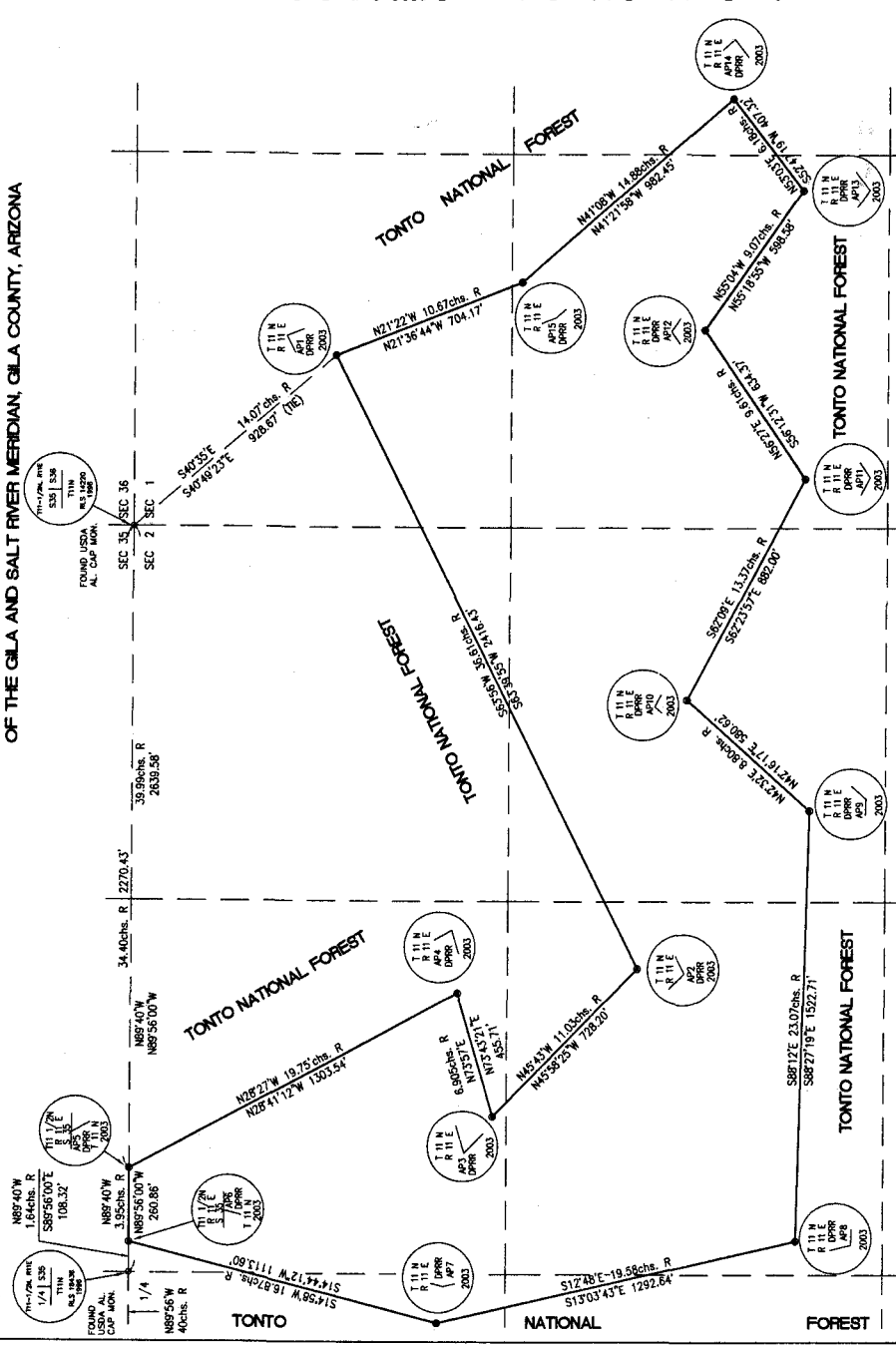




# FINAL PLAT

## DIAMOND POINT SUMMER HOMES

A SUBDIVISION OF PORTIONS OF SECTIONS 1 AND 2, TOWNSHIP 11 NORTH, RANGE 11 EAST,  
OF THE GILA AND SALT RIVER MERIDIAN, GILA COUNTY, ARIZONA



- NOTES**
- All streets within this Subdivision, as located within Tract "A", are private streets. Diamond Point Summer Homes, an Arizona Corporation, accepts the maintenance and liability responsibilities for the private streets within this Subdivision. The maintenance and liability responsibilities for the public streets within the Diamond Point Summer Homes, which are to be recorded in the Office of the County Recorder of Gila County, Arizona, after its recording of this Plat.
  - Tracts "A" through "J", as shown herein, are set aside as "Common Areas" for the use and enjoyment of the owners of the lots within this Subdivision. The terms, conditions and restrictions for the use and enjoyment of the Common Areas, as set forth in the Declaration of Covenants, Conditions and Restrictions for Diamond Point Summer Homes, which is to be recorded in the Office of the County Recorder of Gila County, Arizona, after the recording of this Plat.
  - Deed restrictions are provided for, as to be recorded in the Office of the County Recorder of Gila County, Arizona, after the recording of this Plat.
  - All bearings and distances are measured unless otherwise noted.
  - Existing zoning = R1L with a density district of D1S.

- LEGEND**
- R = RECORD PER U.S. DEPARTMENT OF INTERIOR DEPENDENT AGENTS' SURVEY OF 1862, PLAT IN THE PUBLIC LANDS OFFICE, TOWNSHIP 11 NORTH, RANGE 11 EAST, GILA AND SALT RIVER MERIDIAN, GILA COUNTY, ARIZONA, DATED 2 FEB 2004 AND FIELD NOTES COMPLETED 18 DEC 2003, BOOK NO. 3867.
  - C = CALCULATED.
  - O = FOUND MONUMENT AS NOTED.
  - = SUBDIVISION CORNER, FOUND BLM GRASS CAP UNLESS NOTED OTHERWISE.

**BASIS OF BEARING**

THE NORTH LINE OF SECTION 2, TOWNSHIP 11 NORTH, RANGE 11 EAST, GILA AND SALT RIVER MERIDIAN, GILA COUNTY, ARIZONA, BEING S89°56'00"E, A DISTANCE OF 2,629.58'.



DATE	2005	FILED	2005
BY	BLANK	RECORDED BY	BLANK
DATE	27 APR 2005	INDEXED BY	BLANK
FILED	27 APR 2005	CHECKED BY	BLANK

**DIAMOND POINT SUMMER HOMES**  
**LOTS 1 THRU 47 AND TRACTS A THRU M**

BLANK C. MCGOTT, R.L.S. #18438  
PLANNED DEPARTMENT MANAGER

759A

I, the undersigned, being the duly authorized officer of the County of Gila, Arizona, do hereby certify that the foregoing is a true and correct copy of the original as recorded in the records of GILA COUNTY, ARIZONA, on the 27th day of APRIL, 2005.

By: *[Signature]*  
County Recorder

**DEDICATION**

KNOW ALL MEN BY THESE PRESENTS That Diamond Point Summer Homes, an Arizona Corporation, has subdivided, under the name of Diamond Point Summer Homes, portions of Sections 1 and 2, Township 11 North, Range 11 East, Gila and Salt River Meridian, Gila County, Arizona, and has caused the same to be recorded in the Office of the County Recorder of Gila County, Arizona, as shown on the attached plat, and that each lot, tract and street shall be known by the number for which the same are designated on said plat.

Tracts "A" through "J", as shown herein, are reserved for the private use and enjoyment of the owners of property within this subdivision, their heirs and assigns, as more particularly set forth in the Declaration of Covenants, Conditions and Restrictions for Diamond Point Summer Homes which is to be recorded in the Office of the County Recorder of Gila County, Arizona, after the recording of this Plat.

We, the undersigned President and Vice President of Diamond Point Summer Homes, Inc., a Arizona Corporation, hereby warrant that said Corporation is the only party having any record interest in the land shown on this plat, and we consent to the subdivision of said land in the manner shown herein.

IN WITNESS WHEREOF, Diamond Point Summer Homes, an Arizona Corporation, has caused its corporate name to be printed by its duly authorized officers this 27th day of APRIL, 2005.

By: *[Signature]*  
President

By: *[Signature]*  
Vice President

State of Arizona )  
County of Gila )

ON this 27th day of MAY, 2005, before me, the undersigned, a Notary Public in and for the State of Arizona, and as President, and as Secretary of the Diamond Point Summer Homes, Inc., an Arizona Corporation, and as each of them being authorized to do so, executed the foregoing instrument for the purpose and to the effect therein expressed.

IN WITNESS WHEREOF, I have set my hand and official seal this 27th day of MAY, 2005.

*[Signature]*  
Notary Public

**APPROVALS**

Approved by the Board of Supervisors of Gila County, Arizona this 27th day of MAY, 2005.

By: *[Signature]*  
Chairman

Attest By: *[Signature]*  
County Clerk of the Court

Approved by the Engineering Department of Gila County, Arizona this 27th day of MAY, 2005.

By: *[Signature]*  
Engineering Manager

Approved by the Planning and Zoning Commission of Gila County, Arizona this 27th day of FEBRUARY, 2005.

By: *[Signature]*  
Chairman

Attest By: *[Signature]*  
PLANNED DEPARTMENT MANAGER

**CERTIFICATION**

THIS IS TO CERTIFY THAT THE EXTERIOR BOUNDARY RETRACEMENT AND SUBDIVISION OF THE LOTS DESCRIBED AND PLATTED HEREON WAS MADE BY THE ENGINEERING DEPARTMENT OF GILA COUNTY, ARIZONA, IN THE MONTH OF FEBRUARY, 2004 AND THAT THE SURVEYING INSTRUMENTS USED WERE CALIBRATED AND FOUND TO BE ACCURATE AND THAT THE LOTS AND TRACTS ARE MONUMENTED WITH 5/8" REBAR WITH BRASS CAPS MARKED LS 18438 AND THAT THEIR POSITIONS AND AREAS ARE CORRECT AND THAT THE LOTS ARE FULLY EXIST AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



DATE	2005	FILED	2005
BY	BLANK	RECORDED BY	BLANK
DATE	27 APR 2005	INDEXED BY	BLANK
FILED	27 APR 2005	CHECKED BY	BLANK

**DIAMOND POINT SUMMER HOMES**  
**LOTS 1 THRU 47 AND TRACTS A THRU M**

BLANK C. MCGOTT, R.L.S. #18438  
PLANNED DEPARTMENT MANAGER

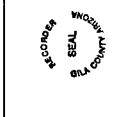
BLANK C. MCGOTT, R.L.S. #18438  
PLANNED DEPARTMENT MANAGER

759 B

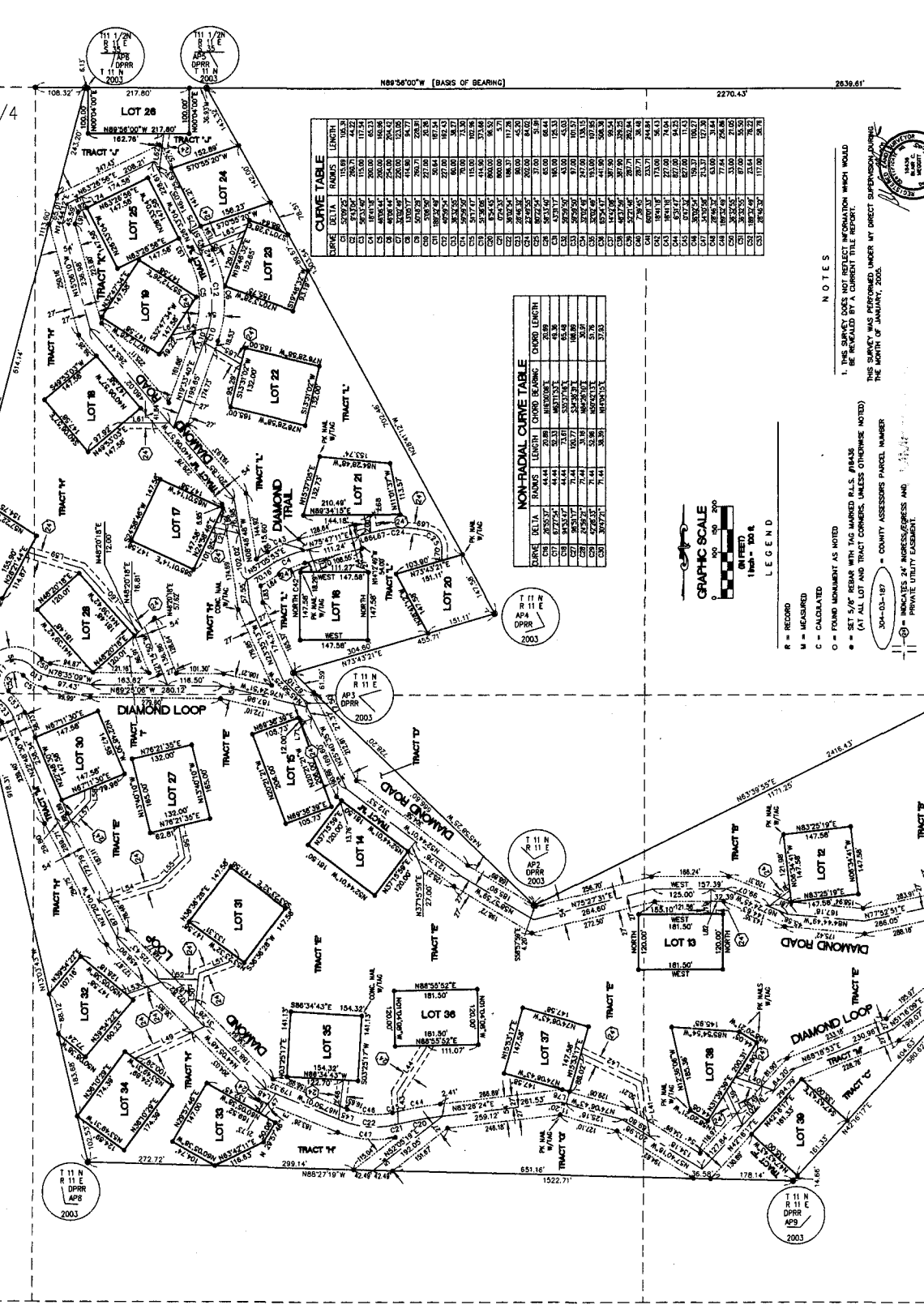
# FINAL PLAT OF DIAMOND POINT SUMMER HOMES

LOCATED IN A PORTION OF SECTION 1 AND 2,  
TOWNSHIP 34 NORTH, RANGE 27 EAST,  
OF THE 6<sup>TH</sup> RANGE, 24<sup>TH</sup> COUNTY, IOWA.

DATE: 27 APR 2003  
 DRAWN BY: CDR  
 CHECKED BY: BDR  
 SCALE: 1" = 40'  
 SHEET 2 OF 3  
 PROJECT: 03030371  
 APX LAND SURVEYING INC. PHONE: 562-071-0044

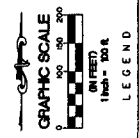


LINE	LENGTH	BEARING
L1	108.327	N89°54'00"W
L2	108.327	N89°54'00"W
L3	37.58	N89°54'00"W
L4	52.53	N89°54'00"W
L5	26.67	N89°54'00"W
L6	40.35	N89°54'00"W
L7	58.82	N89°54'00"W
L8	58.82	N89°54'00"W
L9	58.82	N89°54'00"W
L10	58.82	N89°54'00"W
L11	58.82	N89°54'00"W
L12	58.82	N89°54'00"W
L13	58.82	N89°54'00"W
L14	58.82	N89°54'00"W
L15	58.82	N89°54'00"W
L16	58.82	N89°54'00"W
L17	58.82	N89°54'00"W
L18	58.82	N89°54'00"W
L19	58.82	N89°54'00"W
L20	58.82	N89°54'00"W
L21	58.82	N89°54'00"W
L22	58.82	N89°54'00"W
L23	58.82	N89°54'00"W
L24	58.82	N89°54'00"W
L25	58.82	N89°54'00"W
L26	58.82	N89°54'00"W
L27	58.82	N89°54'00"W
L28	58.82	N89°54'00"W
L29	58.82	N89°54'00"W
L30	58.82	N89°54'00"W
L31	58.82	N89°54'00"W
L32	58.82	N89°54'00"W
L33	58.82	N89°54'00"W
L34	58.82	N89°54'00"W
L35	58.82	N89°54'00"W
L36	58.82	N89°54'00"W
L37	58.82	N89°54'00"W
L38	58.82	N89°54'00"W
L39	58.82	N89°54'00"W
L40	58.82	N89°54'00"W
L41	58.82	N89°54'00"W
L42	58.82	N89°54'00"W
L43	58.82	N89°54'00"W
L44	58.82	N89°54'00"W
L45	58.82	N89°54'00"W
L46	58.82	N89°54'00"W
L47	58.82	N89°54'00"W
L48	58.82	N89°54'00"W
L49	58.82	N89°54'00"W
L50	58.82	N89°54'00"W
L51	58.82	N89°54'00"W
L52	58.82	N89°54'00"W
L53	58.82	N89°54'00"W
L54	58.82	N89°54'00"W
L55	58.82	N89°54'00"W
L56	58.82	N89°54'00"W
L57	58.82	N89°54'00"W
L58	58.82	N89°54'00"W
L59	58.82	N89°54'00"W
L60	58.82	N89°54'00"W
L61	58.82	N89°54'00"W
L62	58.82	N89°54'00"W
L63	58.82	N89°54'00"W
L64	58.82	N89°54'00"W
L65	58.82	N89°54'00"W
L66	58.82	N89°54'00"W
L67	58.82	N89°54'00"W
L68	58.82	N89°54'00"W
L69	58.82	N89°54'00"W
L70	58.82	N89°54'00"W
L71	58.82	N89°54'00"W
L72	58.82	N89°54'00"W
L73	58.82	N89°54'00"W
L74	58.82	N89°54'00"W
L75	58.82	N89°54'00"W
L76	58.82	N89°54'00"W
L77	58.82	N89°54'00"W
L78	58.82	N89°54'00"W
L79	58.82	N89°54'00"W
L80	58.82	N89°54'00"W
L81	58.82	N89°54'00"W
L82	58.82	N89°54'00"W
L83	58.82	N89°54'00"W
L84	58.82	N89°54'00"W
L85	58.82	N89°54'00"W



SURVEY	DELTA	RADIUS	LENGTH
C1	50.926	115.81	102.3
C2	50.926	115.81	102.3
C3	50.926	115.81	102.3
C4	50.926	115.81	102.3
C5	50.926	115.81	102.3
C6	50.926	115.81	102.3
C7	50.926	115.81	102.3
C8	50.926	115.81	102.3
C9	50.926	115.81	102.3
C10	50.926	115.81	102.3
C11	50.926	115.81	102.3
C12	50.926	115.81	102.3
C13	50.926	115.81	102.3
C14	50.926	115.81	102.3
C15	50.926	115.81	102.3
C16	50.926	115.81	102.3
C17	50.926	115.81	102.3
C18	50.926	115.81	102.3
C19	50.926	115.81	102.3
C20	50.926	115.81	102.3
C21	50.926	115.81	102.3
C22	50.926	115.81	102.3
C23	50.926	115.81	102.3
C24	50.926	115.81	102.3
C25	50.926	115.81	102.3
C26	50.926	115.81	102.3
C27	50.926	115.81	102.3
C28	50.926	115.81	102.3
C29	50.926	115.81	102.3
C30	50.926	115.81	102.3
C31	50.926	115.81	102.3
C32	50.926	115.81	102.3
C33	50.926	115.81	102.3
C34	50.926	115.81	102.3
C35	50.926	115.81	102.3
C36	50.926	115.81	102.3
C37	50.926	115.81	102.3
C38	50.926	115.81	102.3
C39	50.926	115.81	102.3
C40	50.926	115.81	102.3
C41	50.926	115.81	102.3
C42	50.926	115.81	102.3
C43	50.926	115.81	102.3
C44	50.926	115.81	102.3
C45	50.926	115.81	102.3
C46	50.926	115.81	102.3
C47	50.926	115.81	102.3
C48	50.926	115.81	102.3
C49	50.926	115.81	102.3
C50	50.926	115.81	102.3

SURVEY	DELTA	RADIUS	LENGTH	CHORD LENGTH
C1	50.926	115.81	102.3	68.8
C2	50.926	115.81	102.3	68.8
C3	50.926	115.81	102.3	68.8
C4	50.926	115.81	102.3	68.8
C5	50.926	115.81	102.3	68.8
C6	50.926	115.81	102.3	68.8
C7	50.926	115.81	102.3	68.8
C8	50.926	115.81	102.3	68.8
C9	50.926	115.81	102.3	68.8
C10	50.926	115.81	102.3	68.8
C11	50.926	115.81	102.3	68.8
C12	50.926	115.81	102.3	68.8
C13	50.926	115.81	102.3	68.8
C14	50.926	115.81	102.3	68.8
C15	50.926	115.81	102.3	68.8
C16	50.926	115.81	102.3	68.8
C17	50.926	115.81	102.3	68.8
C18	50.926	115.81	102.3	68.8
C19	50.926	115.81	102.3	68.8
C20	50.926	115.81	102.3	68.8
C21	50.926	115.81	102.3	68.8
C22	50.926	115.81	102.3	68.8
C23	50.926	115.81	102.3	68.8
C24	50.926	115.81	102.3	68.8
C25	50.926	115.81	102.3	68.8
C26	50.926	115.81	102.3	68.8
C27	50.926	115.81	102.3	68.8
C28	50.926	115.81	102.3	68.8
C29	50.926	115.81	102.3	68.8
C30	50.926	115.81	102.3	68.8
C31	50.926	115.81	102.3	68.8
C32	50.926	115.81	102.3	68.8
C33	50.926	115.81	102.3	68.8
C34	50.926	115.81	102.3	68.8
C35	50.926	115.81	102.3	68.8
C36	50.926	115.81	102.3	68.8
C37	50.926	115.81	102.3	68.8
C38	50.926	115.81	102.3	68.8
C39	50.926	115.81	102.3	68.8
C40	50.926	115.81	102.3	68.8



LEGEND  
 R = RECORD  
 M = MEASURED  
 C = CALCULATED

NOTES  
 1. THIS SURVEY WAS MADE BY DIRECT MEASUREMENT WHICH WOULD BE RECALCULATED BY A CURRENT TITLE REPORT.  
 THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF JANUARY, 2003.



759 B

MATCHLINE - SEE SHEET 3 OF

759 C



SEC 35 SEC 36  
SEC 27 SEC 1

**CURVE TABLE**

CURVE	DELTA	RADIUS	CHORD BEARING	CHORD LENGTH
C1	50.0000	100.0000	N00°00'00"W	100.0000
C2	50.0000	100.0000	S00°00'00"W	100.0000
C3	50.0000	100.0000	N00°00'00"W	100.0000
C4	50.0000	100.0000	S00°00'00"W	100.0000
C5	50.0000	100.0000	N00°00'00"W	100.0000
C6	50.0000	100.0000	S00°00'00"W	100.0000
C7	50.0000	100.0000	N00°00'00"W	100.0000
C8	50.0000	100.0000	S00°00'00"W	100.0000
C9	50.0000	100.0000	N00°00'00"W	100.0000
C10	50.0000	100.0000	S00°00'00"W	100.0000
C11	50.0000	100.0000	N00°00'00"W	100.0000
C12	50.0000	100.0000	S00°00'00"W	100.0000
C13	50.0000	100.0000	N00°00'00"W	100.0000
C14	50.0000	100.0000	S00°00'00"W	100.0000
C15	50.0000	100.0000	N00°00'00"W	100.0000
C16	50.0000	100.0000	S00°00'00"W	100.0000
C17	50.0000	100.0000	N00°00'00"W	100.0000
C18	50.0000	100.0000	S00°00'00"W	100.0000
C19	50.0000	100.0000	N00°00'00"W	100.0000
C20	50.0000	100.0000	S00°00'00"W	100.0000
C21	50.0000	100.0000	N00°00'00"W	100.0000
C22	50.0000	100.0000	S00°00'00"W	100.0000
C23	50.0000	100.0000	N00°00'00"W	100.0000
C24	50.0000	100.0000	S00°00'00"W	100.0000
C25	50.0000	100.0000	N00°00'00"W	100.0000
C26	50.0000	100.0000	S00°00'00"W	100.0000
C27	50.0000	100.0000	N00°00'00"W	100.0000
C28	50.0000	100.0000	S00°00'00"W	100.0000
C29	50.0000	100.0000	N00°00'00"W	100.0000
C30	50.0000	100.0000	S00°00'00"W	100.0000
C31	50.0000	100.0000	N00°00'00"W	100.0000
C32	50.0000	100.0000	S00°00'00"W	100.0000
C33	50.0000	100.0000	N00°00'00"W	100.0000
C34	50.0000	100.0000	S00°00'00"W	100.0000
C35	50.0000	100.0000	N00°00'00"W	100.0000
C36	50.0000	100.0000	S00°00'00"W	100.0000
C37	50.0000	100.0000	N00°00'00"W	100.0000
C38	50.0000	100.0000	S00°00'00"W	100.0000
C39	50.0000	100.0000	N00°00'00"W	100.0000
C40	50.0000	100.0000	S00°00'00"W	100.0000
C41	50.0000	100.0000	N00°00'00"W	100.0000
C42	50.0000	100.0000	S00°00'00"W	100.0000
C43	50.0000	100.0000	N00°00'00"W	100.0000
C44	50.0000	100.0000	S00°00'00"W	100.0000
C45	50.0000	100.0000	N00°00'00"W	100.0000
C46	50.0000	100.0000	S00°00'00"W	100.0000
C47	50.0000	100.0000	N00°00'00"W	100.0000
C48	50.0000	100.0000	S00°00'00"W	100.0000
C49	50.0000	100.0000	N00°00'00"W	100.0000
C50	50.0000	100.0000	S00°00'00"W	100.0000

**NON-RADIAL CURVE TABLE**

CURVE	DELTA	RADIUS	CHORD BEARING	CHORD LENGTH
C1	44.44	100.00	N00°00'00"W	100.00
C2	44.44	100.00	S00°00'00"W	100.00
C3	44.44	100.00	N00°00'00"W	100.00
C4	44.44	100.00	S00°00'00"W	100.00
C5	44.44	100.00	N00°00'00"W	100.00
C6	44.44	100.00	S00°00'00"W	100.00
C7	44.44	100.00	N00°00'00"W	100.00
C8	44.44	100.00	S00°00'00"W	100.00
C9	44.44	100.00	N00°00'00"W	100.00
C10	44.44	100.00	S00°00'00"W	100.00
C11	44.44	100.00	N00°00'00"W	100.00
C12	44.44	100.00	S00°00'00"W	100.00
C13	44.44	100.00	N00°00'00"W	100.00
C14	44.44	100.00	S00°00'00"W	100.00
C15	44.44	100.00	N00°00'00"W	100.00
C16	44.44	100.00	S00°00'00"W	100.00
C17	44.44	100.00	N00°00'00"W	100.00
C18	44.44	100.00	S00°00'00"W	100.00
C19	44.44	100.00	N00°00'00"W	100.00
C20	44.44	100.00	S00°00'00"W	100.00
C21	44.44	100.00	N00°00'00"W	100.00
C22	44.44	100.00	S00°00'00"W	100.00
C23	44.44	100.00	N00°00'00"W	100.00
C24	44.44	100.00	S00°00'00"W	100.00
C25	44.44	100.00	N00°00'00"W	100.00
C26	44.44	100.00	S00°00'00"W	100.00
C27	44.44	100.00	N00°00'00"W	100.00
C28	44.44	100.00	S00°00'00"W	100.00
C29	44.44	100.00	N00°00'00"W	100.00
C30	44.44	100.00	S00°00'00"W	100.00

NOTES

1. THIS SURVEY DOES NOT REFLECT INFORMATION WHICH WOULD BE REVEALED BY A CURRENT TITLE REPORT.

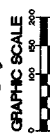
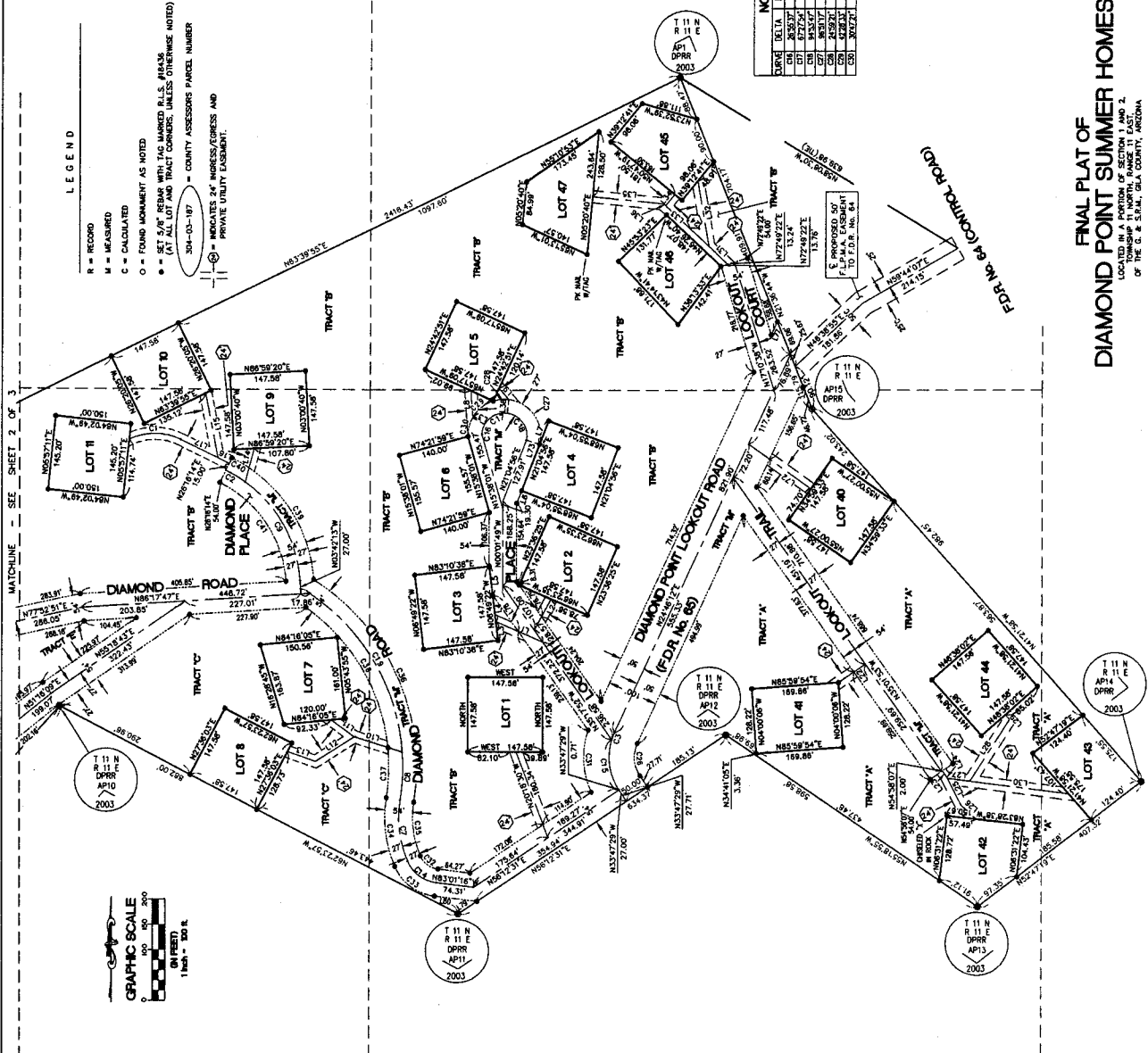
THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION DURING THE MONTH OF JANUARY, 2023.



DATE: 01/17/2023  
 TIME: 1:00 PM  
 SHEET NO: 3 OF 3  
 PROJECT: DIAMOND POINT SUMMER HOMES  
 TRACTS: TRACTS 'A' THRU 'M'  
 COUNTY: GILA COUNTY, ARIZONA  
 TOWNSHIP: 11 NORTH, RANGE: 11 EAST  
 SECTION: 36  
 SURVEYOR: [Signature]

LEGEND

- R = RECORD
- M = MEASURED
- C = CALCULATED
- O = FOUND MONUMENT AS NOTED
- = SET 5/8" REBAR WITH TAG MARKED R.L.S. #18AS (AT ALL LOT AND TRACT CORNERS, UNLESS OTHERWISE NOTED)
- ① = 304-00-187 = COUNTY ASSESSOR'S PARCEL NUMBER
- ⊕ = MARKERS AT INTERSECTIONS AND PRIVATE UTILITY EASEMENT



**LINE TABLE**

LINE	LENGTH	BEARING
1	100.00	N00°00'00"W
2	100.00	S00°00'00"W
3	100.00	N00°00'00"W
4	100.00	S00°00'00"W
5	100.00	N00°00'00"W
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**FINAL PLAT OF  
DIAMOND POINT SUMMER HOMES**

LOCATED IN A PORTION OF SECTION 36 AND 2,  
TOWNSHIP 11 NORTH, RANGE 11 EAST,  
OF THE G. & S.W. & GILA COUNTY, ARIZONA.

759 C

Gila County, AZ  
Linda Haught Ortega, Recorder  
08/10/2005  
04:29PM  
Doc Code: DRES

Doc Id: 2005-014325  
Receipt #: 36337  
Rec Fee: 25.00

FIRST AMERICAN TITLE RECORDING

RECORDING REQUESTED BY:  
**First American Title Insurance Agency, Inc.**

AND WHEN RECORDED MAIL TO:  
**FATCO Pickup**



Gila County, AZ

DRES

2005-014325

Page: 1 of 17  
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CAPTION HEADING: **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
DIAMOND POINT SUMMER HOMES ASSOCIATION**





Gila County, AZ

DRES

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
DIAMOND POINT SUMMER HOMES ASSOCIATION**

This Declaration of Covenants, Conditions and Restrictions for DIAMOND POINT SUMMER HOMES ASSOCIATION (the "Declaration") is made this fifth day of May, 2005 by Diamond Point Summer Homes Association, an Arizona corporation (hereinafter referred to as the "Association") the Owner of the Property.

**RECITALS**

A. The Diamond Point Summer Homes is situated within the County of Gila, State of Arizona (the "Property") and more particularly described as: *Lots 1 through 47, inclusive, and Tracts A through M, according to plat recorded in Map No. 759 in the office of the County Recorder of Gila County, Arizona.* The Association owns all of the Common Areas within the Property. A, B+C

B. The Association desires, for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and to provide for the maintenance and operation of the Common Areas, to submit the Property to the provisions of this Declaration, which shall be for the benefit of the Property and the Owners of the Property, said Owners having heretofore been permittees from the U.S. Forest Service of the same land they now own, prior to the Association acquiring the Property from the Forest Service.

NOW, THEREFORE, in consideration of the premises and for the foregoing purposes, the Association does hereby submit the Property to the provisions of this Declaration and declares that the Property and each part thereof is and shall be held, encumbered, built on and otherwise used, improved, maintained, leased, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, reservations, easements, charges and liens hereinafter set forth which shall (i) attach to and run with the land, (ii) be binding on the Property and all Owners, and other parties having, acquiring or otherwise at any time possessing any right, title or interest in or to the Property or any part thereof, (iii) inure to the benefit of said Owners, and other parties, and (iv) be for the purpose of establishing a general plan for the improvement and development of the Property as an attractive and exclusive development.

**ARTICLE I**

**DEFINITIONS**

When used in this Declaration (including in that portion hereof entitled "Recitals") the following terms shall have the meaning indicated:

1.1 Architectural Review Committee shall mean and refer to the committee established pursuant to Article 3 hereof.

1.2 Articles or Articles of Incorporation shall mean and refer to the instrument entitled "Articles of Incorporation of Diamond Point Summer Homes Association" which is filed with the Arizona Corporation Commission, as they may be amended from time to time.

1.3 Association shall mean and refer to Diamond Point Summer Homes Association, the Arizona nonprofit corporation which was created by the filing of the Articles.



1.4 Bylaws shall mean and refer to the Bylaws of the Association, as they may be amended from time to time.

1.5 Common Area or Common Areas shall mean and refer to all portions of the Property now or hereafter owned by the Association for the common use and enjoyment of the Owners, and shall include Tracts A and B, as described on the Plat.

1.6 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be modified, amended or supplemented in accordance with law and the provisions hereof.

1.7 Eligible Mortgagee shall mean and refer to a Mortgagee which has requested notice of certain matters from the Association in accordance with Section 6.10.

1.8 Improvement shall mean each and every change, alteration or addition of any kind whatsoever to any portion of the Property, including, but not limited to, any excavation, grading, fill work, building, structure, walkway, driveway, road, parking area, utility installation, aerial, antenna, drainage facility, stair, patio, courtyard, sign, or landscaping of any and all components of any of the foregoing (including, but not limited to, exterior paint, texture, color and finish scheme) and any and all modifications or alterations of or additions to any of the foregoing.

1.9 Lot shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat as Lots 1 through 47 and intended for private use and ownership, which the Association shall convey to the individual Owners upon the recording of the Declaration and conveyance of the Property from the Forest Service to the Association.

1.10 Member shall mean and refer to every person who holds membership in the Association.

1.11 Mortgage shall mean and include both a first mortgage on any Lot or a first deed of trust on any Lot.

1.12 Mortgagee shall mean and refer to a mortgagee under a first mortgage on any Lot and a beneficiary under a first deed of trust on any Lot.

1.13 Owner or Owners shall mean and refer to (i) the record Owner, whether one (1) or more persons or entities of equitable or beneficial title in fee simple (or legal title if same has merged) to any Lot, or (ii) the purchaser or purchasers of such Lot under an agreement for sale or contract to purchase as set forth in Arizona Revised Statutes Section 33-741 et. seq. The foregoing does not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation of an Owner, or a purchaser or vendee under an executory contract of sale which has not been fully consummated with a deed to the purchaser recorded in the office of the County Recorder of Gila County, Arizona.

1.14 Plat shall mean and refer to the plat of the Property recorded in Map No. 759 in the office of the County Recorder of Gila County, Arizona.  
A, B + C

1.15 Property shall mean and refer to the tract of real property described in Recital A of this Declaration.

1.16 Residence shall mean and refer to a house or similar structure located on a Lot which is designated and intended for human occupancy.

1.17 Guest shall mean any person invited onto the Property with the consent of the Owner(s) without compensation.



**ARTICLE 2  
USE RESTRICTIONS**

2.1 Use Restrictions. The Property shall be held, used, enjoyed and conveyed subject to the following express Covenants, Conditions and Restrictions:

2.1.1 Private Residential Use; No Rentals. Lots shall be occupied and used by the respective Owners thereof solely for private, single family residential use of the Owner, his family, a reasonable number of Guests and for no other purposes. No part of the Property, including Lots and Common Area, is to be used by large groups affiliated with clubs, churches, or other organizations. No business activities of any kind whatsoever shall be conducted upon any Lot or within Improvements located thereon, except that an Owner may conduct a business activity, except lease or rental of the Residence or Lot, within a Residence so long as it does not detract from the character of the Property and:

- a. the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence;
- b. the business activity conforms to all applicable zoning ordinances or requirements applicable to the Property;
- c. the business activity does not involve any traffic by persons coming on the Property who do not reside in the Property or the door-to-door solicitation of other residents of the Property or the display of commercial signs;
- d. the business activity is consistent with residential use, does not constitute a nuisance or hazardous or offensive use or threaten the security or safety of other residents of the Property.

Due to limitations of the infrastructure, including but not limited to water and sewer service, the use of the Residences and permitted Improvements is limited to personal, periodic, recreational, temporary Residence use of a non-commercial nature by the Owner, members of the immediate family and a reasonable number of Guests. Any rental or lease of a cabin, Residence or other structure, or the Lot itself, is prohibited. Use of a cabin or Residence as a principal place of residence is prohibited. Each Owner must have a principal place of residence outside of the Property.

The Board of Directors shall have the sole discretion to determine whether, in a particular case, the use of a Lot violates the provisions of this Section. If the Board of Directors determines that use of a Lot violates this Section, it shall have the authority to require that the use in question cease immediately.

2.1.2 Water Conservation. Inasmuch as the Association is currently dependent upon a single well for its water supply and the well may not be able to supply all the water needed from time to time, the Owners shall exercise as much water conservation as possible and refrain from wasteful usage. The Board of Directors shall have the authority to establish rules and regulations concerning the usage of water.

2.1.3 Buildings and Structures. All buildings or structures hereafter erected on the Lots shall be of new construction and no building or structure shall be moved from other locations onto a Lot. Not more than one (1) single-family structure and two (2) auxiliary buildings such as a carport, garage or storage shed may be erected on any individual Lot. The largest auxiliary building shall not exceed the approximate size of a two (2) car garage; said structure may contain sleeping quarters, without kitchen facilities, for temporary use. If there is a second auxiliary building it shall not exceed the approximate size of a one (1) car garage. Any auxiliary building shall be located as close to the main building as practical, subject to the approval of the Architectural Review Committee. Mobile, prefab or modular homes may not be affixed as a permanent structure. If a Special Use Permit should be granted to the owner of any Lot by Gila



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County to construct and maintain a separate Guest house, then such Guest house may not be rented, leased, sold or conveyed to any person or entity apart from the primary Residence or the Lot, and no Lots may be split. All buildings and structures shall meet the rules and regulations that are established by the Architectural Review Committee.

2.1.4 Temporary Structures, Mobile Homes, etc. No house trailer, camp trailer, horse trailer, mobile home, recreational vehicle or motorized mobile home shall at any time be placed upon, stored or lived in on any Lot for a period to exceed fourteen (14) days in any thirty (30) day period except within a fully enclosed garage; provided, however, that the Board of Directors may grant a reasonable amount of time to an Owner who is constructing or remodeling a building. This restriction does not apply to pick-up trucks with camper shells or minivans, which are a primary source of transportation. Permanently anchored mobile homes, manufactured, modular, or prefabricated homes shall not be allowed

Power generators are not to be operated, except during an emergency. Under no circumstances shall any vehicle, mobile home or other structure be placed upon, lived in or stored on any portion of the Common Area. The Board of Directors or its designated officer or agent shall have the right and power to enter upon any Lot or portion of the Common Area for the purpose of removing any house trailer, horse trailer, mobile home, motorized mobile home or other structure or vehicle existing in violation of this section, and all costs incurred shall be charged against the Owner by invoice and such charge shall constitute and be made a lien on the Lot of the Owner and may be foreclosed in the same manner as an assessment lien.

2.1.5 Plumbing Facilities. With the exception of gray lines, all plumbing shall be DWV (drainage, waste & vent) approved pipe, connected below the surface of the ground to a septic tank with an adequate leach drainage line below the surface or to an approved sewer line. Gray lines are permissible for drainage of waste wash water. All installations must comply with the regulations promulgated by Gila County, Arizona.

2.1.6 Electrical Equipment. All electrical equipment and facilities installed and operated shall conform to the National Electric Safety Code and the electrical code of Gila County, Arizona. Applicable electrical equipment must have been approved by the Underwriters Laboratory.

2.1.7 Gas Equipment. All propane or other liquefied-petroleum-gas equipment shall be installed and operated in accordance with the laws and regulations of Gila County, Arizona.

2.1.8 Fences. No fences of any type, except temporary horse corrals, shall be erected around, on or within any Lot. The Association may erect barriers on or around Common Area for the purposes of safety and security of the Property.

2.1.9 Drainage. No Owner or Resident shall interfere with or obstruct the natural drainage pattern over his Lot such that it is diverted to flow over any other Lot or any Common Area. Within an Owner's Lot, reasonable measures for erosion control are permissible.

2.1.10 No Subdivision. No Lot shall be subdivided or split into smaller Lots or parcels.

2.1.11 Set-Back Requirements. In no case shall setbacks violate the minimum requirements of Gila County, Arizona, without variance approval from Gila County, as well as approval from the Architectural Review Committee.

2.1.12 Exterior Improvements to Lots ("Exterior Improvements").

a. All structures shall be designed and constructed to be consistent and blend with the rustic forest environment of the surrounding area. Exterior roofing, stains, paint, etc., shall be selected to conform



to this philosophy, all as more particularly set forth in the Bylaws or rules of the Architectural Review Committee.

b. No Exterior Improvement of a temporary or permanent character shall be commenced, erected, altered or maintained, until the plans showing the nature, kind, shape, color, height, materials, foundation footprint and location of such Exterior Improvement or proposed alteration, modification or addition of or to an existing Improvement shall have been submitted to the Architectural Review Committee and a copy thereof, as finally approved, lodged permanently with the Association. Failure of the Architectural Review Committee to reject in writing said plans within sixty (60) days from the date the same are received by the Architectural Review Committee shall constitute approval of said plans. The Architectural Review Committee shall not unreasonably withhold approval of any plans and rejection of any plans must be based on reasonable judgment as to the effect that said changes and alterations will have on the Property as a whole. It shall have the right to take into consideration the suitability of the proposed Exterior Improvement and of the materials of which it is to be built on the Lot upon which it is proposed to be built, the harmony thereof with the surroundings and the effect of the Exterior Improvement as planned on the outlook from the adjacent or neighboring property. All subsequent additions to or changes such as stem walls, foundations or roofing material or alterations, including but not limited to painting of exterior surfaces of any building, wall or other structure shall be subject to the prior approval of the Architectural Review Committee. Re-roofing or re-painting with approximately the same materials or color, as previously existed, shall not require review of the Architectural Review Committee. The Board of Directors shall have final approval authority over all plans for Exterior Improvements.

c. If plans for Exterior Improvements are disapproved, a reasonably specific reason or reasons for disapproval shall be communicated in writing to the Owner(s) who submitted them. Said Owner(s) may then revise the plans to remedy the stated reasons for disapproval and resubmit said plans to the Architectural Review Committee for further review. Alternately, if said Owner(s) disagree with any or all of the stated reasons for disapproval, the Owner(s) may request and shall be granted a hearing with the Board of Directors and the Architectural Review Committee at a subsequent Board meeting whereby the areas of disagreement may be clarified and resolved. The Board of Directors and the Architectural Review Committee shall give full and reasonable consideration to the information presented by the Owner(s) in support of their position. However, final authority to approve or disapprove rests with the Board.

d. Any plan approved by the Board of Directors or Architectural Review Committee shall be submitted for approval by the Owner(s) to the appropriate agency of Gila County, if required by Gila County. No request for approval shall be presented to Gila County, unless there has been prior approval by the Board of Directors.

e. Any approval of plans and specification shall be evidenced by a letter signed by at least a majority of the Board of Directors. Said approval shall then be irrevocable and not subject to withdrawal or change by the Board of Directors. Such letter may be conclusively relied upon by all parties including, but not limited to, any Owner(s), any title insurance company and any Mortgagee taking any Lot as security.

#### 2.1.13 Livestock and pets.

- a. Pets. Household pets must not be for breeding purposes, present a health or safety hazard or nuisance of any kind to residents of the Property or their guests. Dogs shall be under Owner's control and supervision at all times.
- b. Livestock. No cattle, sheep, goats, pigs or other livestock or poultry may be kept, boarded or



maintained on any portion of the Property, provided, however, this restriction shall not be construed as prohibiting the keeping of ordinary domestic pets or birds upon the Property.

Subject to Board regulation, horses may be kept on an Owner's Lot on a temporary basis only, no more than fourteen (14) days in any 30-day period, and only for the use of the Owner and the Owner's family and Guests. Horses may be ridden on the Property for ingress and egress only and must be kept on roads at all times. The Owner shall be responsible for the maintenance of his Lot and Common Areas so as to avoid nuisance to other Owners. All temporary corrals to keep horses shall not exceed twelve (12) feet by twelve (12) feet and shall exist only when horses are in residence. Trailers and other related equipment shall be located on an Owner's Lot only and not the Common Area and may not be kept on the Lot longer than the horse(s). Horse manure shall be promptly removed by the horse owner/user. The Board of Directors shall have the authority to levy reasonable fines against Owners who themselves, or by their Guests, are repeat offenders. These fines may become liens if not timely paid in the same manner as other sums, which become past due to the Association. If the foregoing action is unsuccessful in correcting reasonable objections of the Board of Directors to the presence of horses on a Lot, the Board of Directors shall have the authority to revoke this horse privilege from a specific Owner after notice to the Owner and a hearing before the Board of Directors on the matter. The Board shall also have the authority to revoke all horse privileges, subject to the appeal process in Section 6.3.

#### 2.1.14 Motor Vehicles

- a. All motorized vehicles of any type are limited to a 15 mph speed limit and are prohibited from creating excessive noise, excessive dust, or other nuisance. All such vehicles shall be operated only on Common Area roads and never on other Common Areas; and must have a spark arrestor and a muffler. Recreational riding such as repetitive cruising of motorized vehicles is not allowed on the Common Area roads. The Owner, vehicle owners, and operators of such vehicles shall be liable for any damage to life or property. The Association shall be held harmless from any damage to life or property arising from the operation of such vehicles.
- b. Handicapped or special needs individuals may petition the Board to receive an exception to the matters set forth in (a) above.
- c. No motor vehicle which is under repair or not in operating condition, or not routinely used by the Owner(s) when in residence, shall be placed or permitted to remain on the roadway(s) or any portion of a Lot or the Property, unless it is within an enclosed garage.

2.1.15 Firearms and Fireworks. The discharge of any firearm, airgun, pellet gun, paint ball guns, or similar weapon is prohibited on any portion of the Property except in self-defense. BB guns may be allowed within the Lot boundary of the Owner under adult supervision. The use or storage of any and all types of fireworks, rockets, sparklers or similar item is prohibited on any portion of the Property.

2.1.16 Hunting. The shooting, trapping, snaring or hunting of any form of wildlife, except for vermin, is prohibited on any Lot or Common Area except where it is necessary to protect life, or where prior written permission has been obtained from the Board of Directors.

2.1.17 Nuisances: Signs and Noise. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any portion of the Property, except one (1) "For Sale" sign per Lot, not to exceed five (5) square feet. The Property shall not be used in any way or for any purpose which may endanger the health of any person.

For purposes of maintaining a peaceful environment, the use of tools or any equipment that are loud enough to disturb neighbors shall be limited to the hours between 8 AM and 10 PM, unless a permit to build has been obtained and additional hours are allowed.



2.1.18 Lot Identification. Each Owner shall display his Lot number, name, and street address in a size and position, which is easily visible from the road.

2.1.19 Fire Protection.

Each Owner shall be bound by fire protection rules or regulations which shall be issued by the Board of Directors.

2.1.20 Irrigation. No irrigation, sprinkler, or watering systems of any type are permitted.

2.1.21 Native Plants and Trees.

a. Native Plants. Planting of vegetation not native to the area is prohibited.

b. Trees. The cutting down of trees on the Lots and Common Areas is prohibited except for the following purposes: (1) to provide fire protection as specified by the Rules and Regulations; (2) to build a structure as approved through an Architectural review; (3) to ensure safety of a Lot or the Common Area; or (4) by the Board to improve the infrastructure of the Property.

2.1.22 Zoning. No application for zoning or rezoning of any Lot shall be filed with any governmental authority.

Uses subject to a conditional use permit or subject to provisions for temporary uses under Gila County zoning ordinances are prohibited.

2.1.23 Driveway Easements. Any new driveway, or relocation of an existing driveway must be submitted to the Board of Directors for review and approval and shall in no way encroach upon any other Lot or Common Area without the consent of the Owner and Board of Directors of the Association, as applicable. Said new driveway shall also conform and comply with all other applicable covenants, conditions and restrictions contained herein.

2.1.24 Transfer of Ownership; Working Capital Payment. The Owner of each Lot shall give the Association notice in writing of any sale, transfer or conveyance by any of the Owners of such Lot within ten (10) days of recording of the transfer of title to such Lot at the Gila County Recorder's Office.

To insure that the association will have funds necessary to build, maintain, repair, restore, or replace infrastructure, each person or entity who purchases a Lot in the Property shall pay to the Association the sum of \$1,500 (One Thousand Five Hundred Dollars) or 1% (one percent) of the sales price, whichever is larger, immediately upon recording of the deed or other instrument of conveyance whereby the person or entity purchasing such Lot becomes the Owner of the Lot.

This requirement does not apply to transfers from one joint Owner(s) to other joint Owner(s), or by will or trust directly to family members defined as father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, brother or sister.

2.1.25 Utility Easements. Easements for sewers, water, cable television, electricity, telephone and other utilities and necessary or desirable wires, lines, cables, equipment and appurtenances along, under, over, adjacent to and across the Lots are hereby granted, reserved and established where lines for such utilities are currently installed and within the area located within fifteen (15) feet of any Lot line together with reasonable ingress and egress rights thereto, for the benefit of the Owners and the Association. Such easements shall include the right to excavate for, place, cover, repair and do everything necessary or desirable to maintain the same in a workmanlike manner and proper condition. This right shall be exercised in such manner as to preserve the greatest amount of natural growth and vegetation and do the least amount of injury to the Lots, consistent with the most feasible location and maintenance of, and proper construction of any Improvements to said easements. The exact location of these easements and



the construction of any Improvements thereto shall be as determined by the Association.

**2.2 Effective Date of Use Restrictions.** The Covenants, Conditions and Restrictions (hereafter "CC&Rs") contained in this Article 2 regarding Improvements shall not be applied retroactively to any Improvement which was constructed or installed prior to the date on which this Declaration is recorded in the office of the County Recorder of Gila County, Arizona. However, any subsequent additions, modifications or alterations to said existing Improvements shall be subject to the Covenants, conditions and Restrictions set forth in this Article 2.

Nothing contained in these CC&Rs shall affect existing uses of property or the rights to its continuing use, the reasonable repair or alteration thereof, for the purpose for which it was used at the time the CC&Rs affecting the Property take effect, providing such uses were permissible under the pre-existing U.S. Forest Service Permit.

**2.3 Association Access to Lots; Right to Make Repairs.** In the event the Owner(s) of any Lot shall fail to maintain the premises and the exterior of the Improvements situated thereon in accordance with these CC&R's and any rules and regulations, as determined by the Board, the Association, through its agents and employees, shall have the right to enter upon such Lot and correct any violation of these restrictions or repair, maintain, rehabilitate and restore the exterior of any Improvements situated thereon. The cost thereof shall be charged against the Owner of said Lot by invoice in the manner set forth in Article 5 hereof; and made a lien on said Lot and may be foreclosed as therein set forth; provided, however, that the Association shall first give written notice to the Owner of said Lot of its intentions to make such corrections or repairs or of its intention to perform such maintenance or rehabilitation work and affording the Owner of said Lot a ninety (90) day time in which to make said necessary corrections, repairs or maintenance work. If at the end of said ninety (90) day period, the work to be performed has not been commenced by the Owner(s), and completed within a reasonable time, then the Association shall have the right, as set forth herein, to make such maintenance, repairs or rehabilitation work. Nothing herein contained shall be construed to grant to the Association any right to enter into or inside of any building or buildings located on any Lot without the consent of the Owner thereof.

### ARTICLE 3 ARCHITECTURAL REVIEW COMMITTEE

**3.1 Composition of Committee.** To facilitate the approval of matters concerning the building, alteration or upkeep of Improvements located or proposed to be located on the Lots, and to aid the Board of Directors in the consideration of such matters, an Architectural Review Committee shall be formed of no less than three (3) nor more than five (5) members of the Association. The Chair of the Architectural Review Committee shall be a Board member appointed by the Board. The members of the Association shall elect the remaining committee members. Rules governing the operation of the Architectural Review Committee shall be promulgated by the Committee and approved by the Board of Directors and a majority of the Association members.

**3.2 Liability.** The Architectural Review Committee and Board of Directors shall not be held liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request made pursuant to this Declaration.

**3.3 Cost reimbursements.** The Architectural Review Committee may require reimbursement of costs by any Owner seeking approval of plans and specifications for any Improvement, based upon actual cost incurred.



**ARTICLE 4  
COMMON AREA**

4.1 Common Area: Easement of Enjoyment. The Association or a successor homeowners' association shall at all times own the Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall not be separated therefrom.

4.2 Tract A Through M Uses. Tract A through L of the Common Area shall be for any existing private driveways that exist on the date hereof, recreation and facilities such as wells, water storage tanks, pipe lines and public utilities for the benefit of the Owners of Lots in the Property, as determined from time to time by the Board of Directors. Tract M of the Common Area is for private roadway use and public utilities for the benefit of the Owners of Lots in the Property. No part of the Common Area may be divided, subdivided or split into smaller parcels, or used for any purpose which will detract from or interfere with the use and enjoyment of any or all of the Owners of Lots within the Property. No buildings or structures or capital improvements shall be erected or maintained on the Common Area, except for the purpose of providing services, including but not limited to electrical power, water supply, fire protection, recreation, etc., as may be authorized by the Board of Directors subject to a 2/3 approval of the membership. No debt may be encumber the Common Area; using it for security for the debt, without approval of seventy-five percent (75%) of the Owners.

4.3 Rules and Regulations for use of Common Areas and the Property. The Board of Directors, subject to approval of a majority of a quorum of the Members at a duly called meeting or by mail ballot, or a majority of all of the Members by written consent, shall have the right and power to establish and impose rules governing the use of the Property, including the Common Area, and any person using said areas shall abide by such Association Rules. Such Rules shall not discriminate among Owners nor shall they be inconsistent with this Declaration, the Articles or Bylaws.

Within thirty (30) days following adoption, amendment or repeal of an Association Rule, the Board shall send each Owner a copy of the adopted or amended Association Rule or notice of repeal, if any Association Rule has been repealed.

An Association Rule or an amendment to an Association Rule shall be effective thirty (30) days following the Board providing notice to the Owners of adoption, amendment or repeal of the Rule, as applicable. All actions of the Board in adopting, amending or repealing Association Rules shall become effective as provided herein regardless of whether notice of the action is actually received by every Owner. Once the Association Rule becomes effective, it shall have the same force and effect as if it were set forth in and were a part of this Declaration, subject, however, to the right of the Board to amend or repeal Association Rules as provided in this Section.

Owners and their Guests shall hold the Association harmless from any liability from damage to life or property arising from the Owners' occupancy or use of the Common Areas. Owners and their Guests shall be liable for any damage suffered by the Association resulting from or related to their use of the Common Areas, including damages to resources and costs of fire suppression.

4.4 Maintenance and Operation: Insurance. The Association shall pay all costs and expenses associated with the Common Area, including maintenance, repair, utilities, real estate taxes and premiums for property and public liability and other insurance. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

a. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board. Such insurance shall cover all occurrences commonly insured against for death,



bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of Common Areas or any other portions of the Property which the Association is obligated to maintain under this Declaration.

b. Property insurance on the Common Areas and Improvements thereon, if any, insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value, as determined by the Board.

c. Workers' Compensation Insurance to the extent necessary to meet the requirements of the State of Arizona.

d. Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners, including but not limited to director's and officer's liability insurance and fidelity bonds for officers or directors or agents who handle Association funds.

e. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; and (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners.

4.5 Limitation on Easement. An Owner's nonexclusive right and easement of use and enjoyment concerning the Common Areas shall be further subject to the following:

- a. The right of the Association (without the consent of Owners, Mortgagees or any other persons or entities) to grant permits, licenses and easements over, across, through and under the Common Areas to any governmental or quasi-governmental authority, to any public or private utility company, or to any other person or entity for the purpose of installing, maintaining or providing utilities and related facilities or roads or for such other purposes reasonably necessary or useful for the proper maintenance or operation of the Property;
- b. The right of Gila County and any other governmental or quasi-governmental body having jurisdiction over the Property, and any private or public utility company serving the Property to access and rights of ingress and egress over, across, through or under the Common Areas for purposes of providing police and fire protection, and providing any other governmental, municipal or utility service to the Property.

## ARTICLE 5 ASSESSMENTS

5.1 Personal Obligation and Lien for Assessments. Each Owner shall, by acquiring or in any way becoming vested with an interest in a Lot, be deemed to covenant and agree to pay to the Association the annual and the special assessments described in this Article, together with the hereinafter provided interest and costs of collection, including reasonable attorneys' fees. All such amounts shall be, constitute and remain a charge and continuing lien upon the Lot with respect to which such assessment is made. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

5.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Property and



performing the Association's duties hereunder. The use made by the Association of funds obtained from assessments may include, without limitation, payment of the cost of taxes and insurance on the Common Areas, maintenance, operation, management and supervision of the Common Areas, establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration, the Articles of Incorporation or Bylaws of the Association. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance of the Common Areas and repair and replacement of improvements thereon.

**5.3 Special Assessments.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being fully paid with funds generated by yearly assessments; or (ii) the cost of any construction, reconstruction, repair or replacement of any Improvement, personal property or fixtures upon the Common Areas; or (iii) expenses required to be incurred promptly and not budgeted for in the annual budget which was the basis for the assessment for the current year. Any such special assessment must be assented to by a majority of the votes which Members present in person, or represented by a person holding a valid Power of Attorney or proxy, are entitled to cast at a meeting duly called for such purpose at which a quorum of the Members is present as set forth in the Bylaws, or by mail ballot.

**5.4 Reimbursement Assessment on Specific Lot.** In addition to the periodic assessments and any special assessment authorized hereunder, the Association may levy at any time special assessments, known as reimbursement assessments, on each Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken pursuant hereto. The aggregate amount of any such reimbursement assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the Lots on which such improvements, repairs, maintenance or enforcement action are constructed or taken.

**5.5 Uniform Rate of Assessment.** Except as provided with respect to reimbursement assessments, assessments shall be fixed at a uniform rate for all Lots. Annual assessments shall be in amounts based on a budget approved by the Association.

**5.6 Certificate Regarding Payment.** Upon the request of any Owner, prospective purchaser, title company or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and if not the amount of the delinquency. Such certificates shall be conclusive in favor of all persons (other than the Owner of the Lot concerned) who in good faith and for value rely thereon.

**5.7 Nonpayment - Remedies.** Regardless of the terms of any agreement to the contrary the remedy for the collection of the assessment may be enforced against the Lot concerned regardless of who the Owner(s) of the Lot may be at the time such remedy is exercised. If any assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall be subject to a late charge as determined by the Board of up to fifteen dollars or ten percent (10%) of the unpaid assessment, whichever is greater, or any greater amount permitted by Arizona law. Unpaid assessments or penalties are also subject to interest at the rate of twelve percent (12%) per annum from the date of the delinquency until paid. The Association may bring an action either against any or all Owners who are personally liable for delinquent assessments to collect the same or to foreclose the lien against the Lot; provided, however, that the Association shall give the Owner(s) concerned thirty (30) days advance written notice of its intent to pursue one or more of its remedies hereunder. Notice may be by hand delivery or first-class mail, and proof of actual receipt is not necessary. Any relief obtained by the Association (whether or not through judicial action) shall include reasonable attorneys' fees, court costs and each and every other expense





incurred by the Association in enforcing its rights. After institution of a foreclosure action by the Association against any Lot the Association shall, without regard to the value of such Lot or the extent of the Owner's equity therein, be entitled to the appointment of a receiver to collect any income or rentals which may be produced by such Lot.

#### ARTICLE 6 GENERAL PROVISIONS

6.1 Restrictions Severable. The provision of this Declaration shall be deemed independent and severable. Invalidation of any one of these Covenants, Conditions or Restrictions by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.

6.2 Compliance with Laws. All Owners and Guests and Lots are subject, in all instances, to compliance with the State of Arizona and the County of Gila health ordinances, restrictions and regulations, zoning regulations or any other duly enacted laws or regulations. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

6.3 Enforcement. The Association and any aggrieved Lot Owner shall have a right of action at law or in equity against the Association or any Lot Owner for any failure by such person or entity to comply with this Declaration or the provisions of any rules, regulations, agreements, instruments, supplements, amendments or determinations contemplated by this Declaration. Failure by the Association or any Lot Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association may, by appropriate rules and regulations, implement a fine procedure arising out of violation of this Declaration, the collection of which fines shall be treated in all respects (including the lien feature) as Assessments.

Any decision of a Committee or Board may be appealed to the Board of Directors for review. A final decision by the Board that is adverse to the member's request may be appealed by the following procedure:

1. Present the Board with a petition signed by at least 1/3 of the members.
2. The Board shall include the petition in the agenda for the next Annual Meeting or Special Meeting called for consideration of the petition.
3. The affirmative vote of the number of members required to alter the CC&Rs is required to override the Board's decision.

6.4 Recovery of Enforcement Costs. Should anyone authorized by this Declaration to enforce the same prevail in the action, such party shall be entitled to recover all costs incurred in the enforcement of this Declaration, including reasonable attorney's fees and expert witness fees as determined by the court and not by a jury. The Association shall be entitled to recover its attorney's fees actually incurred in collecting any monetary amount due hereunder from an Owner or in enforcing any of the covenants, conditions or restrictions set forth herein, whether or not suit is brought, provided that if a lawsuit is filed, the Association shall have prevailed in the action.

6.5 Enforcement Discretionary. The rights of the Association to enforce the covenants, conditions and restrictions contained herein shall be construed to be discretionary on the part of the Board of Directors and not mandatory or obligatory.

6.6 Binding Effect. The covenants, conditions and restrictions contained herein shall run with the land and shall be binding upon all persons purchasing or occupying any portion of the Property after the date on



which this instrument has been recorded. Each and all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner of any Lot whose title thereto is acquired by foreclosure, trustees' sale or otherwise. The instruments of conveyance of any interest in all or any part of the Property may contain a reference to this Declaration, however, said conveyance shall be subject to the Covenants, Conditions, and Restrictions herein as fully as though the terms and conditions of this instrument were fully set forth therein and shall be binding upon all persons affected by its terms, whether express reference is made to this Declaration or not in said conveyance instrument.

**6.7 Notices.** Any notice required or permitted to be given to any Owner, Member or Eligible Mortgagee under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person or entity which appears as the Owner or Eligible Mortgagee of the Lot or Mortgage concerned at the latest address for such person or entity appearing in the applicable lists of the Association at the time of mailing. Owners are obligated to provide the Association with their most current mailing address.

**6.8 Rules and Regulations.** As set forth in Section 4.3 and 6.3, the Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Owners.

**6.9 Written consent in Lieu of Vote.** In any case in which the Declaration requires authorization or approval of a transaction or matter by the assent or affirmative vote of a stated percentage of the votes or members or Owners of the Association, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from every Owner entitled to cast a vote or approve the matter. The following additional provisions shall govern any application of this Section 6.9:

- a. All necessary consents must be obtained prior to the expiration of a period of time established by the Board of Directors, which may not exceed one hundred eighty (180) days after any Owner gives the first consent.
- b. Any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

**6.10 Mortgagee Protection.** The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to any (first) Mortgage recorded on or before the date such assessments or charges become due. The lien or claim against a Lot for such unpaid assessments or charges shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Lot of the exercise of a power of sale available there under shall extinguish a subordinate lien for such assessments or charges which became payable prior to such sale or transfer. Any such sale or transfer pursuant to a foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot from the lien of, any assessments or charges becoming due thereafter. Upon written request to the Association by the holder of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot number or address of the Lot encumbered by the Mortgage held or insured by such holder), such holder shall be deemed thereafter to be an Eligible Mortgagee shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

- a. Any condemnation loss or any casualty loss which affects a material portion of the Common Area or any Lot on which there is a Mortgage held by such Eligible Mortgagee.
- b. Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a Mortgage held by such Eligible Mortgagee, which delinquency remains for a period of sixty (60) days.



Gila County, AZ

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6.11 Interpretation. The captions, which precede the Articles and Sections of this Declaration, are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural; the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. In the absence of a judicial determination or determination by arbitration to the contrary, a decision of the Board of Directors interpreting this Declaration shall be determinative on the Owners and all persons or entities holding an interest in the Property.

6.12 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the Office of the County Recorder of Gila County, Arizona.

6.13 Term; Amendment. These Covenants, Conditions and Restrictions shall remain in full force and effect for a period of twenty (20) years and thereafter they shall be deemed to have been renewed for successive terms of ten (10) years. They may be revoked or amended at any time by an instrument in writing executed and acknowledged by the Owners of not less than seventy-five percent (75%) of the Lots, which said instruments shall be recorded in the office of the Recorder of Gila County, Arizona.

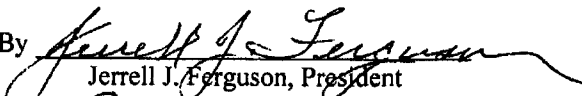
6.14 Priority. In case of conflict among the provisions of the Articles of Incorporation of the Association, the Bylaws of the Association, Rules and Regulations, and this Declaration, the following order of precedence shall apply:

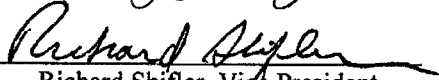
1. Declaration;
2. Articles of Incorporation; and
3. Bylaws.
4. Rules and Regulations.

6.15 Rule against Perpetuities. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event, said period of time shall be reduced to the period of time which shall not violate the rule against perpetuities as set forth in the laws of the State of Arizona.

DATED this ninth day of May, 2005.

DIAMOND POINT SUMMER HOMES ASSOCIATION,  
an Arizona Corporation

By   
Jerrell J. Ferguson, President

By   
Richard Shifler, Vice President

Diamond Point Summer Homes Association  
Declaration of Covenants, Conditions and Restrictions



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08/18/2005 04:29P  
25.00

Gila County, AZ

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On May 9<sup>th</sup>, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerrell J. Ferguson personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as President and Vice President, on behalf of Diamond Point Summer Homes Association, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have set my hand, and official seal.

Nancy E. Lasky  
Notary Public

My Commission Expires: 11-14-2008



State of Arizona )  
) ss.  
County of )

On May 9<sup>th</sup>, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard Shifler personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Secretary, on behalf of Diamond Point Summer Homes Association, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have set my hand, and official seal.

Nancy E. Lasky  
Notary Public

My Commission Expires: 11-14-2008



RECORDING REQUESTED BY:  
**First American Title Insurance Agency, Inc.**

Gila County, AZ  
Linda Haught Ortega, Recorder  
11/14/2005  
03:16PM  
Doc Code: DRES

Doc Id: 2005-020988  
Receipt #: 39212  
Rec Fee: 27.00

AND WHEN RECORDED MAIL TO:  
**FATCO Pickup**

FIRST AMERICAN TITLE RECORDING



2005-020988

Page: 1 of 19  
11/14/2005 03:16P  
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Gila County, AZ

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CAPTION HEADING: **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
DIAMOND POINT SUMMER HOMES ASSOCIATION**

This document is being re-recorded solely for the purpose of replacing Page No. 2.

This document was originally recorded on August 10, 2005 as 2005-014325..



Gila County, AZ  
Linda Haught Ortega, Recorder  
08/10/2005  
04:29PM  
Doc Code: DRES

Doc Id: 2005-014325  
Receipt #: 36337  
Rec Fee: 25.00

FIRST AMERICAN TITLE RECORDING

RECORDING REQUESTED BY:  
First American Title Insurance Agency, Inc.

AND WHEN RECORDED MAIL TO:  
FATCO Pickup



Gila County, AZ

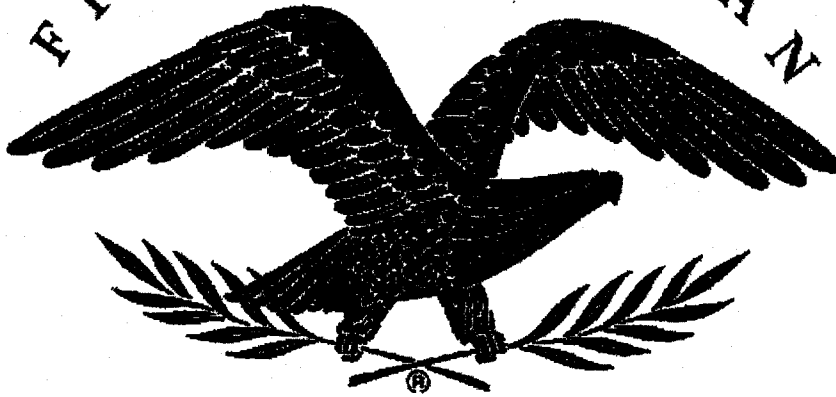
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CAPTION HEADING: **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
DIAMOND POINT SUMMER HOMES ASSOCIATION**

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Gila County, AZ

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
DIAMOND POINT SUMMER HOMES ASSOCIATION**

This Declaration of Covenants, Conditions and Restrictions for DIAMOND POINT SUMMER HOMES ASSOCIATION (the "Declaration") is made this ninth day of May, 2005 by Diamond Point Summer Homes Association, an Arizona corporation (hereinafter referred to as the "Association") the Owner of the Property.

**RECITALS**

A. The Diamond Point Summer Homes is situated within the County of Gila, State of Arizona (the "Property") and more particularly described as: *Lots 1 through 47, inclusive, and Tracts A through M, according to plat recorded in Map No. 759 in the office of the County Recorder of Gila County, Arizona.* The Association owns all of the Common Areas within the Property. A, B+C

B. The Association desires, for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and to provide for the maintenance and operation of the Common Areas, to submit the Property to the provisions of this Declaration, which shall be for the benefit of the Property and the Owners of the Property, said Owners having heretofore been permittees from the U.S. Forest Service of the same land they now own, prior to the Association acquiring the Property from the Forest Service.

NOW, THEREFORE, in consideration of the premises and for the foregoing purposes, the Association does hereby submit the Property to the provisions of this Declaration and declares that the Property and each part thereof is and shall be held, encumbered, built on and otherwise used, improved, maintained, leased, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, reservations, easements, charges and liens hereinafter set forth which shall (i) attach to and run with the land, (ii) be binding on the Property and all Owners, and other parties having, acquiring or otherwise at any time possessing any right, title or interest in or to the Property or any part thereof, (iii) inure to the benefit of said Owners, and other parties, and (iv) be for the purpose of establishing a general plan for the improvement and development of the Property as an attractive and exclusive development.

**ARTICLE I**

**DEFINITIONS**

When used in this Declaration (including in that portion hereof entitled "Recitals") the following terms shall have the meaning indicated:

1.1 Architectural Review Committee shall mean and refer to the committee established pursuant to Article 3 hereof.

1.2 Articles or Articles of Incorporation shall mean and refer to the instrument entitled "Articles of Incorporation of Diamond Point Summer Homes Association" which is filed with the Arizona Corporation Commission, as they may be amended from time to time.

1.3 Association shall mean and refer to Diamond Point Summer Homes Association, the Arizona nonprofit corporation which was created by the filing of the Articles.

Approved March 8, 2004



Gila County, AZ

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1.4 Bylaws shall mean and refer to the Bylaws of the Association, as they may be amended from time to time.

1.5 Common Area or Common Areas shall mean and refer to all portions of the Property now or hereafter owned by the Association for the common use and enjoyment of the Owners, and shall include Tracts A and B, as described on the Plat.

1.6 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be modified, amended or supplemented in accordance with law and the provisions hereof.

1.7 Eligible Mortgagee shall mean and refer to a Mortgagee which has requested notice of certain matters from the Association in accordance with Section 6.10.

1.8 Improvement shall mean each and every change, alteration or addition of any kind whatsoever to any portion of the Property, including, but not limited to, any excavation, grading, fill work, building, structure, walkway, driveway, road, parking area, utility installation, aerial, antenna, drainage facility, stair, patio, courtyard, sign, or landscaping of any and all components of any of the foregoing (including, but not limited to, exterior paint, texture, color and finish scheme) and any and all modifications or alterations of or additions to any of the foregoing.

1.9 Lot shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat as Lots 1 through 47 and intended for private use and ownership, which the Association shall convey to the individual Owners upon the recording of the Declaration and conveyance of the Property from the Forest Service to the Association.

1.10 Member shall mean and refer to every person who holds membership in the Association.

1.11 Mortgage shall mean and include both a first mortgage on any Lot or a first deed of trust on any Lot.

1.12 Mortgagee shall mean and refer to a mortgagee under a first mortgage on any Lot and a beneficiary under a first deed of trust on any Lot.

1.13 Owner or Owners shall mean and refer to (i) the record Owner, whether one (1) or more persons or entities of equitable or beneficial title in fee simple (or legal title if same has merged) to any Lot, or (ii) the purchaser or purchasers of such Lot under an agreement for sale or contract to purchase as set forth in Arizona Revised Statutes Section 33-741 et. seq. The foregoing does not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation of an Owner, or a purchaser or vendee under an executory contract of sale which has not been fully consummated with a deed to the purchaser recorded in the office of the County Recorder of Gila County, Arizona.

1.14 Plat shall mean and refer to the plat of the Property recorded in Map No. 759 in the office of the County Recorder of Gila County, Arizona.

A, B + C

1.15 Property shall mean and refer to the tract of real property described in Recital A of this Declaration.

1.16 Residence shall mean and refer to a house or similar structure located on a Lot which is designated and intended for human occupancy.

1.17 Guest shall mean any person invited onto the Property with the consent of the Owner(s) without compensation.



Gila County, AZ

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Diamond Point Summer Homes Association  
Declaration of Covenants, Conditions and Restrictions

- 1.4 Bylaws shall mean and refer to the Bylaws of the Association, as they may be amended from time to time.
- 1.5 Common Area or Common Areas shall mean and refer to all portions of the Property now or hereafter owned by the Association for the common use and enjoyment of the Owners, and shall include Tracts A through M, as described on the Plat.
- 1.6 Declaration shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as the same may be modified, amended or supplemented in accordance with law and the provisions hereof.
- 1.7 Eligible Mortgagee shall mean and refer to a Mortgagee which has requested notice of certain matters from the Association in accordance with Section 6.10.
- 1.8 Improvement shall mean each and every change, alteration or addition of any kind whatsoever to any portion of the Property, including, but not limited to, any excavation, grading, fill work, building, structure, walkway, driveway, road, parking area, utility installation, aerial, antenna, drainage facility, stair, patio, courtyard, sign, or landscaping of any and all components of any of the foregoing (including, but not limited to, exterior paint, texture, color and finish scheme) and any and all modifications or alterations of or additions to any of the foregoing.
- 1.9 Lot shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat as Lots 1 through 47 and intended for private use and ownership, which the Association shall convey to the individual Owners upon the recording of the Declaration and conveyance of the Property from the Forest Service to the Association.
- 1.10 Member shall mean and refer to every person who holds membership in the Association.
- 1.11 Mortgage shall mean and include both a first mortgage on any Lot or a first deed of trust on any Lot.
- 1.12 Mortgagee shall mean and refer to a mortgagee under a first mortgage on any Lot and a beneficiary under a first deed of trust on any Lot.
- 1.13 Owner or Owners shall mean and refer to (i) the record Owner, whether one (1) or more persons or entities of equitable or beneficial title in fee simple (or legal title if same has merged) to any Lot, or (ii) the purchaser or purchasers of such Lot under an agreement for sale or contract to purchase as set forth in Arizona Revised Statutes Section 33-741 et. seq. The foregoing does not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation of an Owner, or a purchaser or vendee under an executory contract of sale which has not been fully consummated with a deed to the purchaser recorded in the office of the County Recorder of Gila County, Arizona.
- 1.14 Plat shall mean and refer to the plat of the Property recorded in Map No. 759ABC in the office of the County Recorder of Gila County, Arizona.
- 1.15 Property shall mean and refer to the tract of real property described in Recital A of this Declaration.
- 1.16 Residence shall mean and refer to a house or similar structure located on a Lot which is designated and intended for human occupancy.
- 1.17 Guest shall mean any person invited onto the Property with the consent of the Owner(s) without compensation.

Approved March 8, 2004



Gila County, AZ

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2005-020988

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**ARTICLE 2  
USE RESTRICTIONS**

2.1 Use Restrictions. The Property shall be held, used, enjoyed and conveyed subject to the following express Covenants, Conditions and Restrictions:

2.1.1 Private Residential Use; No Rentals. Lots shall be occupied and used by the respective Owners thereof solely for private, single family residential use of the Owner, his family, a reasonable number of Guests and for no other purposes. No part of the Property, including Lots and Common Area, is to be used by large groups affiliated with clubs, churches or other organizations. No business activities of any kind whatsoever shall be conducted upon any Lot or within Improvements located thereon, except that an Owner may conduct a business activity, except lease or rental of the Residence or Lot, within a Residence so long as it does not detract from the character of the Property and:

- a. the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence;
- b. the business activity conforms to all applicable zoning ordinances or requirements applicable to the Property;
- c. the business activity does not involve any traffic by persons coming on the Property who do not reside in the Property or the door-to-door solicitation of other residents of the Property or the display of commercial signs;
- d. the business activity is consistent with residential use, does not constitute a nuisance or hazardous or offensive use or threaten the security or safety of other residents of the Property.

Due to limitations of the infrastructure, including but not limited to water and sewer service, the use of the Residences and permitted Improvements is limited to personal, periodic, recreational, temporary Residence use of a non-commercial nature by the Owner, members of the immediate family and a reasonable number of Guests. Any rental or lease of a cabin, Residence or other structure, or the Lot itself, is prohibited. Use of a cabin or Residence as a principal place of residence is prohibited. Each Owner must have a principal place of residence outside of the Property.

The Board of Directors shall have the sole discretion to determine whether, in a particular case, the use of a Lot violates the provisions of this Section. If the Board of Directors determines that use of a Lot violates this Section, it shall have the authority to require that the use in question cease immediately.

2.1.2 Water Conservation. Inasmuch as the Association is currently dependent upon a single well for its water supply and the well may not be able to supply all the water needed from time to time, the Owners shall exercise as much water conservation as possible and refrain from wasteful usage. The Board of Directors shall have the authority to establish rules and regulations concerning the usage of water.

2.1.3 Buildings and Structures. All buildings or structures hereafter erected on the Lots shall be of new construction and no building or structure shall be moved from other locations onto a Lot. Not more than one (1) single-family structure and two (2) auxiliary buildings such as a carport, garage or storage shed may be erected on any individual Lot. The largest auxiliary building shall not exceed the approximate size of a two (2) car garage; said structure may contain sleeping quarters, without kitchen facilities, for temporary use. If there is a second auxiliary building it shall not exceed the approximate size of a one (1) car garage. Any auxiliary building shall be located as close to the main building as practical, subject to the approval of the Architectural Review Committee. Mobile, prefab or modular homes may not be affixed as a permanent structure. If a Special Use Permit should be granted to the owner of any Lot by Gila





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County to construct and maintain a separate Guest house, then such Guest house may not be rented, leased, sold or conveyed to any person or entity apart from the primary Residence or the Lot, and no Lots may be split. All buildings and structures shall meet the rules and regulations that are established by the Architectural Review Committee.

**2.1.4 Temporary Structures, Mobile Homes, etc.** No house trailer, camp trailer, horse trailer, mobile home, recreational vehicle or motorized mobile home shall at any time be placed upon, stored or lived in on any Lot for a period to exceed fourteen (14) days in any thirty (30) day period except within a fully enclosed garage; provided, however, that the Board of Directors may grant a reasonable amount of time to an Owner who is constructing or remodeling a building. This restriction does not apply to pick-up trucks with camper shells or minivans, which are a primary source of transportation. Permanently anchored mobile homes, manufactured, modular, or prefabricated homes shall not be allowed

Power generators are not to be operated, except during an emergency. Under no circumstances shall any vehicle, mobile home or other structure be placed upon, lived in or stored on any portion of the Common Area. The Board of Directors or its designated officer or agent shall have the right and power to enter upon any Lot or portion of the Common Area for the purpose of removing any house trailer, horse trailer, mobile home, motorized mobile home or other structure or vehicle existing in violation of this section, and all costs incurred shall be charged against the Owner by invoice and such charge shall constitute and be made a lien on the Lot of the Owner and may be foreclosed in the same manner as an assessment lien.

**2.1.5 Plumbing Facilities.** With the exception of gray lines, all plumbing shall be DW (drainage, waste & vent) approved pipe, connected below the surface of the ground to a septic tank with an adequate leach drainage line below the surface or to an approved sewer line. Gray lines are permissible for drainage of waste wash water. All installations must comply with the regulations promulgated by Gila County, Arizona.

**2.1.6 Electrical Equipment.** All electrical equipment and facilities installed and operated shall conform to the National Electric Safety Code and the electrical code of Gila County, Arizona. Applicable electrical equipment must have been approved by the Underwriters Laboratory.

**2.1.7 Gas Equipment.** All propane or other liquefied-petroleum-gas equipment shall be installed and operated in accordance with the laws and regulations of Gila County, Arizona.

**2.1.8 Fences.** No fences of any type, except temporary horse corrals, shall be erected around, on or within any Lot. The Association may erect barriers on or around Common Area for the purposes of safety and security of the Property.

**2.1.9 Drainage.** No Owner or Resident shall interfere with or obstruct the natural drainage pattern over his Lot such that it is diverted to flow over any other Lot or any Common Area. Within an Owner's Lot, reasonable measures for erosion control are permissible.

**2.1.10 No Subdivision.** No Lot shall be subdivided or split into smaller Lots or parcels.

**2.1.11 Set-Back Requirements.** In no case shall setbacks violate the minimum requirements of Gila County, Arizona, without variance approval from Gila County, as well as approval from the Architectural Review Committee.

**2.1.12 Exterior Improvements to Lots ("Exterior Improvements").**

a. All structures shall be designed and constructed to be consistent and blend with the rustic forest environment of the surrounding area. Exterior roofing, stains, paint, etc., shall be selected to conform





to this philosophy, all as more particularly set forth in the Bylaws or rules of the Architectural Review Committee.

b. No Exterior Improvement of a temporary or permanent character shall be commenced, erected, altered or maintained, until the plans showing the nature, kind, shape, color, height, materials, foundation footprint and location of such Exterior Improvement or proposed alteration, modification or addition of or to an existing Improvement shall have been submitted to the Architectural Review Committee and a copy thereof, as finally approved, lodged permanently with the Association. Failure of the Architectural Review Committee to reject in writing said plans within sixty (60) days from the date the same are received by the Architectural Review Committee shall constitute approval of said plans. The Architectural Review Committee shall not unreasonably withhold approval of any plans and rejection of any plans must be based on reasonable judgment as to the effect that said changes and alterations will have on the Property as a whole. It shall have the right to take into consideration the suitability of the proposed Exterior Improvement and of the materials of which it is to be built on the Lot upon which it is proposed to be built, the harmony thereof with the surroundings and the effect of the Exterior Improvement as planned on the outlook from the adjacent or neighboring property. All subsequent additions to or changes such as stem walls, foundations or roofing material or alterations, including but not limited to painting of exterior surfaces of any building, wall or other structure shall be subject to the prior approval of the Architectural Review Committee. Re-roofing or re-painting with approximately the same materials or color, as previously existed, shall not require review of the Architectural Review Committee. The Board of Directors shall have final approval authority over all plans for Exterior Improvements.

c. If plans for Exterior Improvements are disapproved, a reasonably specific reason or reasons for disapproval shall be communicated in writing to the Owner(s) who submitted them. Said Owner(s) may then revise the plans to remedy the stated reasons for disapproval and resubmit said plans to the Architectural Review Committee for further review. Alternately, if said Owner(s) disagree with any or all of the stated reasons for disapproval, the Owner(s) may request and shall be granted a hearing with the Board of Directors and the Architectural Review Committee at a subsequent Board meeting whereby the areas of disagreement may be clarified and resolved. The Board of Directors and the Architectural Review Committee shall give full and reasonable consideration to the information presented by the Owner(s) in support of their position. However, final authority to approve or disapprove rests with the Board.

d. Any plan approved by the Board of Directors or Architectural Review Committee shall be submitted for approval by the Owner(s) to the appropriate agency of Gila County, if required by Gila County. No request for approval shall be presented to Gila County, unless there has been prior approval by the Board of Directors.

e. Any approval of plans and specification shall be evidenced by a letter signed by at least a majority of the Board of Directors. Said approval shall then be irrevocable and not subject to withdrawal or change by the Board of Directors. Such letter may be conclusively relied upon by all parties including, but not limited to, any Owner(s), any title insurance company and any Mortgagee taking any Lot as security.

2.1.13 Livestock and pets.

a. Pets. Household pets must not be for breeding purposes, present a health or safety hazard or nuisance of any kind to residents of the Property or their guests. Dogs shall be under Owner's control and supervision at all times.

b. Livestock. No cattle, sheep, goats, pigs or other livestock or poultry may be kept, boarded or





maintained on any portion of the Property, provided, however, this restriction shall not be construed as prohibiting the keeping of ordinary domestic pets or birds upon the Property.

Subject to Board regulation, horses may be kept on an Owner's Lot on a temporary basis only, no more than fourteen (14) days in any 30-day period, and only for the use of the Owner and the Owner's family and Guests. Horses may be ridden on the Property for ingress and egress only and must be kept on roads at all times. The Owner shall be responsible for the maintenance of his Lot and Common Areas so as to avoid nuisance to other Owners. All temporary corrals to keep horses shall not exceed twelve (12) feet by twelve (12) feet and shall exist only when horses are in residence. Trailers and other related equipment shall be located on an Owner's Lot only and not the Common Area and may not be kept on the Lot longer than the horse(s). Horse manure shall be promptly removed by the horse owner/user. The Board of Directors shall have the authority to levy reasonable fines against Owners who themselves, or by their Guests, are repeat offenders. These fines may become liens if not timely paid in the same manner as other sums, which become past due to the Association. If the foregoing action is unsuccessful in correcting reasonable objections of the Board of Directors to the presence of horses on a Lot, the Board of Directors shall have the authority to revoke this horse privilege from a specific Owner after notice to the Owner and a hearing before the Board of Directors on the matter. The Board shall also have the authority to revoke all horse privileges, subject to the appeal process in Section 6.3.

2.1.14 Motor Vehicles.

- a. All motorized vehicles of any type are limited to a 15 mph speed limit and are prohibited from creating excessive noise, excessive dust, or other nuisance. All such vehicles shall be operated only on Common Area roads and never on other Common Areas; and must have a spark arrestor and a muffler. Recreational riding such as repetitive cruising of motorized vehicles is not allowed on the Common Area roads. The Owner, vehicle owners, and operators of such vehicles shall be liable for any damage to life or property. The Association shall be held harmless from any damage to life or property arising from the operation of such vehicles.
- b. Handicapped or special needs individuals may petition the Board to receive an exception to the matters set forth in (a) above.
- c. No motor vehicle which is under repair or not in operating condition, or not routinely used by the Owner(s) when in residence, shall be placed or permitted to remain on the roadway(s) or any portion of a Lot or the Property, unless it is within an enclosed garage.

2.1.15 Firearms and Fireworks. The discharge of any firearm, airgun, pellet gun, paint ball guns, or similar weapon is prohibited on any portion of the Property except in self-defense. BB guns may be allowed within the Lot boundary of the Owner under adult supervision. The use or storage of any and all types of fireworks, rockets, sparklers or similar item is prohibited on any portion of the Property.

2.1.16 Hunting. The shooting, trapping, snaring or hunting of any form of wildlife, except for vermin, is prohibited on any Lot or Common Area except where it is necessary to protect life, or where prior written permission has been obtained from the Board of Directors.

2.1.17 Nuisances: Signs and Noise. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any portion of the Property, except one (1) "For Sale" sign per Lot, not to exceed five (5) square feet. The Property shall not be used in any way or for any purpose which may endanger the health of any person.

For purposes of maintaining a peaceful environment, the use of tools or any equipment that are loud enough to disturb neighbors shall be limited to the hours between 8 AM and 10 PM, unless a permit to build has been obtained and additional hours are allowed.

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2.1.18 Lot Identification. Each Owner shall display his Lot number, name, and street address in a size and position, which is easily visible from the road.

2.1.19 Fire Protection.

Each Owner shall be bound by fire protection rules or regulations which shall be issued by the Board of Directors.

2.1.20 Irrigation. No irrigation, sprinkler, or watering systems of any type are permitted.

2.1.21 Native Plants and Trees.

- a. Native Plants. Planting of vegetation not native to the area is prohibited.
- b. Trees. The cutting down of trees on the Lots and Common Areas is prohibited except for the following purposes: (1) to provide fire protection as specified by the Rules and Regulations; (2) to build a structure as approved through an Architectural review; (3) to ensure safety of a Lot or the Common Area; or (4) by the Board to improve the infrastructure of the Property.

2.1.22 Zoning. No application for zoning or rezoning of any Lot shall be filed with any governmental authority.

Uses subject to a conditional use permit or subject to provisions for temporary uses under Gila County zoning ordinances are prohibited.

2.1.23 Driveway Easements. Any new driveway, or relocation of an existing driveway must be submitted to the Board of Directors for review and approval and shall in no way encroach upon any other Lot or Common Area without the consent of the Owner and Board of Directors of the Association, as applicable. Said new driveway shall also conform and comply with all other applicable covenants, conditions and restrictions contained herein.

2.1.24 Transfer of Ownership; Working Capital Payment. The Owner of each Lot shall give the Association notice in writing of any sale, transfer or conveyance by any of the Owners of such Lot within ten (10) days of recording of the transfer of title to such Lot at the Gila County Recorder's Office.

To insure that the association will have funds necessary to build, maintain, repair, restore, or replace infrastructure, each person or entity who purchases a Lot in the Property shall pay to the Association the sum of \$1,500 (One Thousand Five Hundred Dollars) or 1% (one percent) of the sales price, whichever is larger, immediately upon recording of the deed or other instrument of conveyance whereby the person or entity purchasing such Lot becomes the Owner of the Lot.

This requirement does not apply to transfers from one joint Owner(s) to other joint Owner(s), or by will or trust directly to family members defined as father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, brother or sister.

2.1.25 Utility Easements. Easements for sewers, water, cable television, electricity, telephone and other utilities and necessary or desirable wires, lines, cables, equipment and appurtenances along, under, over, adjacent to and across the Lots are hereby granted, reserved and established where lines for such utilities are currently installed and within the area located within fifteen (15) feet of any Lot line together with reasonable ingress and egress rights thereto, for the benefit of the Owners and the Association. Such easements shall include the right to excavate for, place, cover, repair and do everything necessary or desirable to maintain the same in a workmanlike manner and proper condition. This right shall be exercised in such manner as to preserve the greatest amount of natural growth and vegetation and do the least amount of injury to the Lots, consistent with the most feasible location and maintenance of, and proper construction of any Improvements to said easements. The exact location of these easements and





the construction of any Improvements thereto shall be as determined by the Association.

**2.2 Effective Date of Use Restrictions.** The Covenants, Conditions and Restrictions (hereafter "CC&Rs") contained in this Article 2 regarding Improvements shall not be applied retroactively to any Improvement which was constructed or installed prior to the date on which this Declaration is recorded in the office of the County Recorder of Gila County, Arizona. However, any subsequent additions, modifications or alterations to said existing Improvements shall be subject to the Covenants, conditions and Restrictions set forth in this Article 2.

Nothing contained in these CC&Rs shall affect existing uses of property or the rights to its continuing use, the reasonable repair or alteration thereof, for the purpose for which it was used at the time the CC&Rs affecting the Property take effect, providing such uses were permissible under the pre-existing U.S. Forest Service Permit.

**2.3 Association Access to Lots: Right to Make Repairs.** In the event the Owner(s) of any Lot shall fail to maintain the premises and the exterior of the Improvements situated thereon in accordance with these CC&R's and any rules and regulations, as determined by the Board, the Association, through its agents and employees, shall have the right to enter upon such Lot and correct any violation of these restrictions or repair, maintain, rehabilitate and restore the exterior of any Improvements situated thereon. The cost thereof shall be charged against the Owner of said Lot by invoice in the manner set forth in Article 5 hereof; and made a lien on said Lot and may be foreclosed as therein set forth; provided, however, that the Association shall first give written notice to the Owner of said Lot of its intentions to make such corrections or repairs or of its intention to perform such maintenance or rehabilitation work and affording the Owner of said Lot a ninety (90) day time in which to make said necessary corrections, repairs or maintenance work. If at the end of said ninety (90) day period, the work to be performed has not been commenced by the Owner(s), and completed within a reasonable time, then the Association shall have the right, as set forth herein, to make such maintenance, repairs or rehabilitation work. Nothing herein contained shall be construed to grant to the Association any right to enter into or inside of any building or buildings located on any Lot without the consent of the Owner thereof.

### ARTICLE 3 ARCHITECTURAL REVIEW COMMITTEE

**3.1 Composition of Committee.** To facilitate the approval of matters concerning the building, alteration or upkeep of Improvements located or proposed to be located on the Lots, and to aid the Board of Directors in the consideration of such matters, an Architectural Review Committee shall be formed of no less than three (3) nor more than five (5) members of the Association. The Chair of the Architectural Review Committee shall be a Board member appointed by the Board. The members of the Association shall elect the remaining committee members. Rules governing the operation of the Architectural Review Committee shall be promulgated by the Committee and approved by the Board of Directors and a majority of the Association members.

**3.2 Liability.** The Architectural Review Committee and Board of Directors shall not be held liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request made pursuant to this Declaration.

**3.3 Cost reimbursements.** The Architectural Review Committee may require reimbursement of costs by any Owner seeking approval of plans and specifications for any Improvement, based upon actual cost incurred.







**ARTICLE 4  
COMMON AREA**

**4.1 Common Area: Easement of Enjoyment.** The Association or a successor homeowners' association shall at all times own the Common Area. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and shall not be separated there from.

**4.2 Tract A Through M Uses.** Tract A through L of the Common Area shall be for any existing private driveways that exist on the date hereof, recreation and facilities such as wells, water storage tanks, pipe lines and public utilities for the benefit of the Owners of Lots in the Property, as determined from time to time by the Board of Directors. Tract M of the Common Area is for private roadway use and public utilities for the benefit of the Owners of Lots in the Property. No part of the Common Area may be divided, subdivided or split into smaller parcels, or used for any purpose which will detract from or interfere with the use and enjoyment of any or all of the Owners of Lots within the Property. No buildings or structures or capital improvements shall be erected or maintained on the Common Area, except for the purpose of providing services, including but not limited to electrical power, water supply, fire protection, recreation, etc., as may be authorized by the Board of Directors subject to a 2/3 approval of the membership. No debt may be encumber the Common Area, using it for security for the debt, without approval of seventy-five percent (75%) of the Owners.

**4.3 Rules and Regulations for use of Common Areas and the Property.** The Board of Directors, subject to approval of a majority of a quorum of the Members at a duly called meeting or by mail ballot, or a majority of all of the Members by written consent, shall have the right and power to establish and impose rules governing the use of the Property, including the Common Area, and any person using said areas shall abide by such Association Rules. Such Rules shall not discriminate among Owners nor shall they be inconsistent with this Declaration, the Articles or Bylaws.

Within thirty (30) days following adoption, amendment or repeal of an Association Rule, the Board shall send each Owner a copy of the adopted or amended Association Rule or notice of repeal, if any Association Rule has been repealed.

An Association Rule or an amendment to an Association Rule shall be effective thirty (30) days following the Board providing notice to the Owners or of adoption, amendment or repeal of the Rule, as applicable. All actions of the Board in adopting, amending or repealing Association Rules shall become effective as provided herein regardless of whether notice of the action is actually received by every Owner. Once the Association Rule becomes effective, it shall have the same force and effect as if it were set forth in and were a part of this Declaration, subject, however, to the right of the Board to amend or repeal Association Rules as provided in this Section.

Owners and their Guests shall hold the Association harmless from any liability from damage to life or property arising from the Owners' occupancy or use of the Common Areas. Owners and their Guests shall be liable for any damage suffered by the Association resulting from or related to their use of the Common Areas, including damages to resources and costs of fire suppression.

**4.4 Maintenance and Operation; Insurance.** The Association shall pay all costs and expenses associated with the Common Area, including maintenance, repair, utilities, real estate taxes and premiums for property and public liability and other insurance. The Association shall maintain, to the extent reasonably available, the following insurance coverage:

- a. Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board. Such insurance shall cover all occurrences commonly insured against for death,





bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of Common Areas or any other portions of the Property which the Association is obligated to maintain under this Declaration.

b. Property insurance on the Common Areas and Improvements thereon, if any, insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value, as determined by the Board.

c. Workers' Compensation Insurance to the extent necessary to meet the requirements of the State of Arizona.

d. Such other insurance as the Board shall determine from time to time to be appropriate to protect the Association or the Owners, including but not limited to director's and officer's liability insurance and fidelity bonds for officers or directors or agents who handle Association funds.

e. The insurance policies purchased by the Association shall, to the extent reasonably available, contain the following provisions: (i) that there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household; (ii) no act or omission by any Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery on the policy; (iii) that the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust; and (iv) a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners.

**4.5 Limitation on Easement.** An Owner's nonexclusive right and easement of use and enjoyment concerning the Common Areas shall be further subject to the following:

- a. The right of the Association (without the consent of Owners, Mortgagees or any other persons or entities) to grant permits, licenses and easements over, across, through and under the Common Areas to any governmental or quasi-governmental authority, to any public or private utility company, or to any other person or entity for the purpose of installing, maintaining or providing utilities and related facilities or roads or for such others purposes reasonably necessary or useful for the proper maintenance or operation of the Property;
- b. The right of Gila County and any other governmental or quasi-governmental body having jurisdiction over the Property, and any private or public utility company serving the Property to access and rights of ingress and egress over, across, through or under the Common Areas for purposes of providing police and fire protection, and providing any other governmental, municipal or utility service to the Property.

## ARTICLE 5 ASSESSMENTS

**5.1 Personal Obligation and Lien for Assessments.** Each Owner shall, by acquiring or in any way becoming vested with an interest in a Lot, be deemed to covenant and agree to pay to the Association the annual and the special assessments described in this Article, together with the hereinafter provided interest and costs of collection, including reasonable attorneys' fees. All such amounts shall be, constitute and remain a charge and continuing lien upon the Lot with respect to which such assessment is made. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

**5.2 Purpose of Assessments.** Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Property and

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performing the Association's duties hereunder. The use made by the Association of funds obtained from assessments may include, without limitation, payment of the cost of taxes and insurance on the Common Areas, maintenance, operation, management and supervision of the Common Areas, establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration, the Articles of Incorporation or Bylaws of the Association. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance of the Common Areas and repair and replacement of improvements thereon.

**5.3 Special Assessments.** The Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being fully paid with funds generated by yearly assessments; or (ii) the cost of any construction, reconstruction, repair or replacement of any Improvement, personal property or fixtures upon the Common Areas; or (iii) expenses required to be incurred promptly and not budgeted for in the annual budget which was the basis for the assessment for the current year. Any such special assessment must be assented to by a majority of the votes which Members present in person, or represented by a person holding a valid Power of Attorney or proxy, are entitled to cast at a meeting duly called for such purpose at which a quorum of the Members is present as set forth in the Bylaws, or by mail ballot.

**5.4 Reimbursement Assessment on Specific Lot.** In addition to the periodic assessments and any special assessment authorized hereunder, the Association may levy at any time special assessments, known as reimbursement assessments, on each Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken pursuant hereto. The aggregate amount of any such reimbursement assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs and attorney's fees, and shall be allocated among the Lots on which such improvements, repairs, maintenance or enforcement action are constructed or taken.

**5.5 Uniform Rate of Assessment.** Except as provided with respect to reimbursement assessments, assessments shall be fixed at a uniform rate for all Lots. Annual assessments shall be in amounts based on a budget approved by the Association.

**5.6 Certificate Regarding Payment.** Upon the request of any Owner, prospective purchaser, title company or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and if not the amount of the delinquency. Such certificates shall be conclusive in favor of all persons (other than the Owner of the Lot concerned) who in good faith and for value rely thereon.

**5.7 Nonpayment - Remedies.** Regardless of the terms of any agreement to the contrary the remedy for the collection of the assessment may be enforced against the Lot concerned regardless of who the Owner(s) of the Lot may be at the time such remedy is exercised. If any assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall be subject to a late charge as determined by the Board of up to fifteen dollars or ten percent (10%) of the unpaid assessment, whichever is greater, or any greater amount permitted by Arizona law. Unpaid assessments or penalties are also subject to interest at the rate of twelve percent (12%) per annum from the date of the delinquency until paid. The Association may bring an action either against any or all Owners who are personally liable for delinquent assessments to collect the same or to foreclose the lien against the Lot; provided, however, that the Association shall give the Owner(s) concerned thirty (30) days advance written notice of its intent to pursue one or more of its remedies hereunder. Notice may be by hand delivery or first-class mail, and proof of actual receipt is not necessary. Any relief obtained by the Association (whether or not through judicial action) shall include reasonable attorneys' fees, court costs and each and every other expense

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incurred by the Association in enforcing its rights. After institution of a foreclosure action by the Association against any Lot the Association shall, without regard to the value of such Lot or the extent of the Owner's equity therein, be entitled to the appointment of a receiver to collect any income or rentals which may be produced by such Lot.

## ARTICLE 6 GENERAL PROVISIONS

**6.1 Restrictions Severable.** The provision of this Declaration shall be deemed independent and severable. Invalidation of any one of these Covenants, Conditions or Restrictions by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.

**6.2 Compliance with Laws.** All Owners and Guests and Lots are subject, in all instances, to compliance with the State of Arizona and the County of Gila health ordinances, restrictions and regulations, zoning regulations or any other duly enacted laws or regulations. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

**6.3 Enforcement.** The Association and any aggrieved Lot Owner shall have a right of action at law or in equity against the Association or any Lot Owner for any failure by such person or entity to comply with this Declaration or the provisions of any rules, regulations, agreements, instruments, supplements, amendments or determinations contemplated by this Declaration. Failure by the Association or any Lot Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association may, by appropriate rules and regulations, implement a fine procedure arising out of violation of this Declaration, the collection of which fines shall be treated in all respects (including the lien feature) as Assessments.

Any decision of a Committee or Board may be appealed to the Board of Directors for review. A final decision by the Board that is adverse to the member's request may be appealed by the following procedure:

1. Present the Board with a petition signed by at least 1/3 of the members.
2. The Board shall include the petition in the agenda for the next Annual Meeting or Special Meeting called for consideration of the petition.
3. The affirmative vote of the number of members required to alter the CC&Rs is required to override the Board's decision.

**6.4 Recovery of Enforcement Costs.** Should anyone authorized by this Declaration to enforce the same prevail in the action, such party shall be entitled to recover all costs incurred in the enforcement of this Declaration, including reasonable attorney's fees and expert witness fees as determined by the court and not by a jury. The Association shall be entitled to recover its attorney's fees actually incurred in collecting any monetary amount due hereunder from an Owner or in enforcing any of the covenants, conditions or restrictions set forth herein, whether or not suit is brought, provided that if a lawsuit is filed, the Association shall have prevailed in the action.

**6.5 Enforcement Discretionary.** The rights of the Association to enforce the covenants, conditions and restrictions contained herein shall be construed to be discretionary on the part of the Board of Directors and not mandatory or obligatory.

**6.6 Binding Effect.** The covenants, conditions and restrictions contained herein shall run with the land and shall be binding upon all persons purchasing or occupying any portion of the Property after the date on





which this instrument has been recorded. Each and all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner of any Lot whose title thereto is acquired by foreclosure, trustees' sale or otherwise. The instruments of conveyance of any interest in all or any part of the Property may contain a reference to this Declaration, however, said conveyance shall be subject to the Covenants, Conditions, and Restrictions herein as fully as though the terms and conditions of this instrument were fully set forth therein and shall be binding upon all persons affected by its terms, whether express reference is made to this Declaration or not in said conveyance instrument.

**6.7 Notices.** Any notice required or permitted to be given to any Owner, Member or Eligible Mortgagee under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person or entity which appears as the Owner or Eligible Mortgagee of the Lot or Mortgage concerned at the latest address for such person or entity appearing in the applicable lists of the Association at the time of mailing. Owners are obligated to provide the Association with their most current mailing address.

**6.8 Rules and Regulations.** As set forth in Section 4.3 and 6.3, the Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Owners.

**6.9 Written consent in Lieu of Vote.** In any case in which the Declaration requires authorization or approval of a transaction or matter by the assent or affirmative vote of a stated percentage of the votes or members or Owners of the Association, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from every Owner entitled to cast a vote or approve the matter. The following additional provisions shall govern any application of this Section 6.9:

- a. All necessary consents must be obtained prior to the expiration of a period of time established by the Board of Directors, which may not exceed one hundred eighty (180) days after any Owner gives the first consent.
- b. Any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

**6.10 Mortgagee Protection.** The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to any (first) Mortgage recorded on or before the date such assessments or charges become due. The lien or claim against a Lot for such unpaid assessments or charges shall not be affected by any sale or transfer of such Lot, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Lot of the exercise of a power of sale available there under shall extinguish a subordinate lien for such assessments or charges which became payable prior to such sale or transfer. Any such sale or transfer pursuant to a foreclosure or power of sale shall not relieve the purchaser or transferee of such Lot from liability for, nor such Lot from the lien of, any assessments or charges becoming due thereafter. Upon written request to the Association by the holder of a Mortgage (which request identifies the name and address of such holder, insurer or guarantor and the Lot number or address of the Lot encumbered by the Mortgage held or insured by such holder), such holder shall be deemed thereafter to be an Eligible Mortgagee shall be included on the appropriate lists maintained by the Association, and shall be entitled to timely written notice of any of the following:

- a. Any condemnation loss or any casualty loss which affects a material portion of the Common Area or any Lot on which there is a Mortgage held by such Eligible Mortgagee.
- b. Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a Mortgage held by such Eligible Mortgagee, which delinquency remains for a period of sixty (60) days.

Approved March 8, 2004





6.11 Interpretation. The captions, which precede the Articles and Sections of this Declaration, are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. In the absence of a judicial determination or determination by arbitration to the contrary, a decision of the Board of Directors interpreting this Declaration shall be determinative on the Owners and all persons or entities holding an interest in the Property.

6.12 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the Office of the County Recorder of Gila County, Arizona.

6.13 Term; Amendment. These Covenants, Conditions and Restrictions shall remain in full force and effect for a period of twenty (20) years and thereafter they shall be deemed to have been renewed for successive terms of ten (10) years. They may be revoked or amended at any time by an instrument in writing executed and acknowledged by the Owners of not less than seventy-five percent (75%) of the Lots, which said instruments shall be recorded in the office of the Recorder of Gila County, Arizona.

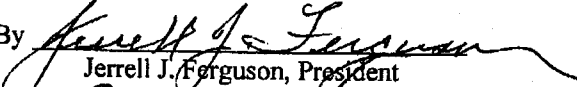
6.14 Priority. In case of conflict among the provisions of the Articles of Incorporation of the Association, the Bylaws of the Association, Rules and Regulations, and this Declaration, the following order of precedence shall apply:

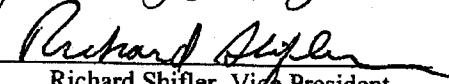
1. Declaration;
2. Articles of Incorporation; and
3. Bylaws.
4. Rules and Regulations.

6.15 Rule against Perpetuities. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event, said period of time shall be reduced to the period of time which shall not violate the rule against perpetuities as set forth in the laws of the State of Arizona.

DATED this ninth day of May, 2005.

DIAMOND POINT SUMMER HOMES ASSOCIATION,  
an Arizona Corporation

By   
Jerrell J. Ferguson, President

By   
Richard Shifler, Vice President



Diamond Point Summer Homes Association  
Declaration of Covenants, Conditions and Restrictions



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Gila County, AZ

DRES

On May 9<sup>th</sup>, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared JERRELL J. FERGUSON personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as President and Vice President, on behalf of Diamond Point Summer Homes Association, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have set my hand, and official seal.

Nancy E. Lasky  
Notary Public

My Commission Expires: 11-14-2008



State of Arizona )  
) ss.  
County of )

On May 9<sup>th</sup>, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD SHAFER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Secretary, on behalf of Diamond Point Summer Homes Association, the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to a resolution of its Board of Directors.

IN WITNESS WHEREOF, I have set my hand, and official seal.

Nancy E. Lasky  
Notary Public

My Commission Expires: 11-14-2008

