any manner provided by law, or in equity, or without any limitation of the foregoing, by any of the procedures provided herein.

8.04 Personal Obligations of Member

The amount of each assessment shall be a separate, distinct and personal debt and obligation of the Owner of the Lot or Unit against which the assessment has been made at the time such assessment is made and shall bear interest at the rate fixed by the Board. The Board shall have the right to impose a reasonable late charge for the delinquent payment of any assessment or installment thereof. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may exempt themselves or avoid or diminish any personal obligation or liability for payment of any assessment by waiver of the use or enjoyment of any of the private streets, common areas and Association facilities or by abandonment of the Property. The purchaser of a Lot shall be jointly and severally liable, except as otherwise provided herein, with a selling Owner for all unpaid assessments due from such member up to the time of sale, without prejudice, however, to the right of such purchaser to recover from such seller any and all amounts paid by him to secure or defray the amount of unpaid assessments.

8.05 Lien for Assessments

The amount of any assessment, together with late charges thereon, interest and costs, including reasonable attorney fees, shall become a lien upon the Lot or Unit assessed.

To evidence any such lien, the Association may record in the Office of the County Recorder of Yavapai County, Arizona, a written notice of lien setting forth the amount of the assessment, the due date thereof, or for the installment thereof not paid, the amount thereof remaining unpaid, the name of the Owner and a description of the lot. No notice of lien shall be recorded until a delinquency occurs in payment of the assessment or appropriate installments due. Such lien shall be superior to all other liens and encumbrances, recorded or unrecorded, except for valid tax and special assessment liens on the lot in favor of any governmental or other valid constituted taxing authority, and the lien of any bona fide first mortgage or deed of trust thereon which is recorded in the office records of the County Recorder of Yavapai County, Arizona.

8.05.01 Costs of Enforcement

Any costs incurred by the Association in enforcing this Declaration, the Articles, By-Laws, or Rules and Regulations adopted by the Association or one of its Committees shall be the obligation of the Owner of the Lot or Unit against which enforcement is sought. Such costs shall include, but not be limited to, reasonable attorney's fees, whether or not suit is filed. The obligation to pay the cost of enforcement shall be secured by the lien established in Section 8.05.

8.06 Foreclosure of Lien

The Association may foreclose the assessment lien in accordance with the then prevailing Arizona law relating to the foreclosure of realty mortgages and may recover a deficiency judgment against persons obligated for the assessment if the judicial sale of the Property does not satisfy the judgment. In any foreclosure, the Owner shall be required to pay the cost and expenses of the proceedings, any assessment or installments thereof becoming due during the pendency thereof, and costs, including reasonable attorney fees. The Association acting on its own behalf shall have the power to bid in and purchase the Property at foreclosure sale and to hold, lease, mortgage, convey and thereafter deal with the property as the Owner thereof, subject to the right of redemption as provided by law.

8.07 Estoppel Certificate

Upon payment of a reasonable fee and upon written request of any Owner, mortgagee, title company or any person intending to acquire any right, title or interest in lot or unit, The Association shall furnish a written statement setting forth the amount of the unpaid assessments, if any, with respect to the Property, the amount of the current assessment, the date the assessment becomes or became due, which installments have been paid thereon and credit for advance payments. Such statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9. GENERAL PROVISIONS:

9.01 Right of Partition

The right of partition shall not be available to any person, partnership, association or corporation owning any interest of any kind in and to any portion of the above described Property.

9.02 Declaration Binding

All instruments of conveyance or assignment of any interest in all or any part of the Property shall refer to this Declaration and shall be subject to the covenants, restrictions, conditions and servitudes herein contained as fully as through this instrument were therein set forth in full; provided, however, the terms and conditions of this Declaration shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or not.

9.03 Amendment of Declarations

No amendment of restrictive covenants of a Declaration relating to membership in the Association or the rights, powers and duties of the Association in respect to the Property subject to such covenants shall be effective without the consent of the Association.

9.04 Amendment of Master Declarations

These Master Declarations may be amended by a majority vote of the members of the Association voting at any meeting of the membership noticed pursuant to the By-Laws of the Association, provided the proposed amendment is included in the notice of the meeting.

9.05 Enforcement

Failure to enforce any of the covenants, stipulations and restrictions now or hereafter imposed by the provisions of this Declaration shall in no event be construed or held to be a waiver thereof or consent to any further or succeeding breach or threatened breach of the covenants, stipulations or restrictions, or any of them. Anyone owning or having an interest in the Property, including the Association, may bring an appropriate action in the proper court to enjoin or restrain the violation or to compel compliance with the covenants, Stipulations or restrictions or to collect damages or other dues on account thereof. In such action, the prevailing party will be entitled to recover the costs of the proceeding and such reasonable attorney fees as may be awarded by the court and not by a jury. A violation of the covenants, stipulations or restrictions shall not affect the lien of any mortgage now of record or hereafter placed of record on any lot of part thereof.


9.06 Severability

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

This Master Declaration was executed by the Association on the 10th day of June, 1981 by Frank Transier, President. It was amended 6th day of September, 2003 and signed by Noel Smith. It was further amended 17th of April, 2010 and signed by Steve Nelson.

In WITNESS WHEREOF, this Master Declaration has been amended by the Association this 19th day of April, 2014.

THE VILLAGE OF OAKCREEK ASSOCIATION,
An Arizona non-profit corporation

by 
Gwen Hanna, President

ATTEST:

State of Arizona
County of Yavapai
On this 13 day of May 2014 before me personally
appeared Gwen Hanna, whose identity was proven to
me on the be and acknowledged that she signed the
above document

