

When recorded, return to:
Atkinson Law Office
1550 Plaza West Drive
Prescott, AZ 86303
(928) 445-5870

NOTICE OF SCRIVENER'S ERRORS

THIS NOTICE OF SCRIVENER'S ERRORS (the "Notice") is entered into this 13TH day of SEPTEMBER, 2010, by Blackhawk Homeowners Association, Inc.

RECITALS

WHEREAS, the Amended and Restated Declaration of Restrictions and Covenants for Blackhawk Subdivision, was filed April 20, 2009, in the official records of the Yavapai County Recorder's Office on Book 4662, at page 938 (the "Amended and Restated Declaration"), and

WHEREAS, the definition of "Plat" as set forth in the Amended and Restated Declaration states as follows:

"Plat" means the plat of Blackhawk, recorded in book 2481, Page 789, records of Yavapai County, Arizona, and all amendments, supplements, and corrections thereto.

, and

WHEREAS, the Association wishes to correct the errors made by the drafters of the Amended and Restated Declaration in the definition of "Plat".

NOW THEREFORE, the Association hereby states and confirms that:

The correct definition of the "Plat" for Blackhawk is as follows:

"Plat" means the plat of Blackhawk, recorded in Book 29, Page 49, records of Yavapai County, Arizona, and all amendments, supplements, and corrections thereto.

IN WITNESS WHEREOF, the Association has caused this Notice of Scrivener's Error to be executed as of the date first above written.

Blackhawk Homeowners Association, Inc.

By: William J. Weber
Its: PRESIDENTS

STATE OF ARIZONA)

) ss

County of Yavapai)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 13th day of September 2010, by William J. Weber, the President of the Blackhawk Homeowners Association, Inc.

Jeff Miles
Notary Public

My commission expires: 2/9/13



Recorded at the request of:
James D. Atkinson



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When recorded mail to:
James D. Atkinson
1550 Plaza West Drive
Prescott, AZ 86303

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AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
BLACKHAWK SUBDIVISION

This Amended and Restated Declaration of Restrictions and Covenants (DRC) for Blackhawk Subdivision is made effective as of the date of its recording in the Official Records of Yavapai County, Arizona.

RECITALS:

- A. On May 5, 1992, Blackhawk Partners made and executed that certain Declaration of Restrictions and Covenants for Blackhawk Subdivision (the "Original Declaration") which instrument was recorded in the office of the Yavapai County Recorder on May 7, 1992 in Book 2481 at Page 789.
- B. On October 14, 1992, Blackhawk Partners made and executed that certain Amended Declaration of Restrictions and Covenants for Blackhawk Subdivision (the "Amended Declaration") which instrument was recorded in the office of the Yavapai County Recorder on October 14, 1992 in Book 2544 at Page 238.
- C. On March 18, 1994, Blackhawk Partners made and executed that certain Second Amendment to Declaration of Restrictions and Covenants for Blackhawk Subdivision (the "Second Amendment") which instrument was recorded in the office of the Yavapai County Recorder on March 22, 1994 in Book 2799 at Page 345.
- D. On January 20, 1995, Blackhawk Partners made and executed that certain Third Amendment to Declaration of Restrictions and Covenants for Blackhawk Subdivision (the "Third Amendment" and the Original Declaration as amended by the First Amendment, the Second Amendment and the Third Amendment is hereinafter referred to as the "Declaration") which instrument was recorded in the office of the Yavapai County Recorder on January 25, 1995 in Book 2961 at Page 815.
- E. Pursuant to Section 29 of the Declaration, the Declaration may be amended by an instrument or counterparts thereof executed and acknowledged by the Owners of at least two-thirds (2/3) of the lots in the Blackhawk Subdivision.



G. The undersigned individuals constitute the owners of at least two-thirds (2/3) of the lots in the Blackhawk Subdivision.

H. By executing this Amended and Restated Declaration, the undersigned Owners intend to amend and restate the Declaration as hereinafter set forth.

NOW THEREFORE, the Declaration is hereby amended and restated in its entirety to provide as follows and the provisions of this Amended and Restated Declaration of Restrictions and Covenants for Blackhawk Subdivision are hereby adopted and declared as the Conditions Declaration of Restrictions and Covenants for Blackhawk Subdivision:

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DEFINITIONS:

"Architectural Control Committee" means the architectural committee of the Association to be created pursuant to Section 14.0 of this Declaration.

"Articles" means the Articles of Incorporation of the Association, as they may from time to time be amended.

"Association" means Blackhawk Homeowners Association, Inc., an Arizona nonprofit corporation, and its successors and assigns.

"Board" means the Board of Directors of the Association.

"Bylaws" means the Bylaws of the Association, as amended from time to time.

"Declaration" means this Amended and Restated Declaration of Restrictions and Conditions and, as it may be amended from time to time.

"Governing Documents" means this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, the Association Rules and Regulations, and the Architectural Control Committee Rules, as amended from time to time and any other Governing Documents adopted or approved in accordance with applicable statutes and the Governing Documents.

"Lot" means each parcel of real property designated as a Lot on the Plat and, where the context indicates or requires, shall include any residential unit, building, structure, or other improvements situated on the Lot.

"Member" means any Person who is a Member of the Association.

"Owner" means the record owner, whether one or more persons, of legal, beneficial, or equitable title to the fee simple interest of a Lot. "Owner" shall not include (i) persons having an interest in a Lot merely as security for the performance of an obligation, or (ii) a Lessee. In the case of Lots, the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, *et seq.*, the Trustor shall be deemed to be the "Owner." "Owner" shall also include a purchaser under a contract for the conveyance of real property subject to the provisions of A.R.S. Section 33-741, *et seq.* "Owner" shall not include purchasers under purchase contracts and receipts, escrow instructions, or similar executory contracts that are intended to control the rights and obligations of the parties to such executory contracts pending the closing of a sale or purchase transaction.

"Plat" means the plat of Blackhawk, recorded in Book 2481, Page 789, records of Yavapai County, Arizona, and all amendments, supplements, and corrections thereto.

"Property" or "Subdivision" means the real property described on the Plat.



This Declaration is being recorded to establish a general plan for the development and use of the Property and in order to protect and enhance the value and desirability of the Property. All of the property within the Property shall be held, sold, and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees, and assigns, binds himself, his heirs, personal representatives, successors, transferees, and assigns to all of the provisions, obligations, limitations, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereto. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the development and use of the Property and hereby evidences his or its intent that all the provisions, obligations, limitations, restrictions, covenants, conditions, rules, and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, restrictive, and enforceable by the Association and all Owners.

1.0 LOT OWNERSHIP AND DIMENSIONS:

None of the Lots shall be subdivided into smaller Lots nor conveyed or encumbered in less than the full original dimensions of such Lot, except for public utilities, provided that this restriction shall not prevent the conveyance or encumbrance of Lots or parts of adjoining or contiguous Lots in such a manner as to create parcels of land in a common ownership having the same or a greater street frontage than originally provided and described for any one of the Lots, portions of which are so conveyed or encumbered. Thereafter such part of adjoining or contiguous Lots in such common ownership, shall, for the purpose of these restrictions, be considered as one Lot except as provided in Section 22.2 for computation of assessments. Nothing herein contained shall prevent the dedication or conveyance of portions of Lots for public utilities, in which event the remaining portion of any such Lot shall, for the purpose of this provision, be treated as a whole Lot.

2.0 LAND USE AND BUILDING TYPE:

No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single family dwelling, which may include patio walls, swimming pool, garages, carports, servants' quarters, guest houses, ramadas, or other similar residential structures, in each case not to exceed two (2) stories in height. No business, commercial use, trade, or manufacturing of any nature or description shall be carried on or transacted on any portion of the Property except for a home office with no walk-in traffic or trade. Log homes, "A" frames, Geodesic, Santa Fe/Pueblo, and Underground homes are not permitted.

3.0 BUILDING ERECTION AND SETBACKS:



No building shall be erected on any area that is reserved for road purposes or is now dedicated for streets or easements, nor upon any area subsequently granted for utilities or drainage purposes. No structure or building shall be erected closer than twenty-five (25) feet to the front property line of the Lot. Side setbacks must be a minimum of seven (7) feet from the eaves of the structure to the nearest property line of the Lot. However, corner Lots must have a minimum side setback of fifteen (15) feet on the side of the structure facing the street. Rear setbacks must be at least twenty-five (25) feet from the rear property line. A variance to allow a building to be erected closer than twenty-five (25) feet to the front or rear property line due to topographical conditions may be granted by (1) obtaining City of Prescott approval and (2) by obtaining written approval from the Architectural Control Committee. No building or structures shall be moved from other locations onto any Lot, and all improvements erected on a Lot shall be of new construction. No structure of a temporary nature shall be used on any Lot at any time, either temporarily or permanently, except those used by a builder during construction.

4.0 DWELLING SIZE:

The floor area of the dwelling, exclusive of porches, garages, patios, showroom, or any other similar extensions or projections, shall not be less than 1,400 square feet of livable area. When there is a second story or a basement, the ground level is to be at least 1,000 square feet of livable area. Each dwelling must provide at least a double garage. Any variation from these minimum square footages must be approved in writing by the Architectural Control Committee.

5.0 EASEMENTS:

Easements for the installation and maintenance of utilities and for drainage facilities have been created as shown on the Plat. Within these easements, or any easements subsequently granted for utilities or drainage purposes, except as may be installed by the original Developer, BlackHawk Partners, or permitted in writing by the applicable utility company or governmental authority, no structure, planting, or other materials shall be placed or permitted to remain which may interfere with the installation and maintenance of utility facilities. Any easement area upon a Lot and all improvements located thereon shall be maintained continuously by the Owner of that Lot, except for those improvements for which a public authority or utility company is responsible.

6.0 DRIVEWAYS AND WALKWAYS:

All driveways and walkways must be constructed of concrete, masonry, or similar materials. No asphalt pavement is allowed unless bordered by a concrete curb of six (6) inches wide by four (4) inches deep. Gravel driveways will not be permitted. This restriction does not preclude a Lot Owner from driving off of driveway on the Owner's Lot for occasional property access.

7.0 LANDSCAPING:



All landscaping shall be completed no later than one (1) year from the date of final inspection by the City of Prescott of the primary residence on the Lot. Landscape design shall be submitted to and approved by the Architectural Control Committee in conjunction with the submittal of plans and specifications for dwelling construction.

The minimum landscaping required on each Lot shall be as follows:

1. Eight (8) trees. Cottonwood, Russian Olive, and Siberian Elm are not allowed.
2. Twenty (20) shrubs and/or bushes.
3. Areas disturbed by construction must be protected from erosion.

8.0 FENCES:

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

9.0 GARAGE:

No garage or other buildings shall be erected on a Lot until a primary dwelling house is erected. During or after the erection of such primary dwelling house, the garage, or other outbuilding may be used for nonpaying guests or for actual servants or employees of the occupants of the primary residential building, provided no such quarters shall be rented or used for income purposes. The garage doors will remain closed at all times except when in use for ingress or egress.

10.0 SIGHT DISTANCE AT INTERSECTIONS:

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations three (3) feet above the roadways shall be permitted to remain on any corner Lots within the triangular area formed by the street property lines and a line connecting them at points fifty (50) feet from the intersection of the property lines at the corner, or in the case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

11.0 SEWER SYSTEM:

The Lots within the Subdivision are served by a pressurized sewer system (the "Sewer System") that is owned, operated and maintained by the Association. The Sewer System is located on easements located on Lots within the Property and in the roads within the Property. The Sewer System receives sewage under pressure from individual residences and conducts it to a point at which gravity carries it into the City of Prescott sewer system. Since the City of Prescott must process the sewage, the Lot Owners are obligated to pay regular sewer fees to the City of Prescott.



The Association shall be obligated to maintain, operate, replace, and otherwise manage the Sewer System. The Association shall have the right to contract for maintenance with one or more third parties for the operation of the Sewer System and for the furnishing of any such additional services as permitted by this Declaration and law.

The Association shall not be obligated to maintain, operate, or otherwise manage any sewer lines, grinder pumps, or any other portion of any Sewer Systems located on the Lots excepting only the Sewer System interface valves and the laterals connecting the Sewer System interface valves to the main pressurized Sewer System lines (the "Interface Valves and Laterals") which shall be maintained by the Association. Except as to the Interface Valves and Laterals, the Association's maintenance obligations as to the Sewer System shall end at the boundary of any Lot within the Blackhawk Subdivision. Except as to the Interface Valves and Laterals, each Lot Owner shall be solely responsible for the maintenance, operation, replacement, and management of any portion of the Sewer System and of any private Sewer System located within the boundaries of the Owner's Lot. Each Lot Owner shall be required to provide, maintain, replace, and use a sewer grinder pump in the Owner's private Sewer System. Such grinder pump shall be a Myers 2 HP Residential Grinder Pump Rail System Package or another equivalent type of grinder pump.

12.0 TIMELINESS OF CONSTRUCTION:

Any building constructed in the Subdivision shall be completed within one (1) year after the Owner has obtained a building permit from the City of Prescott. The Board in its discretion may grant an extension of such one (1) year period when the completion thereof is caused by an Act of God, strikes, an actual inability of the Owner to procure delivery of necessary materials, or by interference by other persons beyond the control of the Owner to prevent. Financial inability of the Owner or his contractor to secure labor or materials or discharge liens or attachments shall not be deemed a cause beyond the Owner's control.

13.0 OIL AND MINING OPERATIONS:

No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted on or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any Lot.

14.0 ARCHITECTURAL CONTROL:

The Association shall have an Architectural Control Committee to perform the functions of the such committee set forth in this Declaration. The Architectural Control Committee shall be a Committee of the Board. The members of the Architectural Control Committee shall consist of such number of regular members and alternate members as may be provided for in the Bylaws. The members of the Architectural Control Committee shall be appointed by the Board. In the event the Board shall from time to time fail to appoint the members of the Architectural Control Committee, the Board shall assume the



duties and functions of the Architectural Control Committee for all purposes hereunder during any such period. The Architectural Control Committee shall promulgate architectural guidelines and standards to be used in rendering its decisions (the "Architectural Control Committee Documents"). No structure shall be commenced or erected on a Lot until the design, location, exterior color, floor elevations, kind of materials to be used, location and height of walls and fences, and direction of facing of the main residential structure have been approved in writing by the Architectural Control Committee. In the event the Architectural Control Committee fails to approve or disapprove a proposed structure within thirty (30) days after its receipt of the complete application package and any applicable fees and deposits, then such approval will not be required; provided that no structure may be constructed such that the structure as constructed would be in violation of any of the provisions of this Declaration. Further, in such event, the design, location and structural materials used for the structure shall be in harmony with existing homes in the immediate vicinity of said Lot.

14.1 PLANS AND SPECIFICATIONS:

The plans and specifications for any proposed structure to be constructed on a Lot or other improvement on a Lot shall show the design, structural details, materials, finishes, exterior colors, site location, grades, and dwelling elevations as well as a site plan of the building site. A landscape design must be submitted with the building blueprints for approval by the Architectural Control Committee. A copy of the plans and specifications as finally approved shall be retained in the records of the Architectural Control Committee.

Site plans shall include such information as determined from time to time by the Architectural Control Committee but shall, in any case, include at least the following:

1. Location of all trees over three (3) inches in trunk diameter as measured one (1) foot from the ground.
2. Trees to be removed to permit construction.
3. Locations of all easements.
4. Dimensions and bearings of the boundaries of the Lot.
5. Existing grades and grade changes.
6. Structure locations.
7. Front, side, and rear setbacks.
8. Driveways and parking areas

15.0 REPAIR OF FIRE DAMAGE:

In the event any home or structure on a Lot is destroyed or partially destroyed by fire, Act of God, or as a result of any other act or thing, the Owner shall repair said damage and the home or structure shall be reconstructed within eighteen (18) months after the date of the occurrence of such damage.

16.0 HOLIDAY DECORATIONS:



Holiday decorations are permitted to be installed without approval of the Architectural Control Committee; provided however, such decorations shall be installed no earlier than thirty days (30) prior to the subject holiday and shall be removed no later than twenty (20) days after the holiday.

17.0 FLAGS:

All flags flown from flag poles must be in conformance with the Federal Flag Code and applicable Arizona statutes: Flags that can be flown are limited to: American, Arizona, Arizona Indian Nations, U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, and POW/MIA. The flag poles used to exhibit these flags must conform to architectural control standards adopted from time to time by the Architectural Control Committee.

18.0 NUISANCE:

No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the properties in the Subdivision. No part of any Lot shall be used or occupied in a manner that negatively affects the use, occupation, enjoyment, or value of the adjoining Lots or the Subdivision. The determination as to whether an activity is obnoxious or offensive or constitutes an annoyance or nuisance or negatively affects the use, occupation, enjoyment, or value of the adjoining Lots or the Subdivision shall be made by the Board in its sole discretion.

18.1 OBSTRUCTIVE MATERIALS:

Firewood, repair materials, storage containers, lawn or yard tools and equipment, and other temporary or permanent equipment must be screened or stored so as to be not visible from the streets and other Lots. Air conditioners and coolers must not be mounted on the roofs of residences unless approved by the Architectural Control Committee.

18.2 SIGNS:

No advertising signs (except one "For Rent" or "For Sale" sign, not to exceed four (4) square feet, per Blackhawk lot) are permitted on any Lot. Billboards, unsightly objects, or nuisance items shall not be erected, placed, or permitted to remain on any Lot.

One political sign is permitted on each Lot. A political sign is a sign that attempts to influence the election of a public officer or attempts to influence a public measure such as a ballot measure, a proposition, or recall of a public officer. The size of political signs and the duration of the display must conform to applicable local and state ordinances/statutes.

18.3 LIVESTOCK AND POULTRY:



Subject to the following sentence, no animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. A reasonable numbers of dogs, cats, or other household pets may kept provided that they are not kept, bred, or maintained for commercial purposes.

18.4 LIMITATION OF VEHICLES:

Motorcycles, mopeds, mini-bikes, trail bikes, and other motor vehicles (together "Motor Vehicles") shall not be operated within the Subdivision except within the traveled areas of the Subdivision streets and driveways. All Motor Vehicles shall be equipped with a muffler in good working order and in constant use to prevent excessive or unusual noise. No repair or maintenance work shall be performed within the Subdivision on any Motor Vehicle or other piece of equipment, except wholly inside a garage. Disabled Motor Vehicles and equipment and unlicensed Motor Vehicles shall be stored in a garage or removed from the Subdivision.

Boats, motor homes, trailers and other recreational vehicles may be parked on a Lot provided that they are parked behind a line running parallel to and along the front side of the primary residence located on the Lot and are parked on concrete or asphalt.

All recreational vehicles and Motor Vehicles must be licensed, operable, and maintained in a condition that is compatible with the high standards of the Subdivision. No Owner shall park or permit others to park any Motor Vehicle on unpaved portions of the Lot.

Except as permitted by the Architectural Control Committee guidelines during construction or as required by applicable statutes, no commercial vehicles or industrial equipment may be parked on any Lot except for limited temporary parking for loading or unloading of such commercial vehicles.

18.5 GARBAGE AND REFUSE DISPOSAL:

No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. No substance, animal, thing, or material shall be kept or allowed to remain which will emit a foul or obnoxious odor or attract vermin or cause any notice that might disturb the peace, quiet, comfort, or serenity of the occupants of the surrounding property. All equipment for the storage or disposal of such waste materials shall be kept in a clean and sanitary condition and shall be enclosed so as not to be visible from any street or any other Lot except when placed at the curbing on days regularly scheduled for the purpose of collection.

18.6 WINDOWS:

No reflective materials may be used on the windows or on any other portion of a structure on any Lot, without the prior approval and consent of the Architectural Control Committee. No windows shall be covered at any time with aluminum foil, bedsheets, newspapers, or similar materials. Only drapes, blinds, or shutters will be allowed as window coverings.



18.7 CARE OF PROPERTIES:

All vacant Lots in the Subdivision shall be at all times kept free of rubbish, excessive weeds, and litter, so as to present a tidy appearance. The yards and grounds of all Lots shall be kept in a neat and clean condition. During any prolonged absence, an Owner shall arrange for the maintenance and care of the Owner's Lot.

18.8 ANTENNAS:

Subject to applicable statutes, no antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation, including, but not limited to satellite or microwave dishes, shall be erected, used, or maintained on any Lot without the prior written approval of the Architectural Control Committee. Permanently erected ham radio towers shall not be permitted. All ham radio towers must be of the electrically or automatically raised type and must be lowered from view when not in use.

19.0 ENFORCEMENT:

The DRCs contained in this Declaration shall run with the land and shall be binding on all persons purchasing or occupying any Lot in the Subdivision. The Association or any Owner shall have the right to enforce this Declaration and/or any and all covenants, restrictions, reservations, charges, servitudes, assessments, conditions, liens, or easements provided for in any contract, deed, declaration, or other instrument which (i) shall have been executed pursuant to, or subject to, the provisions of this Declaration, or (ii) otherwise shall indicate that the provisions of such instrument were intended to be enforced by the Association. The failure of the Association or an Owner to take *enforcement action* with respect to a violation of this Declaration shall not constitute or be deemed a waiver of the right of the Association or any Owner to enforce this Declaration in the future. In the event of any litigation or arbitration by or against the Association, the prevailing party in such litigation or arbitration shall be entitled to recover from the non-prevailing party all attorneys' fees, costs, and expert witness fees incurred by the prevailing party.

All instruments of conveyance of any interest in all or any part of the Property shall contain reference to this Declaration and shall be subject to the DRCs contained herein as fully as though the terms and conditions of this Declaration were therein set forth in full; provided, however, that the DRCs contained herein shall be appurtenant to the Property whether express reference is made or not. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive DRCs. Failure to enforce any of the DRCs of this Declaration shall not be construed as an acceptance of any breach of same or as a waiver of the right to enforce the same at any time in the future. Enforcement may occur without regard to the length of time of any noncompliance.

20.0 SUBORDINATION:



Nothing contained in this Declaration shall be held to invalidate the lien of any first mortgage or first Deed of Trust prior to foreclosure, provided, however, that any purchaser at any mortgage foreclosure sale or sale under Deed of Trust shall hold title subject to all the provisions hereof.

21.0 AMENDMENT:

This Declaration may be amended at any time and from time to time by an instrument or counterparts thereof executed by the Owners of at least two-thirds of the Lots in the Subdivision. Any amendment shall not be effective until the recording of such instrument.

22.0 BLACKHAWK HOMEOWNERS ASSOCIATION:

The Association shall be a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Governing Documents. In the event of any conflict or inconsistency between this Declaration and the Articles of Incorporation, the Bylaws, the Association Rules and Regulations or the Architectural Control Committee Rules, this Declaration shall control. The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws.

The Association may, from time to time, and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations (the "Association Rules") pertaining to all aspects of the Association's rights, activities, and duties or any other subject within the jurisdiction of the Association. Except as limited herein, the Association Rules may be adopted, amended, and repealed by a majority of the members of the Board. In the event that the Association Rules establish restrictions or limitations on the use and maintenance of Lots, such rules and regulations may be adopted, amended, or repealed by a majority of the members of the Board. In the event of any conflict or inconsistency between the provisions of this Declaration and the Association Rules, the provisions of this Declaration shall prevail.

No member of the Board or of any committee of the Association, no officer of the Association, and no manager or other employee of the Association shall be personally liable to any Member, or to any other person or entity, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, the manager any representative or employee of the Association, or any committee, committee member or officer of the Association; provided, however, the limitation set forth in this Section shall not apply to any person who has failed to act in good faith or has engaged in willful or intentional misconduct.

The Association may exercise any right or privilege given to the Association expressly by the Governing Documents and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association by the Governing Documents or reasonably necessary to effectuate any such right or privilege.



Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his Membership in the Association shall automatically cease. The Association shall have one class of Members who shall be Owners of Lots. A Member shall be entitled to one (1) vote for each Lot owned.

No change in the Ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one person or entity and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one vote is cast by a Member for a particular Lot, none of the votes shall be counted and all of the votes shall be deemed void.

The rights and obligations of any Member may not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership of an Owner's Lot, and then only to the transferee of ownership to the Lot. A transfer of ownership to a Lot may be affected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Arizona. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall operate to transfer the Membership appurtenant to said Lot to the new Owner thereof. Each Purchaser of a Lot shall be subject to all of the terms, conditions, and obligations set forth in this Declaration upon becoming the Owner of a Lot.

If an Owner otherwise entitled to vote is delinquent in the payment of periodic or special Assessments, fines, penalties, interest, late charges, transfer fees, refinance fees, costs of collection, lien fees, attorneys' fees, or other monies owed to the Association or is not in compliance with the terms of the Governing Documents, the Board of Directors may, in its sole discretion, certify that such Owner is not in good standing and such Owner's right to vote shall be suspended until the delinquency, breach or violation is paid in full, cured, or corrected, as the case may be.

22.1 VOTING OWNER:

At all meetings of the Association, each member shall be entitled to one vote for each Lot owned in the Blackhawk subdivision, which voting right shall be known as the "Voting Owner." The majority of the Voting Owners shall be the act of the Association. The Voting Owners shall be designated by the record Owner or Owners by written notice to the Association.



The designation of a record Owner as a Voting Owner for a Lot shall be deemed to be automatically revoked upon the first to occur of the following: (1) the sale of the Lot at a sheriff's sale or the recordation of a deed in lieu of foreclosure of any bona fide first mortgage or the sale of a Lot as a result of the exercise of the power of sale under a bona fide first mortgage or deed of trust (and the successful bidder or purchaser at such sale shall thereafter be deemed to be a record Owner), (2) the transfer of record title to the Lot, (3) the Association's receipt of a written notice to the Association of the death of a Voting Owner or (4) the Association's receipt of a written instrument delivered to the Association by any record Owner or Owners of the Lot.

Upon the appointment of a receiver by a court of competent jurisdiction in any foreclosure or sale pursuant to a bona fide first mortgage, said receiver shall be deemed the Voting Owner of the respective Lot for the purpose of voting as long as he or she is legally acting as a receiver. If no Voting Owner of a Lot shall have been designated, or if said designation has been revoked as stated herein, no vote shall be cast in behalf of such Lot until the new Voting Owner is designated as provided herein.

22.2 ASSOCIATION ASSESSMENTS:

Each Member of the Association shall pay to the Association a sum equal to such Member's pro rata share of the aggregate of the following, except as herein provided.

1. The actual or estimated cost of all repairs, replacement, maintenance, and cleaning of the Sewer System.
2. The actual or estimated cost of public liability insurance or hazard insurance carried by the Association.
3. The actual or estimated cost of general administration services and other overhead of the Association.
4. The actual or estimated amounts required to pay and discharge all other items of expense that are incident to the ownership of the Sewer System.

Each Member's pro rata share of such expenses shall be determined by multiplying the aggregate thereof by a fraction, the numerator of which shall be one (1) (or, in the case of two or more Lots being combined into one Lot, the original number of Lots before such combination and, in the case of three Lots being replatted so as to create two Lots, 1.5 for each of the resulting Lots), and the denominator of which shall be the sum of (i) the number of Lots in the Subdivision plus (ii) the number of "Additional Users" as defined in Section 23.0 of this Declaration at the time of the computation.

Invoices for the assessments payable to the Association under the provisions of this Section 22.2 shall be submitted by the Association yearly or at such other regular interval as may be fixed by the Board of Directors. Amounts owed on account of each such invoice shall be delinquent if not paid within thirty (30) days immediately following the date such invoice is deposited in the United States mail, addressed to a Member at his/her



address as shown on the records of the Association. Amounts owed by a Member on account of the assessments provided for in this Section 22.2 shall be secured by a continuing lien on the Member's lot. If any such invoice is not paid prior to the delinquency and continues unpaid, the Association shall have the right to foreclosure of such lien in the manner prescribed by Arizona law for the foreclosure of a realty mortgage provided an action to foreclose the lien is filed by the Association with three (3) years following the date on which the amount sought to be collected shall have become delinquent. A Member subject to collection of lien foreclosure proceedings hereunder shall be liable for all court costs and reasonable attorney's fees incurred by the Association in connection with the Association's collection of such delinquent assessment and foreclosure proceedings. If any invoice referred to herein is not paid prior to delinquency, the Association, to the extent permitted by law, may discontinue furnishing services to the Lot owned by the applicable Member.

22.3 ORGANIZATION:

The Members of the Association shall elect, by a majority of the votes cast, three (3) or more persons to the Board of Directors of said Association; provided that at all times the Board shall be comprised of an odd number of Directors. All members of the Board of Directors shall be Lot owners. The Board shall estimate the expenses necessary to operate, maintain and improve, the Sewer System, to include the establishment of an appropriate reserve amount. Members shall be assessed pursuant to Section 22.2 of this Declaration for the payment of said expenses and reserve account. The Board shall set up all necessary procedures for collection and disbursement of said funds. The Board shall formally adopt the Bylaws.

23.0 ADDITIONAL USERS:

At the sole discretion of the Board of Directors of the Association, owners of adjacent properties that are not a part of the Subdivision may be permitted to hook-up to the Sewer System. Each such property owner permitted to do so shall hereinafter be referred to as an "Additional User." In the event the Board permits an Additional User to hook-up to the Sewer System, such permission shall be subject to any conditions imposed by the Association upon such Additional User, including, but not limited to the following (1) the payment by the Additional User to the Association of a "buy-in" fee in an amount determined by the Board of Directors and (2) the Additional User's written agreement to be bound by the provisions of Section 11 and Section 22.2 of this Declaration. Prior to the granting of such permission, the Association shall retain an engineer to perform an engineering study (the cost of which shall be included in the buy-in fee to be paid by the Additional User) that must confirm that the Sewer System has sufficient capacity to process the effluent from the Additional User's property in addition to the current effluent being processed by the Sewer System as well as the anticipated increases therein.

24.0 SEVERABILITY:



Should any of provision of this Declaration be held to be invalid or void by a court of competent jurisdiction, such determination shall not affect the validity of the any other provisions of this Declaration.

25.0 CONTINUITY:

The provisions of this Declaration are to run with the land and shall be binding on the Owners and all of their successors in title, interest or possession in all and every part of the Property for twenty-five (25) years from May 7, 1992, and thereafter the provisions of this Declaration shall be automatically extended for successive periods of ten (10) years unless and until the Owners of two-thirds of the Lots affected hereby amend or revoke the same with the written consent of the Arizona Department of Environmental Quality and Yavapai County, or their successors agencies. Said revocation shall be by written instrument duly acknowledged and recorded.

26.0 JURISDICTION:

The DRCs set forth in this Declaration and the provisions requiring Owners and other persons to obtain the approval of the Board or the Architectural Control Committee with respect to certain actions are independent of the obligation of the Owners and other persons to comply with all applicable laws, ordinances, and regulations, and compliance with this Declaration shall not relieve an Owner or any other person from the obligation to also comply with all applicable laws, ordinances, and regulations. Any violation of any state, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation, or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Each Owner consenting to this Amended and Restated Declaration is conclusively presumed to have the authority to consent, and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such consent or of this Amended and Restated Declaration. This Amended and Restated Declaration shall become effective upon recording of the same in the Official Records of Yavapai County, Arizona.

IN WITNESS WHEREOF, the undersigned constituting the Owners of at least two-thirds (2/3) of the Parcels have set their hands intending to amend and restate the Declaration as hereinabove set forth.

[SIGNATURES ON THE FOLLOWING PAGES]