

WHEN RECORDED, RETURN TO:

Par Pueblo, L.L.C.
1921 South Alma School Road
Suite 310
Mesa, Arizona 85210

THIS DOCUMENT IS BEING
RERECORDED SOLELY TO
CORRECT A TYPOGRAPHICAL
ERROR

OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

2001-0558335 06/26/2001 09:35

DECAR 8 OF 28

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS FOR THE PUEBLO AT ANDERSEN SPRINGS**

This First Amendment to Declaration of Covenants, Conditions, Restrictions And Easements for the Pueblo at Andersen Springs ("First Amendment") is made by Par Pueblo, L.L.C., an Arizona limited liability company (the "Declarant") and the Owners whose signatures are attached hereto. 10

RECITALS 950092592, rerecorded at 950038769

A. A Declaration of Covenants, Conditions, Restrictions And Easements for the Pueblo at Andersen Springs was recorded as Document ~~97-0817139~~, records of Maricopa County, Arizona, as to the real property located in Maricopa County, Arizona, legally described therein (the "Declaration").

B. The Declaration provides for amendment of the Declaration by the written consent of not less than seventy-five percent (75%) of the Owners.

C. Seventy-five percent (75%) of the Owners have executed this First Amendment, to amend the Declaration.

NOW, THEREFORE, the Declaration is amended by this First Amendment as follows:

1. Section 5 of Article X of the Declaration is amended to read as follows:

5. **Signs.** Except as otherwise expressly permitted by this Declaration, no signs of whatever nature shall be placed on the Common Area except with respect to Association matters as approved by the Board. If permitted by and under the rules and regulations of the City and the Master Association, one "for sale" or "for lease" sign per Dwelling Unit may be placed in the Common Area outside of the exterior perimeter wall the nature, number, location, content and design of which, shall be approved in writing by the Architectural Control Committee. No signs of whatever nature, including "for sale" and "for lease" signs, shall be placed on any Lot or Dwelling Unit except for (a) signs required by legal proceedings.; and (b) one "for sale" or "for lease" sign located in the entry way of a Dwelling Unit and not Visible from Neighboring Property. Signs on any other portion of The Pueblo shall be subject to the prior review and approval of the Architectural Control Committee unless: (i) required by legal proceedings; or (ii) approved by Declarant.

2. Except as expressly amended by this First Amendment, the Declaration shall remain in full force and effect. In the event of any conflict or inconsistency between this First Amendment and the Declaration, this First Amendment shall prevail.

Par Pueblo, L.L.C.

By Par Builders, Inc. Its Manager

By: Ralph Hogan

Its: President

STATE OF ARIZONA)
COUNTY OF MARICOPA) ss.

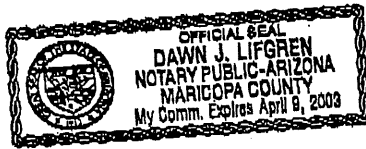
The foregoing instrument was acknowledged before me this 8 day of June, 2001,
by Ralph Hogan, the manager of Par Pueblo, L.L.C.

My commission expires:

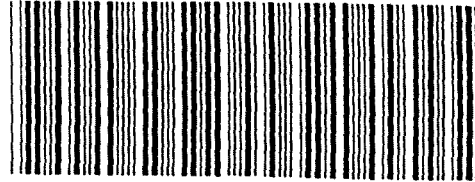
4.9.2003

[Signature]
Notary Public

d:\hogan\office\pueblo\1.stam



Where recorded mail to:



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

96-0038769 01/19/96 03:42

This space reserv

LILIAN 28 OF 128

CAPTION HEADING: _____

JAN 1996

RECORDED

DO NOT REMOVE

This is part of the official document.

WHEN RECORDED, RETURN TO:

Par Pueblo, L.L.C.
1921 South Alma School Road
Suite 214
Mesa, Arizona 85210

21/7



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

95-0092592 02/21/95 12:14

FEB 1995
11 11 11

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

FOR

THE PUEBLO AT ANDERSEN SPRINGS

THIS DOCUMENT IS BEING RE-RECORDED TO INCLUDE PAGE 31 and
TO CORRECT THE TABLE OF CONTENTS.

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE I - DEFINITIONS	2
1. Agencies	2
2. Annual Assessments	3
3. Architectural Control Committee	3
4. Architectural Control Committee Guidelines or Guidelines	3
5. Articles	3
6. Assessments	3
7. Assessment Lien	3
8. Assessment Period	3
9. Association	3
10. Association Rules	3
11. Board	3
12. Building	3
13. City	3
14. Common Area and Common Areas	3
15. Common Expenses	3
16. Declarant	4
17. Dwelling Unit	4
18. Exempt Property	4
19. FHA	4
20. First Mortgage	4
21. Funds	4
22. Lot	4
23. Master Association	4
24. Master Architectural Review Committee	4
25. Member	4
26. Membership	4
27. Occupant	5
28. Owner	5
29. Party Wall	5
30. Person	5
31. The Pueblo	5
32. Recorded Assessment Lien	5
33. Plat	5
34. Single Family	5
35. Special Assessments	5
36. VA	5
37. Visible From Neighboring Property	5
ARTICLE II - PARTY WALLS	6
1. Party Walls	6

ARTICLE III - COMMON AREAS AND EASEMENTS	7
1. Easements of Enjoyment	7
2. Association Rights with Respect to Common Areas	7
ARTICLE IV - MEMBERSHIP AND VOTING RIGHTS	7
1. Votes of Owners	7
2. Declarant	8
3. Voting Classes	8
4. Right to Vote	8
5. Members' Rights	9
6. Transfer of Membership	9
7. Loss of Rights	9
ARTICLE V - MAINTENANCE	9
1. Association's General Responsibilities	9
2. Owner's Responsibilities	10
3. Publicly-Dedicated Areas	11
4. Assumption of Other Responsibilities	11
5. No Discrimination	11
ARTICLE VI - INSURANCE AND CASUALTY LOSSES	11
1. Insurance to be Obtained by the Association	11
(a) Hazard Insurance	11
(b) Liability Insurance	12
(c) Other Insurance	12
(d) Cost of Insurance	12
ARTICLE VII - RIGHTS AND OBLIGATIONS OF THE ASSOCIATION	12
1. Rules and Regulations	12
2. Implied Rights	13
3. Board of Directors and Officers	13
4. Road Maintenance and Repair Reserve Account	13
ARTICLE VIII - ASSESSMENTS	14
1. Assessment Right and Personal Obligation	14
2. Lien for Assessments; Foreclosure	14
3. Declarant's Exemption from Assessments	15
4. Computation of Assessments; Annual Budget	15
5. Due Dates	17
6. Special Assessments	17
7. Surplus Monies	17
8. Billing and Collection Procedures	17
9. Declarant's Obligation for Deficiencies	18
10. Common Expenses Resulting from Misconduct	18

ARTICLE IX - ARCHITECTURAL REVIEW	18
1. Appointment of Architectural Control Committee; Standing to Enforce	18
2. Jurisdiction of the Architectural Control Committee; Promulgation of Guidelines	19
3. Obligation to Obtain Approval	19
4. Submission and Review of Plans	20
5. Changes to Interiors of Dwelling Units	20
6. Other Approvals, Liability	21
7. Fee	21
8. Inspection	21
9. Waiver	21
10. Appeal to Board	21
11. Nonapplicability to Declarant	22
12. Landscaping	21
13. Master Architectural Review Committee Approval	22
ARTICLE X - USE RESTRICTIONS	22
1. Single Family Residential Use	23
2. Animals	23
3. Garbage	23
4. Machinery and Equipment	23
5. Signs	23
6. Restriction on Further Subdivision, Property Restrictions, and Rezoning	24
7. Parking	24
8. Model Homes	24
9. Prohibited Uses	25
10. Temporary Occupancy and Temporary Buildings; Outside Storage	25
11. Completion of Landscaping	26
12. Nuisances	26
13. Diseases and Insects	26
14. Storage and Tool Sheds and Structures	26
15. Mineral Exploration	26
16. Clothes Drying Facilities	26
17. Blanket Utility Easements	27
18. Overhead Encroachments	27
19. Trucks, Trailers, Campers, Boats and Motor Vehicles	27
20. Declarant's Exemption	27
21. Window Coverings	27
22. Utility Lines and Connections	28
23. Drainage; Drainage Easements	28
24. Garages	29
25. Antennas, Poles, Towers and Dishes	29

26.	Basketball Goals or Play Structures	29
27.	Tanks	29
28.	Underground Facilities	30
29.	Outdoor Burning	30
30.	Leasing	30
31.	Encroachments	30
32.	Restrictions of Master Declaration	31
ARTICLE XI - DESTRUCTION OF THE PUEBLO OR ITS ELEMENTS		31
1.	Destruction of Common Area	31
2.	Destruction of Individual Unit	31
3.	Condemnation of Common Area	31
4.	Condemnation of Dwelling Units	32
ARTICLE XII - GENERAL PROVISIONS		32
1.	Term	32
2.	Amendment	32
3.	Easements for Utilities	33
4.	No Partition	33
5.	Property Held in Trust or by Affiliates of Declarant	33
6.	FHA/VA Approval	34
7.	Amendments Requested by Governmental Agency	34
8.	Declarant's Right to Use Similar Name	35
9.	Temporary Sign Easement	35
10.	Declarant's Rights	35
11.	Interpretation of the Covenants	35
12.	Severability	36
13.	Rule Against Perpetuities	36
14.	Change of Circumstances	36
15.	Declarant's Disclaimer of Representations	36
16.	Limitation on the Declarant's Liability	36
17.	Reference to Covenants in Deeds; Binding Effect	36
18.	Gender and Number	37
19.	Captions and Titles	37
20.	Relation to Master Association Documents	37

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

FOR

THE PUEBLO AT ANDERSEN SPRINGS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (the "Declaration") of The Pueblo at Andersen Springs ("The Pueblo") is executed to be effective as of the 26th day of September, 1994, by Par Pueblo, L.L.C., an Arizona limited liability company.

RECITALS

A. Declarant is the owner and developer of real property known as parcels 15 and 17B located in the master planned subdivision known and developed under the name "Andersen Springs", Chandler, Arizona.

B. Declarant desires to develop parcels 15 and 17B with single family residential homes, together with Common Areas, roadways, water amenities, walkways, and other facilities.

C. Pursuant to the Declaration of Covenants, Conditions, Restrictions, and Easements for Andersen Springs, recorded December 31, 1985 at Instrument No. 85 622938 (the "Master Declaration"), it was intended that restrictions would be recorded as to the various individual parcels, and on January 22, 1986 a tract declaration was recorded as to parcel 17 at Instrument No. 86 033630, and amended on September 27, 1994 as Instrument 94-0705720, and on March 31, 1986 a tract declaration was recorded as to parcel 15 at Instrument 86 152561, and amended on September 27, 1994 as Instrument 94-0705720 (collectively the "Tract Declarations").

D. The Master Declaration also contemplated that various additional covenants, conditions and restrictions apart from the Master Declaration would be recorded in the form of separate Subsidiary Declarations, as to certain portions of Andersen Springs to be specified in such Subsidiary Declarations.

E. Declarant desires and intends that parcels 15 and 17B shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions in this Declaration, which shall constitute a Subsidiary Declaration pursuant and subordinate to the provisions of the Master Declaration, and:

(i) are for the purpose of protecting the value, desirability and attractiveness of The Pueblo;

(ii) shall run with all of the real property comprising The Pueblo

(iii) shall be binding on all parties having any right, title or interest in The Pueblo, or any part thereof; and

(iv) shall inure to the benefit of the aforementioned parties and their successors and assigns.

F. Declarant intends to form an Arizona nonprofit corporation to be known as the "The Pueblo at Andersen Springs Association," for the purposes of, among other things:

(i) holding title in fee or otherwise to the Common Areas;

(ii) the efficient preservation of the values and amenities of The Pueblo, in regard to which the Association will be delegated certain powers of administering and maintaining the Common Areas and enforcing this Declaration; and

(iii) establishing, collecting, disbursing and enforcing the Assessments created herein.

G. Until such time as the Association is incorporated, Declarant shall and does hereby reserve to itself, its successors and assigns, the right to exercise the powers, rights and duties granted to or imposed upon the Association under this Declaration.

NOW, THEREFORE, DECLARANT hereby declares, covenants and agrees as follows:

ARTICLE I

DEFINITIONS

As used herein, the following terms shall have the following meanings:

1. "Agencies" shall mean the FHA, the VA, and any other governmental agencies or financial institutions;

2. "Annual Assessments" shall mean the regular annual assessments levied by the Board pursuant to Article VIII of this Declaration;

3. "Architectural Control Committee" shall mean the committee formed pursuant to Article IX of this Declaration;

4. "Architectural Control Committee Guidelines" or "Guidelines" shall mean the rules and regulations promulgated by the Architectural Control Committee pursuant to Article IX of this Declaration;

5. "Articles" shall mean the Articles of Incorporation of the Association, as amended or restated from time to time, on file with the Arizona Corporation Commission;

6. "Assessments" shall mean all Annual Assessments and Special Assessments and all other amounts declared by this Declaration to be part of the Assessments;

7. "Assessment Lien" shall mean the charge and continuing servitude and lien against a Lot or Common Area for payment of Assessments as described in Section VIII, 2 of this Declaration;

8. "Assessment Period" shall mean each period for which Assessments are to be levied against a Lot or Common Area pursuant to this Declaration;

9. "Association" shall mean The Pueblo at Andersen Springs Association, an Arizona nonprofit corporation, its successors and assigns;

10. "Association Rules" shall mean the reasonable rules and regulations adopted by the Association pursuant to Article VII of this Declaration;

11. "Board" shall mean the Board of Directors of the Association;

12. "Building" shall mean the buildings containing the Dwelling Units and all other buildings and structures located on the Common Areas.

13. "City" shall mean the City of Chandler, Arizona;

14. "Common Area" and "Common Areas" shall mean all portions of The Pueblo other than the Dwelling Units, and the improvements or amenities thereon owned, leased, controlled or operated by the Association;

15. "Common Expenses" shall mean all expenses and charges of operating the Association, and performing the rights and duties of the Association, including the establishment of reasonable reserves, all as may be found necessary and appropriate by the Board;

16. **"Declarant"** shall mean the Par Pueblo L.L.C., and the successors and assigns of Declarant's rights and powers hereunder;

17. **"Dwelling Unit"** shall mean any portion of The Pueblo designated for separate ownership or occupancy, and its walls, floors and ceilings;

18. **"Exempt Property"** shall mean portions of The Pueblo not subject to assessments, which shall be the following areas now or hereafter located within The Pueblo:

(a) all Government Property;

(b) all Common Areas for so long as Declarant or the Association is the owner thereof; and

(c) all other property owned by Declarant, as long as Declarant is the owner of any Class B votes, pursuant to Section IV, 3 of this Declaration.

19. **"FHA"** shall mean the Federal Housing Administration;

20. **"First Mortgage"** shall mean a deed of trust or mortgage made in good faith and for value recorded against a Dwelling Unit or Common Area which has priority over all other deeds of trust or mortgages recorded against that Dwelling Unit or Common Area;

21. **"Funds"** shall mean all funds and property collected and received by the Association from any source;

22. **"Lot"** shall mean an area of real property designated as a "Lot" on the Plat attached as Exhibit "B" hereto.

23. **"Master Association"** shall mean the Andersen Springs Community Association and its successors and assigns.

24. **"Master Architectural Review Committee"** shall mean the architectural review committee appointed by the Master Association pursuant to Article XI of the Master Declaration.

25. **"Member"** shall mean any Lot or Dwelling Unit Owner;

26. **"Membership"** shall mean the amalgam of rights and duties of Owners with respect to the Association.

7

27. **"Occupant"** shall mean any Person other than an Owner who occupies or is in possession of a Dwelling Unit, whether as a Lessee under a lease or otherwise;

28. **"Owner"** shall mean the record holder of legal title to the fee simple interest in any Dwelling Unit or, in the case of a contract purchaser, the contract purchaser (but only if the contract has been recorded), but excluding others who hold such title merely as security. If fee simple title to a Dwelling Unit is vested of record in a trustee pursuant to A.R.S. §§ 33-801 *et seq.*, legal title shall be deemed to be in the trustor. An Owner shall include any Person who holds record title to a Dwelling Unit in joint ownership or as an undivided fee interest;

29. **"Party Wall"** shall mean a common wall which divides two Dwelling Units and serves as a wall for the building(s) located on the property of each Dwelling Unit. A party wall shall be considered to adjoin and abut against the surface from the bottom of the foundation over the full length and height of each building.

30. **"Person"** shall mean a corporation, partnership, joint venture, individual, trust or any other legal entity;

31. **"The Pueblo"** shall mean the property more particularly described on Exhibit "A" attached hereto and incorporated by this reference;

32. **"Recorded Assessment Lien"** shall mean an Assessment Lien with respect to which the Board has recorded a notice of lien covering the Delinquent Amount plus interest and accrued collection costs against the applicable Dwelling Unit or Common Area;

33. **"Plat"** shall mean the recorded subdivision plat attached as Exhibit "B" hereto, which plat is incorporated herein expressly by this reference;

34. **"Single Family"** shall mean a group of persons related by blood, marriage or legal adoption, or a group of not more than 3 unrelated persons maintaining a common household;

35. **"Special Assessments"** shall mean an Assessment designated pursuant to Section VIII, 6 of this Declaration;

36. **"VA"** shall mean the United States Veterans' Administration.

37. **"Visible From Neighboring Property"** shall mean with respect to any given objection, that such object is or would be visible to a Person of normal height from any Dwelling Unit or any Dwelling Unit thereon.

ARTICLE II

PARTY WALLS

1. Party Walls. The rights and duties of Owners with respect to Party Walls shall be as follows:

(a) The Owners of contiguous property who have a Party Wall shall have the right equally to use such wall, provided such use does not interfere with the use and enjoyment of the adjoining party.

(b) If any Party Wall is damaged or destroyed through the acts of an Owner or an Owner's agents, lessees, guests or family members (whether or not such act is negligent or otherwise culpable), it shall be the obligation of such Owner to rebuild and repair the Party Wall without cost to the adjoining Owner or the Association.

(c) In the event any Party Wall is destroyed or damaged (including deterioration from ordinary wear and tear and lapse of time), other than by the act of an adjoining Owner, or such Owner's agents, lessees, guests or family, it shall be the obligation of all Owners whose property adjoins such wall to rebuild and repair the interior portions of such wall, including but not limited to the utility installations therein, at their joint and equal expense, and each individual Owner shall be responsible for the costs of repairing the finished portions of such wall that are a part of each Owner's Dwelling Unit and all other related expenses.

(d) Notwithstanding anything to the contrary herein contained, no Owner shall take any action which shall impair the structural integrity of any Party Wall or common roof.

(e) In the event of a dispute between Owners with respect to the repair or rebuilding of a Party Wall or the sharing of the cost thereof, such Owners shall submit the dispute to the Board, or to a committee appointed for such purposes by the Board, the decision of which shall be final and binding. If any of the disputing Owners is a member of the Board, he (they) shall not be entitled to vote on such issue. The remaining nondisputing Board members shall temporarily appoint another Owner to serve on the Board solely for the purpose of voting on such dispute.

ARTICLE III

COMMON AREAS AND EASEMENTS

1. **Easements of Enjoyment.** Every Owner and Occupant shall have a right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to every Dwelling Unit, subject to the provisions of this Declaration.

2. **Association Rights with Respect to Common Areas.** In addition to any other rights specifically granted in this Declaration to the Association with respect to Common Areas, the Association shall have the right to: (a) levy assessments for the maintenance of the Common Areas and pay expenses incurred in connection with the Common Areas; (b) dedicate, grant easements over, or transfer all or any part of the Common Areas to any public agency, authority, or utility so long as the transferee agrees to permit the Common Areas transferred to be used for the same purposes as existed prior to the transfer; (c) regulate the use of the Common Areas through Association Rules or the Guidelines and prohibit access to those Common Areas, such as areas not intended for use by Owners or Occupants, or various categories of either group; and (d) suspend the rights of any Owner or Occupant to use and enjoy recreational facilities on the Common Area: (i) for any period during which an Assessment is delinquent; (ii) for a period not to exceed thirty (30) days for any infraction of this Declaration, the Association Rules or the Guidelines; or (iii) for a successive thirty (30) day period, if any such infraction is not corrected during the preceding suspension period.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

1. **Votes of Owners.** Every Owner of a Lot or Dwelling Unit automatically shall be a Member of the Association and shall remain a Member for so long as such ownership continues. Each Owner's membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot or Dwelling Unit to which the membership is attributable. In the event fee title to any Lot or Dwelling Unit is jointly held by two or more Persons, whether by joint tenancy, tenancy in common, community property or otherwise, each such Person shall be considered a Member but the membership as to such Lot or Dwelling Unit shall be jointly held, and such Persons shall jointly designate to the Association in writing one of their number who shall have the power to vote said membership, and, in the absence of such designation and until such designation is made, the Board shall either: (a) make such designation, in which event such designation shall be binding for all purposes; or (b) declare that until all Persons who together hold such membership jointly make such written designation, the vote(s) attributable to such membership under this Declaration shall not be cast or counted on any questions

before the Members; provided, however, that if any one of such Persons casts a vote or votes representing a certain Lot or Dwelling Unit without objection from any other Person sharing ownership of such Lot or Dwelling Unit, the Person casting such vote(s) will thereafter be conclusively presumed to be acting with the authority and consent of all other Persons sharing ownership of such Lot or Dwelling Unit unless and until objection thereto is made to the Board in writing. Each Owner (other than Declarant, so long as the Class B membership is in existence) shall have one vote for each Lot owned by such Owner.

2. **Declarant.** Declarant shall be a Member of the Association for so long as it holds a Class A or Class B membership.

3. **Voting Classes.** The Association shall have two classes of voting Members:

(a) **Class A.** Class A Members shall be all Owners except Declarant (until the conversion of Declarant's Class B membership to Class A membership as provided below). Subject to the authority of the Board to suspend an Owner's voting rights in accordance with the provisions hereof, a Class A Member shall have the number of votes provided in Section IV, 1 above.

(b) **Class B.** The Class B Member shall be Declarant. The Class B Member shall be entitled to the number of votes equal to three times the number of votes which would otherwise be attributable to Lots or Dwelling Units owned by Declarant as determined pursuant to Section IV, 1 above (but without reduction due to the fact that Declarant may be entitled to pay reduced Assessments or no Assessments). Declarant shall have the right, from time to time, to designate an individual or individuals to exercise Declarant's voting rights, but such designation shall not act as an assignment by Declarant of its membership or voting rights hereunder. The Class B membership automatically shall cease and be converted to a Class A membership upon the earliest to occur of: (a) the date which is 90 days after the date upon which the total number of votes of the Class A Members equals the total number of votes of the Class B Member; (b) the date which is seven (7) years after the date this Declaration is recorded; or (c) the date on which Declarant records a written notice electing to convert the Class B membership to Class A membership.

4. **Right to Vote.** No change in the ownership of a Lot or Dwelling Unit shall be effective for voting purposes until the Board receives satisfactory evidence thereof. The vote(s) for each Member must be cast as a single unit. Split or fractional votes shall not be allowed. An Owner may give any person a proxy to cast the Owner's vote(s), subject to the Articles, Bylaws and applicable law.

5. **Members' Rights.** Each Member shall have the rights, duties and obligations set forth in the Master Declaration, this Declaration, the Articles, the Bylaws, the Association Rules, the Guidelines and any other rules and regulations adopted pursuant to any of the foregoing.

6. **Transfer of Membership.** Except as otherwise provided in this Declaration, the rights, duties and obligations of a Class A Member cannot and shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of ownership of such Class A Member's Lot or Dwelling Unit, and then only to the transferee thereof. Such transfer may be effected by deed, intestate succession, testamentary disposition, foreclosure or other legal process authorized under Arizona law and shall operate to transfer the membership appurtenant thereto to the new Owner; any attempt to make any other form of transfer shall be void.

7. **Loss of Rights.** In the event any Owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration or shall be in default in the performance of or in breach of any of the terms hereof, the Owner's right to vote as a member of the Association and right to use the Common Area shall be suspended and shall remain suspended until all payments are brought current and all defaults and breaches remedied.

ARTICLE V

MAINTENANCE

1. **Association's General Responsibilities.** The Association shall maintain and keep in good repair the Buildings and the Common Area, and the costs of such maintenance shall be Common Expenses of the Association (subject to any insurance then in effect). This maintenance shall include, but not be limited to:

(a) maintenance, repair and replacement of all landscaping and other flora situated outside of the non-structural (accent) walls on a Lot and upon the Common Area;

(b) maintenance, repair and replacement of all Buildings, water amenities and improvements situated upon the Common Area;

(c) maintenance, repair and replacement of swimming pools, spas, pool decking and all associated equipment and improvements situated upon the Common Area;

(d) maintenance, repair and replacement of all structural components of the Party Walls of the Buildings;

(e) maintenance, repair and replacement of all fences and non-structural (accent) walls located on a Lot and upon the Common Area;

(f) maintenance, repair and replacement of exterior surfaces and roofs of the Buildings;

(g) maintenance, repair and replacement of all pipes, wires, conduits, and public utility, water or sewer lines which form the part of any system serving the Common Area or one or more Lots or Dwelling Units but located in or on the Common Area;

(h) maintenance, repair, replacement, repaving and resurfacing of any and all roads, street signs, private parking areas, and of any and all lights and poles, located on or constituting a part of the Common Area.

2. Owner's Responsibilities.

(a) Each Owner shall be responsible for the maintenance, cleaning, painting, repair and general care of each Owner's Dwelling Unit and such Owner's Lot and shall comply with all governmental health, fire and safety statutes, ordinances, regulations and requirements. In particular, each Owner shall: (i) be responsible for the maintenance, repair and replacement of all pipes, wires, conduits, ducts, flues and public utility, water or sewer lines contained within each Owner's Dwelling unit or in or on such Owner's Lot; and (ii) cause his or her Dwelling Unit to be maintained in good condition and repair and in an attractive state consistent with the Master Declaration, this Declaration, the Guidelines, the Association Rules and general community standards within The Pueblo.

(b) Each Owner shall be responsible for the proper maintenance of all landscaping within the walls or fences on the Owner's Lot. As used herein, maintenance shall include but not be limited to keeping the areas free of trash, weeds and unsightly material. Any lawn areas shall be timely mowed as needed to keep an even, well groomed appearance and shall be watered and fertilized at such times and in such quantities as required to keep the grass alive and attractive and free of weeds. All trees, shrubs, plants and ground covers shall be timely and properly trimmed (including, without limitation, the removal of dead wood therefrom) according to their plant culture and landscape design and shall be watered and fertilized at such times and in such quantities as required to keep them alive and attractive. Any dead tree, shrub, plant or ground cover shall be removed and replaced immediately. Each Owner shall also maintain in good condition and repair all paved and concrete areas, including driveways, pathways, and parking areas, located on the Owner's Lot.

due to vandalism and malicious mischief, in an amount of not less than One Hundred percent (100%) of insurable replacement cost of the improvements and as otherwise determined by the Board.

(b) **Liability Insurance.** The Association shall make a good faith effort to obtain and maintain at all times a comprehensive general liability policy insuring the Association, each member of the Board and each Owner against any liability for death, bodily injury and property damage arising out of or incident to the ownership or use of the Common Area or arising out of or incident to the performance by the Association of its maintenance and other obligations hereunder. The Board shall periodically review the amounts of coverage afforded by such policy or policies and adjust such amounts of coverage as the Board deems appropriate, but in no event shall said policy or policies provide coverage of less than One Million Dollars (\$1,000,000.00) for death, bodily injury and property damage for any single occurrence. The policy or policies providing such insurance shall, by specific endorsement or otherwise, preclude denial by the insurer(s) providing such insurance of a claim under such policy or policies because of negligent acts or omissions of the Association or any Owner(s).

(c) **Other Insurance.** The Association may also obtain such other insurance including, but not limited to, fidelity bond coverage, worker's compensation insurance and directors' and officer's liability insurance, as the Board deems appropriate.

(d) **Cost of Insurance.** All premiums for the insurance or bonds required or permitted to be obtained by the Board by this Article VI shall be Common Expenses. The Board shall not be liable for failure to obtain or maintain any of the insurance coverage required by this Article VI, or for any loss or damage resulting from such failure, if such failure is due to the unavailability of such insurance coverage from reputable companies authorized to provide such insurance in the State of Arizona, or if such insurance coverage is available only at an unreasonable cost.

ARTICLE VII

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

1. **Rules and Regulations.** The Board may, from time to time and subject to the provisions of the Master Declaration and any rules enacted by the Master Association and this Declaration, adopt, amend and repeal the Association Rules. The Association Rules may restrict and govern the use of the Common Area, but shall not discriminate among Owners and Occupants except to reflect their different rights and obligations as provided herein, and shall not be inconsistent with this Declaration, the Articles or the Bylaws. The Association Rules shall be intended to enhance the preservation and development of The Pueblo and the Common Area. Upon adoption, the Association Rules shall have the same force and effect as if they

were set forth herein. Sanctions for violation of the Association Rules or of this Declaration may be imposed by the Board and may include suspension of an Owner's right to vote or to use the recreational facilities on the Common Area as provided in Article III. 2., or both, and, where the Board deems it appropriate, may also include reasonable monetary fines.

2. **Implied Rights.** The Association may exercise any other right or privilege given to it expressly by the Master Declaration, this Declaration, the Articles or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

3. **Board of Directors and Officers.** The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. The initial Board and each Board thereafter for so long as there is a Class B Member of the Association shall consist of three (3) individuals (who need not be Members) appointed by Declarant. Commencing with the first annual meeting of the Members when there is no longer a Class B Member, the Board shall consist of, and the Members shall elect up to seven (7) directors, each of whom must be a Member (or an individual designated by a corporate, partnership or other non-individual Member).

4. **Road Maintenance and Repair Reserve Account.** The Association shall maintain a separate reserve account entitled the road maintenance and repair reserve account (the "Road Account"). Declarant shall prior to conversion of the Declarant's Class B membership to Class A membership in accordance with Article IV, 3 fund the Road Account with an amount equivalent to \$50.00 for each Lot planned for The Pueblo as set forth on the Plat. Following conversion of Declarant's Class B membership to Class A membership, the Association shall allocate no less than \$2.00 of each Member's monthly share of Annual Assessments to the Road Account. Termination or reduction of the \$2.00 allocation of each Assessment to the Road Account may only be made with the approval of the Master Association. The Association shall not utilize the funds in the Road Account for any other purpose other than maintenance and repair of the roadways set forth on the Plat and their associated improvements without the consent of the Master Association. Nothing contained in this paragraph VII, 4 shall be deemed to prohibit the Association from levying a Special Assessment in accordance with Article VIII for road repair, maintenance or replacement purposes.

ARTICLE VIII

ASSESSMENTS

1. Assessment Right and Personal Obligation. In addition to Assessments levied by and paid directly to the Master Association, each Owner, by acceptance of his, her or its deed (or other conveyance instrument) with respect to a Lot or Dwelling Unit, is deemed to covenant and agree to pay the Assessments levied pursuant to this Declaration with respect to such Owner's Lot or Dwelling Unit, together with interest and such reasonable late fees as may be established by the Board in advance for general application and such costs and reasonable attorneys' fees as may be incurred by the Association in seeking to collect such Assessments. Each of the Assessments with respect to a Lot or Dwelling Unit, together with interest, late fees, costs and reasonable attorneys' fees shall also be the personal obligation of the Person who or which was the Owner of such Lot or Dwelling Unit at the time such Assessment arose with respect to such Lot or Dwelling Unit, provided, however, that the personal obligation for delinquent Assessments shall not pass to a successor in title of such Owner unless expressly assumed by such successor. No Owner shall be relieved of his, her or its obligation to pay any of the Assessments by abandoning or not using his, her or its Lot or Dwelling Unit or the Common Area, or by leasing or otherwise transferring occupancy rights with respect to his, her or its Lot or Dwelling Unit. However, upon transfer by an Owner of fee title to such Owner's Lot or Dwelling Unit, as evidenced by a recorded instrument, such transferring owner shall not be liable for any Assessments thereafter levied against such Lot or Dwelling Unit. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of the alleged failure of the Association or Board to take some action or perform some function under this Declaration, the Articles or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law or ordinance or with any order or directive of any municipal or other governmental authority.

2. Lien for Assessments; Foreclosure. There is hereby created and established a lien against each Lot or Dwelling Unit which shall secure payment of all present and future Assessments assessed or levied against such Lot or Dwelling Unit or the Owner thereof (together with any present or future charges, fines, penalties or other amounts levied against such Lot or Dwelling Unit or the Owner or Occupant thereof pursuant to this Declaration or the Articles, the Bylaws, any applicable Tract Declaration, the Association Rules or the Guidelines). Such lien is and shall be prior and superior to all other liens affecting the Lot or Dwelling Unit in question, except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any First Mortgage. Such lien may be foreclosed in the manner provided by law for the foreclosure of mortgages. The sale and transfer of any Lot or Dwelling Unit pursuant to a mortgage

foreclosure or any proceeding in lieu thereof with respect to a First Mortgage shall extinguish the lien of the Assessments as to payments which became due prior to such sale or transfer, but no such sale or transfer shall relieve such Lot or Dwelling Unit from liability for any Assessments becoming due after such sale or transfer, or from the lien thereof. The Association shall have the power to bid for any Lot or Dwelling Unit at any sale to foreclose the Association's lien on the Lot or Dwelling Unit, and to acquire and hold, lease, mortgage and convey the same. During the period any Lot or Dwelling is owned by the Association, no right to vote shall be exercised with respect to said Lot or Dwelling Unit and no Assessment (whether Annual Assessments or Special Assessments) shall be assessed or levied on or with respect to said Lot or Dwelling Unit, provided, however, that the Association's acquisition and ownership of a Lot or Dwelling Unit under such circumstances shall not be deemed to convert the same into Common Area. The Association may maintain a suit to recover a money judgment for unpaid Assessments, rents, interest and attorneys' fees without foreclosing or waiving the lien securing same. Recording of this Declaration constitutes record notice and perfection of the liens established hereby, and further recordation of any claim of a lien for Assessments or other amounts hereunder shall not be required, whether to establish or perfect such lien or to fix the priority thereof, or otherwise (although the Board shall have the option to record written notices of claims of lien in such circumstances as the Board may deem appropriate, the costs of which shall be charged to such delinquent Lot or Dwelling Unit).

3. **Declarant's Exemption from Assessments.** So long as Class B membership exists, Declarant shall not be obligated to pay any Assessments whatsoever, but Declarant shall have certain obligations to contribute to the Association in accordance with Section VIII, 9 below. Following conversion of all of the Class B membership to Class A membership, as to any portion of the Property on which Declarant itself is constructing Dwelling Units from the issuance of a building permit and until issuance of a Certificate of Occupancy as to the particular Dwelling Unit(s), Declarant shall pay 25% of the Annual Assessments or Special Assessments which would otherwise be attributable to such Lots within such portion of the Property which are owned by Declarant.

4. **Computation of Assessments; Annual Budget.**

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment shall be one hundred and fifty dollars (\$150.00) per Lot. Subject to the provisions of subsection (b) of this Section VIII.4, the Board shall prepare and adopt an annual budget for each fiscal year of the Association, which shall serve as the basis for determining the Annual Assessments for the applicable fiscal year. Such budget shall take into account the estimated Common Expenses and cash requirements of the Association for the year and the estimated net available cash income for the year, if any, from the operation or use of any of the Common Area. The annual budget shall also

provide for a reserve for contingencies and a reserve for replacements, all in such reasonably adequate amounts as shall be determined by the Board, taking into account the number and nature of replaceable assets, the expected life of such asset, and each asset's expected repair or replacement cost. Not later than sixty (60) days following the meeting of the Board at which the Board adopts the annual budget for the year in question, the Board shall cause to be delivered or mailed to each Owner a copy of the budget and a statement of the amount of the Annual Assessments to be levied against such Owner's Lot or Dwelling Unit for the fiscal year in question, together with statements of the actual income and expenses prepared according to generally accepted accounting principles of the preceding two years, with the statements and the budget prepared in a substantially similar format. In the event the Board fails to adopt a budget for any fiscal year prior to commencement of such fiscal year, then until and unless such budget is adopted, the budget (and the amount of the Annual Assessments provided for therein) for the year immediately preceding shall remain in effect. Subject to the provisions of subsection (b) of this Section VIII. 4., if, at any time during a fiscal year of the Association the Board deems it necessary to amend the budget for such year, the Board may do so and may levy an additional Annual Assessment for such year or may call a meeting of the Members to request that the Members approve a Special Assessment pursuant to Section VIII, 6. Within sixty (60) days after adoption of an amended budget (if the Board elects to levy an additional Annual Assessment), the Board shall cause to be delivered or mailed to each Owner a copy of the amended budget and a statement of the additional Annual Assessment to be levied against such Owner's Lot or Dwelling Unit; if, instead, the Board elects to call a meeting of Members to seek approval of a Special Assessment, the Board shall cause a copy of the amended budget proposed by the Board to be delivered or mailed to each Owner with the notice of such meeting, and if a Special Assessment is duly approved by the Members at such meeting, shall cause to be promptly mailed or delivered to Owner a statement of the Special Assessment to be levied against such Owner's Lot or Dwelling Unit.

(b) Subject to subsection (c) of this Section VIII. 4, the Board shall not, in any given year, increase the maximum Annual Assessment by an amount greater than (i) six percent (6%) of the amount of the preceding year's maximum annual assessment or (ii) the percentage increase in the cost of living index for "All Items, All Cities" as reflected by the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor of the United States Department of Labor all Urban Consumers (hereinafter called the "Cost of Living Index Number"), whichever is greater. In the event that the Bureau of Labor Statistics should fail to publish a comparable Cost of Living Index Number during any such years, but a comparable Cost of Living Index Number shall be published by any governmental agency of the United States in place thereof, then such comparable index number shall be used for the purpose of adjusting the maximum annual assessment under the provisions of this subsection (b) with the same force and effect as the Cost of Living Index of the Bureau of Labor Statistics.

(c) Any increase by the Board in the annual assessment which is greater than the amount permitted under subsection (b) hereof must be first approved by the holders of sixty-seven percent (67%) of the votes of each Class of Membership who vote in person or by proxy at a meeting called for this purpose.

5. **Due Dates.** Annual Assessments for each fiscal year shall be due and payable in equal periodic installments, not more frequently than monthly or less frequently than semiannually, as determined for such fiscal year by the Board, with each such installment to be due and payable on or before the first day of each applicable period during that fiscal year. Special Assessments, if any, shall be paid in such manner and on such dates as may be fixed by the Board. In addition to any other powers of collection or enforcement granted hereunder, in the event any Assessments with respect to a Lot or Dwelling Unit are delinquent, the Board shall have the right, in its sole discretion, to accelerate the date(s) on which all subsequent installments of Assessments with respect to such Lot or Dwelling Unit are due and payable. Assessments shall be deemed "paid" when actually received by the Association or by its manager or agent designated by the Association to collect the same (provided, however, that if any Assessments are paid by check and the bank or other institution upon which such check is drawn thereafter dishonors or refuses to pay such check, those Assessments shall not be deemed "paid" and shall remain due and payable with interest accruing from the date such Assessments were originally due).

6. **Special Assessments.** In addition to the Annual Assessments authorized by this Article VIII, the Association may levy Special Assessments from time to time, provided, however, that any Special Assessment shall be effective only with the approval of not less than sixty-seven percent (67%) of the votes of each class of Members represented in person or by valid proxy at a meeting of Members duly called and convened to consider such Special Assessment. Special Assessments shall be allocated equally among all Lots.

7. **Surplus Monies.** Unless otherwise expressly determined by the Board, any surplus monies of the Association shall be held by the Association and placed in one or more reserve accounts as determined by the Board, and shall not be paid to the Owners or credited against the Owners' respective liabilities for Assessments.

8. **Billing and Collection Procedures.** The Board shall have the right to adopt procedures for the purpose of making, billing and collecting the Assessments. The failure of the Association to send a bill to an Owner shall not relieve such Owner of the Owner's liability for an Assessment. The Association shall be under no duty to refund any payments received by the Association even if the ownership of a Lot or Dwelling Unit changes during a fiscal year of the Association. Any successor Owner shall be given credit for any unrefunded prepayments made by a prior Owner.

9. **Declarant's Obligation for Deficiencies.** So long as the Class B membership exists, Declarant shall pay and contribute to the Association, within thirty (30) days after the end of each fiscal year of the Association, or at such other times as may be requested by the Board, such funds as may be necessary, when added to the Assessments levied by the Association pursuant to this Declaration, to provide for: (a) the operation and maintenance of the Common Area and the recreational facilities located thereon; (b) the maintenance of adequate reserves; and (c) the performance by the Association of all other obligations of the Association under this Declaration or the Articles or Bylaws. Declarant's obligations under this Section VIII, 9 may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of both, but in all events shall be secured by a lien on the Lots owned by Declarant.

10. **Common Expenses Resulting from Misconduct.** Notwithstanding any other provision of this Article VIII, if any Common Expense is caused by the misconduct of any Owner (or of any Occupant, employee, agent, guest or invitee for whose actions such Owner is responsible under applicable law), the Association may assess that Common Expense exclusively against such Owner and such Owner's Lot or Dwelling Unit, which amount (together with any and all costs and expenses, including but not limited to attorneys' fees, incurred by the Association in recovering the same) shall be secured by the lien created pursuant to Section VIII, 2 hereof.

ARTICLE IX

ARCHITECTURAL REVIEW

1. **Appointment of Architectural Control Committee; Standing to Enforce.** All property which is now or hereafter subject to this Declaration shall be subject to architectural, landscaping and aesthetic review as provided herein. This review shall be in accordance with this Article IX and such standards as may be promulgated by the Architectural Control Committee, which is hereby established. Authority and standing on behalf of the Association to enforce in any court of competent jurisdiction decisions of the Architectural Control Committee and the provisions of this Article IX shall be vested in Declarant, so long as Declarant has the right to appoint the Architectural Control Committee and thereafter in the Board (provided that in all cases any expenses incurred in such enforcement actions shall be Common Expenses). So long as Declarant owns any part of The Pueblo, the Architectural Control Committee shall consist of three (3) individuals appointed by, and who shall serve at the pleasure of, Declarant. At such time as either: (a) Declarant no longer owns any part of The Pueblo; or (b) Declarant records a written waiver of its right to appoint the Architectural Control Committee, the Board shall appoint the members of the Architectural Control Committee, which shall have such number of members (but not less than three(3)) as the Board may elect, from time to time. Each member of the Architectural Control Committee appointed by the

Board shall serve in such capacity until: (a) such member is removed by the Board; or (b) such member resigns such position or dies. Prior to the appointment of the initial members of the Architectural Control Committee, and at any time when there is no one serving on the Architectural Control Committee (whether due to death, resignation or removal), the Board shall have and exercise any and all rights, powers, duties and obligations of the Architectural Control Committee.

2. Jurisdiction of the Architectural Control Committee; Promulgation of Guidelines. In conjunction with the Master Architectural Review Committee, the Architectural Control Committee shall have exclusive jurisdiction over all original construction and any modifications, additions or alterations to improvements on any portion of The Pueblo (including, but not limited to, the construction or installation of, or modifications, additions or alterations to: (a) buildings and other structures; (b) landscaping; (c) fences; (d) heating, ventilating, air conditions and cooling units; (e) solar panels; (f) paint; and (g) any other construction, modification, addition or alteration affecting the exterior appearance of any structure, Lot or Dwelling Unit). The Architectural Control Committee may adopt, and may from time to time amend, supplement and repeal, the Guidelines, subject to the approval of the Master Architectural Review Committee. The Guidelines shall interpret, implement and supplement this Declaration, and shall set forth procedures for Architectural Control Committee review and the standards for development within The Pueblo. The Guidelines may include, without limitation, provisions regarding: (i) the size of Dwelling Units; (ii) architectural design, with particular regard to the harmony of the design with surrounding structures and topography; (iii) placement of buildings; (iv) landscaping design, content and conformance with the appearance of The Pueblo; (v) requirements concerning exterior color schemes, exterior finishes and materials throughout The Pueblo; (vi) signage; and (vii) wall design and appearance. The Guidelines shall have the same force and effect as the Association Rules. Further, after termination of Declarant's right to appoint the members of the Architectural Control Committee, any and all amendments, supplements, repeals or replacements to or of the Guidelines shall be subject to the approval of the Board. The Guidelines shall be consistent with the Architectural Guidelines adopted by the Master Architectural Review Committee, and in the event of any conflict between the two, the Architectural Guidelines shall prevail.

3. Obligation to Obtain Approval.

(a) Except as otherwise expressly provided in this Declaration or the Guidelines or an applicable Tract Declaration, without the prior written approval by the Master Architectural Review Committee and Architectural Control Committee: (i) no improvements, alterations, repairs, excavation, grading, landscaping or other work shall be done which in any way alters the exterior appearance of any Lot or Dwelling Unit thereon; and (ii) no building, fence, exterior

wall, pool, roadway, driveway or other structure, improvement or grading shall be commenced, erected, maintained, altered, changed or made on any Lot at any time.

(b) No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed except in compliance with plans and specifications therefor which have been submitted to and approved by the Master Architectural Review Committee and Architectural Control Committee in accordance with the Guidelines and except in compliance with Subsection 12 below.

(c) No material changes or deviations in or from the plans and specifications for any work to be done, once approved by the Master Architectural Review Committee and Architectural Control Committee, shall be permitted without approval of the change or deviation by the Master Architectural Review Committee and Architectural Control Committee.

(d) No other item or matter required by this Declaration to be approved in accordance with this Article IX or to be approved by the Master Architectural Review Committee and Architectural Control Committee shall be done, undertaken or permitted until approved by the Master Architectural Review Committee and Architectural Control Committee.

4. Submission and Review of Plans. Any Owner or other Person seeking to construct or install or cause to be constructed or installed any new improvements or landscaping or to make any modification, alteration or addition to any existing improvement (including, but not limited to, landscaping and grading) shall first submit to the Architectural Control Committee detailed plans and specifications (including, but not limited to, a detailed site plan) relating to the proposed construction, installation, modification, alteration or addition. The Architectural Control Committee shall have forty-five (45) days after its receipt of such plans, specifications and elevation to approve or disapprove of the proposed construction, installation, modification, alteration or addition or to request additional information, and, if the Architectural Control Committee disapproves, to give such Owner or other Person reasonably detailed written reasons for such disapproval. The Architectural Control Committee shall forward the plans and specifications to the Master Architectural Review Committee. In the event the Architectural Control Committee and the Master Architectural Review Committee fails either to approve or disapprove the proposed construction, installation, modification, alteration or addition (or to request additional information) within said forty-five (45) days period, such proposed construction, installation, modification, alteration or addition shall be deemed approved.

5. Changes to Interiors of Dwelling Units. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his, her or its Dwelling Unit or to paint the interior of his, her or its Dwelling Unit any color

desired, except to the extent such remodeling or painting is visible from outside such Dwelling Unit or affects the exterior appearance of such Dwelling Unit.

6. **Other Approvals; Liability.** No approval by the Architectural Control Committee or Master Architectural Review Committee of any proposed construction, modification, addition or alteration shall be deemed to replace or be substituted for any building permit or similar approval required by any applicable governmental authority, nor shall any such approval be deemed to make the Architectural Control Committee or Master Architectural Review Committee (or the Board or the Association) liable or responsible for any damage or injury resulting or arising from any such construction, modification, addition or alteration. None of Declarant, the Association, the Board or the Architectural Control Committee or Master Architectural Review Committee (nor any member thereof) shall be liable to the Association, any Owner or any other party for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or (c) the development of any Lot or Parcel.

7. **Fee.** The Architectural Control Committee may establish in the Guidelines a reasonable processing fee to defer its costs in considering any request for approvals submitted to the Architectural Control Committee or for appeals to the Board, which fee shall be paid at the time the request for approval or review is submitted.

8. **Inspection.** Any member or authorized consultant of the Architectural Control Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time and without being deemed guilty of trespass enter upon any Lot after reasonable notice to the Owner or Occupant of such Lot, in order inspect the improvements constructed or being constructed on such Lot to ascertain that such improvements have been, or are being, built in compliance with this Declaration, any applicable Tract Declaration, the Guidelines and any approved plans, drawings or specifications.

9. **Waiver.** Approval by the Architectural Control Committee or Master Architectural Review Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Control Committee or Master Architectural Review Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matters subsequently submitted for approval.

10. **Appeal to Board.** Any Owner or Occupant aggrieved by a decision of the Architectural Control Committee may appeal the decision to the Board. In the event the decision of the Architectural Control Committee is overruled by the Board on any issue or question, the prior decision of the Architectural Control

Committee shall be deemed modified to the extent specified by the Board. Notwithstanding the foregoing, until termination of the Declarant's right to appoint the members of the Architectural Control Committee, no decision of the Architectural Control Committee may be appealed to the Board. Appeals of the decisions of the Master Architectural Review Committee shall be as specified in the Master Declaration.

11. **Nonapplicability to Declarant.** The provisions of this Article IX shall not apply to any portions the Property owned by Declarant or any person affiliated with Declarant. Further, this Article IX may not be amended without Declarant's written consent so long as Declarant owns any property within The Pueblo.

12. **Landscaping.** Except as expressly provided herein or as expressly approved by the Architectural Control Committee or Master Architectural Review Committee, landscaping shall comply with any and all provisions of the Guidelines relating to permitted or prohibited plants, and shall comply with all applicable governmental requirements. Subject to the foregoing, all Lots, excluding driveways and parking areas shall be landscaped in a manner and using plants and soil approved in advance by the Architectural Control Committee. No exterior trees, bushes, shrubs, plants or other landscaping shall be planted or placed upon any Lot except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Control Committee in accordance with this Article IX and the Guidelines. Neither this Section IX, 12 nor Sections 3 or 4 above shall be construed to prevent normal landscape maintenance or the replacement of dead or diseased plants with other similar plants (so long as the replacement plants are permitted by the Guidelines).

13. **Master Architectural Review Committee Approval.** All approvals of the Architectural Control Committee shall be subject to the approval (or failure to disapprove) of the Master Architectural Review Committee. The Master Architectural Review Committee may delegate all or some of its authority pertaining to architectural, landscaping and aesthetic review of the Pueblo to the Architectural Control Committee.

ARTICLE X

USE RESTRICTIONS

1. **Single Family Residential Use.** No gainful occupation, profession, trade or other non-residential use shall be conducted on or in any Lot. A Dwelling Unit on a Lot may be leased to a Single Family tenant from time to time by the Owner thereof, subject to the provisions of this Declaration and the Association Rules. This Section X, 1 shall not be deemed to prevent an Owner or Occupant from using the Dwelling Unit on his or her Lot for business purposes

which: (a) utilize, on an exclusive or non-exclusive basis, a minimal portion of such Dwelling Unit; (b) do not result in the use of the Dwelling Unit for business meetings or appointments; (c) do not result in shipping from the Lot; (d) do not result in large or excessive amounts of deliveries to the Lot; and (e) do not otherwise violate local zoning and use laws.

2. **Animals.** No animal, livestock, poultry or fowl of any kind, other than a reasonable number of generally recognized house pets, shall be maintained on or in any Lot and then only if they are kept or raised thereon solely as domestic pets and not for commercial purposes. No improvement for the care, housing or confinement of any pet shall be Visible From Neighboring Property. Notwithstanding the foregoing, no pets may be kept which result in an annoyance to other Owners and Occupants in the vicinity. All pets shall be leashed when not on a Lot owned by the pet's owner or on which the pet's owner is an Occupant or guest, and persons walking any pet shall promptly and properly remove and dispose of the pet's waste.

3. **Garbage.** No garbage or trash shall be allowed, stored or placed on any Lot or other portion of The Pueblo except in sanitary, covered containers. In no event shall such containers be Visible From Neighboring Property, except for a reasonable time immediately prior to and after collection. All trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon or elsewhere in The Pueblo.

4. **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, operated, stored or maintained upon any Lot or other portion of The Pueblo except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or construction (during the period of construction) of a building thereon; or (b) that which Declarant or the Association may require for the development, operation and maintenance of The Pueblo.

5. **Signs.** Except as otherwise expressly permitted by this Declaration, no signs of whatever nature shall be placed on the Common Area except with respect to Association matters as approved by the Board. No signs of whatever nature shall be placed on any Lot or Dwelling Unit except: (a) signs required by legal proceedings; and (b) signs, including "for sale" and "for lease" signs, the nature, number, location, content and design of which shall be approved in writing by the Architectural Control Committee. Signs on any other portion of The Pueblo shall be subject to the prior review and approval of the Architectural Control Committee unless: (i) required by legal proceedings; or (ii) approved by Declarant.

6. Restriction on Further Subdivision, Property Restrictions, and Rezoning.

(a) No Lot, or portion thereof, shall be further subdivided or subject to a condominium declaration, and no portion less than all of any such Lot, or any easement or other interest therein, shall be conveyed or transferred by any Owner.

(b) No applications for rezoning, variances or use permits, or for waivers of or modifications to existing variances, use permits, zoning stipulations or similar restrictions, shall be filed with any governmental authority or agency without the prior written approval of the Architectural Control Committee, and then only if such proposed zoning, variance or use, or waiver or modification, is in compliance with this Declaration, any applicable Tract Declaration, and the Master Declaration.

(c) No changes or modifications shall be made in any documents, instruments or applications once the same have been approved by the Architectural Control Committee hereunder (whether requested by the City or otherwise) unless such changes or modifications have first been approved by the Architectural Control Committee in writing.

(d) Notwithstanding the foregoing, Declarant shall not be required to seek or obtain any of the approvals or consents otherwise required under this Section X, 6 as to any Lot or Parcel, or any portion of either, of which Declarant is the Owner.

7. Parking. No vehicle shall be parked on any private street or roadway owned by the Association, or on any other street or roadway shown on any map of dedication, subdivision plat or similar instrument recorded by Declarant unless otherwise expressly provided either: (a) in such recorded map of dedication, subdivision plat or similar instrument showing the street or roadway and approved in writing by the Architectural Control Committee; or (b) in a separate recorded instrument executed by the Architectural Control Committee. Vehicles shall be kept in garages or other designated parking areas. The Board may adopt additional parking restrictions including the establishment of fines and assessments for their violation. This Section X, 7 is not intended to prohibit temporary on-street parking by guests or Owners or Occupants, provided that no vehicles may be parked on any street or roadway overnight, and provided further that the Board may adopt and enforce additional restrictions and regulations on such temporary on-street guest parking as the Board sees fit, in its discretion.

8. Model Homes. Nothing contained herein shall prohibit the construction and maintenance of model homes, sales offices and parking incidental thereto by Persons engaged in the construction, marketing and sales of Dwelling

Units upon any of the Lots, provided, however, that such models and sales offices may only be open during reasonable hours and otherwise shall be in compliance with the provisions of this Declaration, the Guidelines and ordinances of the City. Except as otherwise approved in writing by the Architectural Control Committee: (a) all model homes and sales offices shall cease to be used as such at any time the Owner (or an affiliate of the Owner, or a lessee thereof as the case may be) is not actively engaged in the construction and sale of Dwelling Units within the Parcel within which the model home is situated; and (b) no model home or sales office shall be used for the sale or rental of residences not located within the Parcel within which the model home is situated.

9. **Prohibited Uses.** The following uses are prohibited: (a) any use which is offensive by reason of odor, fumes, dust, smoke, noise, glare, heat, sound, vibration, radiation or pollution, or which constitutes a nuisance, or which is hazardous by reason of risk of fire or explosion, or which is injurious to the reputation of any Lot, Dwelling Unit or Owner; and (b) any use which is in violation of the laws (after taking into account the application of any validly granted or adopted variance, exception or special use permit, ordinance or regulation) of the United States, the State of Arizona, the City or any other governmental entity having jurisdiction over The Pueblo.

10. **Temporary Occupancy and Temporary Buildings; Outside Storage.** Except during the construction process, no temporary building or other improvement shall be erected, installed or maintained on any Lot without prior written approval in accordance with Article IX of this Declaration. Temporary structures used during construction must receive prior written approval, in accordance with Article IX of this Declaration, with regard to location and appearance, and shall be removed immediately after completion of such construction, and that portion of the Lot from which the same are removed shall be promptly placed in such condition as is otherwise required by this Declaration. Except during construction, no materials, supplies, equipment, finished or semifinished products or articles of any nature shall be stored on any area outside of a building unless provided in advance by the Architectural Control Committee. Any permitted outside storage shall be screened by a solid visual barrier so as not to be Visible From Neighboring Property; provided, however, that during construction of improvements on the Lot, necessary construction materials and supplies may be stored on the Lot without the need for a solid visual barrier provided such materials and supplies are kept in neat order considering the construction activities and otherwise in compliance with the Guidelines. The Architectural Control Committee shall have the right to designate the areas and manner in which supplies of building materials and construction equipment shall be stored and the routes construction vehicles may use. All such designations shall be reasonable. Except with the express written approval of the Architectural Control Committee, no Dwelling Unit shall be occupied in any manner while in the course of original construction or prior

to issuance by the appropriate local governmental authority of a certificate of occupancy (or other similar document) with respect to such Dwelling Unit.

11. **Completion of Landscaping.** If at the time an Owner acquires title to a Lot, the landscaping has not yet been completed, then, within ninety (90) days after completion of a Dwelling Unit on that Lot (as evidenced by the issuance of a certificate of occupancy therefor), the Owner shall complete the landscaping of all portions of the Lot Visible From Neighboring Property, which landscaping shall comply with the provisions of this Declaration, the Guidelines and any other applicable requirements or restrictions imposed by the Architectural Control Committee, the City or any governmental or municipal agency having jurisdiction.

12. **Nuisances.** No noxious or offensive activity shall be carried on or permitted on any Parcel or Lot (or any other part of The Pueblo), nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to Persons or property in the vicinity of such Lot, or which shall interfere with the quiet enjoyment of each of the Owners and Occupants. The Architectural Control Committee in its discretion shall have the right to determine the existence of any such nuisance. Furthermore, the Architectural Control Committee, acting on behalf of the Association, shall have the right to remove any such nuisance at the expense of the Owner responsible for the nuisance (or at the expense of the Owner whose tenant, Occupant or guest is responsible for the nuisance); such expenses (including, but not limited to, attorneys' fees and other collection costs) shall be paid by the Owner promptly on demand, with interest thereon at the rate of eighteen percent (18%) per annum from the date incurred until fully paid, and, with such interest, shall be secured by the lien against the Lot created pursuant to Section VIII, 2.

13. **Diseases and Insects.** No Owner or Occupant shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant or animal or noxious insects.

14. **Storage and Tool Sheds and Structures.** No storage or tools sheds or similar structures shall be placed, erected or maintained upon any part of The Pueblo.

15. **Mineral Exploration.** No Lot shall be used in any manner to explore for, quarry, mine, remove or transport any water, oil or other hydrocarbons, minerals, gravel, gas, earth or any earth substances of any kind (except to the limited extend required in connection with normal construction activities).

16. **Clothes Drying Facilities.** No outside clotheslines or other facilities for drying or airing clothes shall be placed on any Lot without prior written approval in accordance with Article IX, unless they are not Visible From Neighboring Property.

17. **Blanket Utility Easements.** There is hereby created a blanket easement upon, over and under each Lot and the Common Area for ingress to, egress from, and the installation, replacement, repair, maintenance, operation and existence of all utility equipment and service lines and systems, as such equipment lines, and systems are installed in connection with the initial development of the Lots and the Common Area and the construction of buildings thereon.

18. **Overhead Encroachments.** No tree, shrub or planting of any kind shall be allowed to overhang or encroach upon any public right-of-way, bicycle path or any other pedestrian way from ground level to a height of 8 feet without prior written approval in accordance with Article IX.

19. **Trucks, Trailers, Campers, Boats and Motor Vehicles.** No motor vehicle, motor home, mobile home, trailer, camper shell, detached camper boat, boat trailer, snow mobile, jet ski or other similar equipment or vehicle may be parked, maintained, repaired or stored (if inoperable) on any Lot or on any street so as to be Visible From Neighboring Property. The foregoing limitation on parking shall not apply to:

(a) automobiles, trucks or vans, or mini-motor homes not exceeding 7 feet in height from ground level and 18 feet in length, so long as such automobiles, trucks or vans or mini-motor homes: (i) are parked as provided in Section X, 7 above; (ii) are used on a regular and recurring basis for basic transportation; and (iii) do not have commercial or business signs or other advertising attached thereto or displayed thereon (other than ordinary license plate frames); or

(b) temporary facilities maintained during, and used exclusively in connection with, construction activities; provided, however, that such activities are approved in advance and in writing in accordance with Article IX.

20. **Declarant's Exemption.** Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by Declarant or its agents during the period of development and construction of The Pueblo of improvements, landscaping or signs deemed necessary or convenient by Declarant, in its sole discretion, to the development of sale of property within The Pueblo, provided that any such improvements and landscaping shall be generally consistent, in terms of appearance and quality, with similar improvements and landscaping elsewhere within The Pueblo.

21. **Window Coverings.** No external window covering or reflective covering may be placed, or permitted to remain, on any window of any building or Dwelling Unit without prior written approval in accordance with Article IX. Further all curtains, blinds, interior shutters and the window coverings or window treatments which are visible from outside a Dwelling Unit shall be neutral in color. No bedsheets, blankets, bedspreads or other items not designed for use as curtains or

other window covering shall be used for such purpose, whether permanently or temporarily, if the same are Visible From Neighboring Property.

22. Utility Lines and Connections. No utility or service equipment or lines may be installed or relocated on any Lot or the Common Area except as initially approved by the Declarant, or, if installed after recordation of this Declaration, as approved by the Owner thereof and the Architectural Control Committee. All utility wires, lines, pipes, conduits, facilities, connections and installations (including, without limitation, electrical, telephone, cable television, water, gas and sanitary sewer) shall be installed and maintained underground. Utility or service facilities and equipment may be affixed and maintained on, in and under the roofs and exterior walls of buildings on Lots and Common Area. No utility meter or apparatus shall be located on any pole or attached to the outside of any building which is exposed to view from any street. All transformers shall be placed on or below the surface of the Lot. Temporary above-ground power or telephone structures and water lines incident to construction activities shall be permitted but only with prior written approval in accordance with Article IX. Notwithstanding the foregoing, utility meters and related panels and similar equipment may be placed on outside building walls exposed to view from a street in order to comply with any requirements, requests, regulations, orders, conditions or specifications of any public, quasi-public or private utility or any governmental agency or body, provided that reasonable efforts shall be made avoid placing any such meter, panel or other equipment on the outside front wall of a Dwelling Unit or other building facing the street running directly in front of such Dwelling Unit.

23. Drainage; Drainage Easements. No water shall be drained or discharged from any Lot or Dwelling Unit thereon, except in accordance with the master drainage study (including any amendment thereto) approved by the appropriate governmental agency (or agencies) and the Architectural Control Committee (or other drainage study approved by the Architectural Control Committee if no such master drainage study exists). Further, no Owner or Occupant shall interfere with the drainage established by the applicable drainage study for the remainder of The Pueblo or any other property adjacent to such Owner's or Occupant's Lot. Except as otherwise provided herein, or by applicable governmental rule, regulation or ordinance, the Owner of property subject to recorded easements shall be responsible for maintaining said property. One or more Lots may be subject to easements for storm water and other drainage, pursuant to recorded plat or other recorded instruments. No Owner or Occupant shall interfere with such easements or the flow of water over or through the areas subject to such easements. Without limiting the generality of the preceding sentence, no Owner or Occupant shall install landscaping or improvements (including, without limitation, fences) which would interfere with the flow of water over or through such areas, and the areas subject to such easements shall be subject to applicable municipal or other governmental ordinances and regulations and to any applicable restrictions set forth or on the recorded plats or other recorded instruments establishing such easements. The City

and its employees, agents, contractors and designees, as well as the Association and its employees, agents, contractors and designees, shall have the right and an easement to enter upon any Lot which is subject to a drainage easement as described in this Section X, 23 for purposes of repairing, replacing, installing, operating and maintaining the areas subject to such easement and any drainage-related systems or equipment therein, and, in connection with their exercise of such right and easement, shall have the right (without liability to the Owner or Occupant of the property in question) to remove plants or other landscaping and fences or other improvements situated within the areas subject to such easements.

24. Garages. The interior of all garages situated upon Lots shall be maintained by the respective Owners and Occupants thereof in a neat, clean and slightly condition. Such garages shall be used for parking vehicles and storage only, and shall not be used or converted for living or recreational activities. Garage doors shall be kept closed at all times except to the limited extent reasonably necessary to permit the entry or exit of vehicles or persons.

25. Antennas, Poles, Towers and Dishes. No television, radio, shortwave, microwave, satellite, flat or other antenna, pole, tower or dish shall be placed, constructed or maintained upon any Lot (including, but not limited to, upon the roof or exterior walls of any Dwelling Unit or other structure), unless: (a) where such antenna, pole, tower or dish is fully screened and not Visible From Neighboring Property due to a parapet wall which conforms architecturally with the structure of such Dwelling Unit or other structure; or (b) in all other cases, such antenna, pole, tower or dish is fully and attractively screened or not Visible From Neighboring Property, which means of screening or concealment shall (in either case (a) or (b)) be subject to the Guidelines and to approval in accordance with Article IX. Notwithstanding the foregoing, the Architectural Control Committee may adopt a rule or other Guideline permitting an Owner or Occupant to install and maintain a flagpole upon such Owner's or Occupant's Lot, provided that the location and size of such flagpole (and the number and size of any flag(s) mounted thereon) may be regulated by the Architectural Control Committee and may, if so provided in such rule or other Guideline, be made subject to the prior approval thereof by the Architectural Control Committee.

26. Basketball Goals or Play Structures. No basketball goal, backboard or similar structure or device, and no swing sets or other play structures, shall be placed or constructed on any Lot without the prior written approval of the Architectural Control Committee (including, without limitation, approval as to appearance and location).

27. Tanks. No tanks of any kind (including tanks for the storage of fuel) shall be erected, placed or maintained on or under any Lot. Nothing herein shall be deemed to prohibit use or storage upon any Lot of propane or similar fuel tanks

with a capacity of ten (10) gallons or less used in connection with a normal residential gas barbecue, grill or fireplace.

28. **Underground Facilities.** No cesspool or well may be dug or installed.

29. **Outdoor Burning.** There shall be no outdoor burning of trash or other debris, provided, however, that the foregoing shall not be deemed to prohibit the use of normal residential barbecues or other similar outside cooking grills or outdoor fireplaces.

30. **Leasing.** All leases shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Master Declaration, this Declaration, the Articles, the Bylaws and the Association Rules. All tenants shall be subject to the terms and conditions of the Master Declaration, this Declaration, any applicable Tract Declaration, the Articles, the Bylaws, the Association Rules and the Guidelines as though such tenant were an Owner (except that such tenant shall not have any voting rights appurtenant to the Lot occupied by such tenant except pursuant to an express written assignment complying with this Declaration). Each Owner shall cause his, her or its tenants or other Occupants to comply with the Master Declaration, this Declaration, any applicable Tract Declaration, the Articles, the Bylaws, the Association Rules and the Guidelines and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants or Occupants, notwithstanding the fact that such tenants or Occupants are also fully liable for any violation of each and all of those documents.

31. **Encroachments.** There are reserved and granted for the benefit of each Lot over, under and across each other Lot and Parcel and the Common Area, and for the benefit of the Common Area, over, under and across each Lot and Parcel, non-exclusive easements for encroachment, support, occupancy and use of such portions of the Lots and/or Common Area as are encroached upon, used and occupied as a result of any original construction design, accretion, erosion, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building or structure or any portion thereof, or any other cause. In the event any improvements on a Lot or on the Common Area, are partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for the maintenance of the encroaching improvement(s) shall exist for as long as the encroachment exists; provided, however, that no easement of encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement of encroachment may but need not be cured by repair and restoration of the structure.

32. **Restrictions of Master Declaration.** In the event the use restrictions of the Master Declaration are more restrictive than that contained herein, the restrictions of the Master Declaration shall control.

ARTICLE XI

DESTRUCTION OF THE PUEBLO OR ITS ELEMENTS

1. **Destruction of Common Area.** In the event of partial or complete destruction of the Common Area, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as practicable in a lawful and workmanlike manner. The proceeds of any insurance policies shall be made available for such purposes subject to prior rights of First Mortgagees whose interests may be protected by said policies. In the event that the amount available from the proceeds of such insurance policies for such partial reconstruction shall be inadequate, the Association shall cause such reconstruction to be accomplished and the Owners to be assessed for their respective shares of the necessary funds for reconstruction, over and above the amount of any insurance proceeds available for such purpose; provided, that in the event of a determination by a seventy-five percent (75%) vote of the Owners entitled to vote that the cost of such reconstruction deficiency would be so substantial that it would not be in their best interest to proceed with the same, the proceeds of any insurance policies shall be deposited into the Association's operating or replacement fund, as the case may be, subject to the prior rights of First Mortgagees.

2. **Destruction of Individual Unit(s).** In the event of a total or partial destruction of any individual Dwelling Unit or group of Dwelling Units not affecting any portion of the Common Area, it shall be the responsibility of the individual Dwelling Unit Owner(s) to rebuild said Dwelling Unit(s) using such insurance proceeds available and allocable for said purpose, subject to prior rights of First Mortgagees whose interest may be protected by said proceeds, and the same shall be done as promptly as practicable in a lawful and workmanlike manner and in compliance with all other provisions of this Declaration, including, but not limited to Article IX. If available insurance proceeds are insufficient or the Owner fails to complete the reconstruction of the Dwelling Unit or portions thereof so damaged or destroyed within a reasonably prompt period of time thereafter, the Association may determine to raze or repair or rebuild such portions, with any sums so expended secured by the Association Lien on such Dwelling Unit(s), and if necessary, the Board shall levy Special Assessments to pay for such actions.

3. **Condemnation of Common Area.** If at any time all or any portion of the Common Area shall be taken for any public or quasi-public use, under any right of condemnation or eminent domain or by private purchase in lieu thereof, all proceeds therefrom shall be first paid to satisfy the balance due to any valid First Mortgagee and then to the owner or owners of the fee title to such portions so

taken, as their interests may appear. Any such award to the Association, or to others so entitled holding fee title for the benefit of the Association and its Members, shall be deposited into the Association's operating or replacement fund, as the case may be. No Owner shall be entitled to any portion of such award, and no Owner shall be entitled to participate as a party, or otherwise, in any proceedings related to such condemnation or similar action, such right of participation being herein reserved exclusively to the Association or other holder of the fee title which shall, in its name alone, represent the interests of all Owners to the extent such Owners have any interest.

4. **Condemnation of Dwelling Units.** If at any time all or any portion of any Dwelling Unit shall be taken for any public or quasi-public use, under any right of condemnation or eminent domain or by private purchase in lieu thereof, all proceeds therefrom shall be first paid to satisfy the balance due to any valid First Mortgagees and then to the owner or owners of the fee title to such Dwelling Unit(s) as their interest may appear.

ARTICLE XII

GENERAL PROVISIONS

1. **Term.** All of the covenants, conditions, restrictions and other provisions of this Declaration (as amended from time to time in accordance with the provisions hereof): (a) shall run with and bind The Pueblo; (b) shall inure to the benefit of and shall be enforceable by the Association or by an Owner, and their respective legal representatives, heirs, successors and assigns; and (c) shall remain in full force and effect until January 1, 2050, at which time said conditions, covenants, restrictions and other provisions, unless revoked by an affirmative vote of Members holding not less than seventy-five percent (75%) of all votes in the Association, shall automatically be extended for successive periods of twenty-five (25) years each, until revoked in the manner provided above. Notwithstanding any such revocation of this Declaration, each Owner of a Lot (and such Owner's Occupants, tenants, agents, guests and invitees) shall nevertheless have a permanent easement across the Common Area for access to such Lot and for access to and use of such recreational facilities as may exist on the Common Area at the time of such revocation.

2. **Amendment.** Except as otherwise expressly provided herein, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Members holding at least seventy-five percent (75%) of the votes in each class of Members. No amendment to this Declaration shall be effective unless and until such amendment is recorded. Further, so long as the Class B membership exists, no amendment to this Declaration shall be effective without the prior approval of the FHA and VA.

3. **Easements for Utilities.** There is hereby reserved to the Association the power to grant easements upon, across, over and under the Common Area for installation, replacement, repair, and maintenance of master television antenna systems, security and similar systems, and all utilities, including, but not limited to, water, sewer, telephone, cable television, gas and electricity, and for delivering or providing public or municipal or municipal services such as refuse collection and fire and other emergency vehicle access (which easements shall also include appropriate rights of ingress and egress to facilitate such installation, replacement, repair and maintenance, and the delivery or provision of such public, municipal or emergency services), provided, that no such easement shall pass over, under or through or interfere with a Dwelling Unit or its reasonable use and such easements shall require the holder of the easement to repair any damage caused by the property of any Owner.

4. **No Partition.** No Person acquiring any interest in the Property or any part thereof shall have a right to, nor shall any person seek, any judicial partition of the Common Area, nor shall any Owner sell, convey, transfer, assign, hypothecate or otherwise alienate all or any of such Owner's interest in the Common Area or any funds or other assets of the Association except in connection with the sale, conveyance or hypothecation of such Owner's Lot or Dwelling Unit (and only appurtenant thereto), or except as otherwise expressly permitted herein. This Section shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property (other than disposition of title to the Common Area) which may or may not be subject to this Declaration.

5. **Property Held in Trust or by Affiliates of Declarant.** Any and all portions of The Pueblo which are now or hereafter held in a subdivision or similar trust or trusts (or similar means of holding title to property), the beneficiary of which trust(s) is Declarant, shall be deemed for all purposes to be owned by Declarant and shall be treated for all purposes in the same manner as if such property were owned in fee by Declarant. No conveyance, assignment or other transfer of any right, title or interest in or to any of such property by Declarant to any such trust (or the trustee thereof) or to Declarant by any such trust (or the trustee thereof) shall be deemed for all purposes to be a sale of such property or any right, title or interest therein. Similarly, except and to the extent otherwise expressly stated in a recorded instrument executed by Declarant, any and all portions of The Pueblo which are now or hereafter owned or held by an Affiliate (as defined below) of Declarant shall be deemed for all purposes to be owned by Declarant and shall be treated for all purposes under this Declaration in the same manner as if such property were owned in fee by Declarant. Except and to the extent otherwise expressly stated in a recorded instrument executed by Declarant, no conveyance, assignment or other transfer of any right, title or interest in or to any such property by Declarant to any Affiliate, or from any Affiliate to Declarant, shall be deemed for all purposes to be a sale of such property or any right, title or interest therein. For purposes of this

Section, the term "Affiliate" shall mean any Person controlling, controlled by or under common control with Declarant and shall further include, without limiting the generality of the foregoing, any general or limited partnership having as a general partner Declarant or any subsidiary, parent or any general partner of Declarant, as well as any subdivision or similar trust or trusts having any one or more of the foregoing as beneficiaries. For purposes of this Section, the phrase "for all purposes" shall mean "for all purposes under this Declaration, any Tract Declaration, any Subsidiary Declaration, the Articles, the Bylaws, the Association Rules and Guidelines."

6. FHA/VA Approval. So long as the Class B membership is in existence, the following actions shall not be taken without the prior approval of the FHA or the VA (if and to the extent this Declaration shall have been submitted previously to and approved by the FHA or the VA and, at the time of the action in question, the applicable agency has insured or guaranteed an outstanding loan against a Lot): (a) dedication, conveyance or mortgage of any part or all of the Common Area (except for dedications to the City or other governmental authority for public use); or (b) amendment of this Declaration; or (c) merger, dissolution, or consolidation of the Association.

7. Amendments Requested by Governmental Agency. Notwithstanding any other provision of this Declaration, Declarant shall have the right to amend all or any part of this Declaration to such extent and with such language as may be requested by the FHA, VA, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or other governmental or quasi-governmental agency which issues, guarantees, insures or purchases deeds of trust or mortgages (or securities or other debt instruments backed or secured by deeds of trust or mortgages), or otherwise governs transactions involving deeds of trust or mortgages or instruments evidencing same, or otherwise governs development of The Pueblo, as a condition to such agency's approval of this Declaration, the development encompassing The Pueblo or any subdivision constituting a part of The Pueblo, or as Declarant may conclude in good faith to be necessary to secure such approval of any such agency. Any such amendment shall be effected by Declarant recording an instrument executed by Declarant and appropriately acknowledged, specifying the governmental or quasi-governmental agency requesting such amendment, or whose requirements the amendment is intended to satisfy, and setting forth the appropriate amendatory language. Such amendment shall be effective, without consent or approval of any other Person, on and as of the date the same is recorded, and shall thereupon and thereafter be binding upon any and all Owners or other Persons having any interest in all or any part of The Pueblo. Except as expressly provided in this Section, neither Declarant nor any other Person(s) shall have the right to amend this Declaration except in accordance with and pursuant to the other provisions and requirements of this Declaration.

8. **Declarant's Right to Use Similar Name.** Declarant hereby reserves the right to use, and the Association shall be deemed to have irrevocably consented to the use for any other nonprofit corporation which may be formed or incorporated by Declarant of a corporate name which is the same as or deceptively similar to the name of the Association provided one or more words are added to the name of such other corporation to make the name of the Association distinguishable from the name of such other corporation. Within five (5) days after being requested to do so by the Declarant, the Association shall sign such letters, documents or other instruments as may be required by the Arizona Corporation Commission in order for any other nonprofit corporation formed or incorporated by the Declarant to use such a corporate name.

9. **Temporary Sign Easement.** Declarant hereby reserves to itself and its agents a temporary easement over, upon and across Lots owned by Declarant and those portions of the Common Area adjacent to publicly dedicated streets and roadways for purposes of installing and maintaining signs identifying Persons building upon or developing portions of The Pueblo. The easement reserved hereby shall expire and terminate upon completion of construction and sales activities in The Pueblo, but in no event later than fifteen (15) years after the date this Declaration is recorded.

10. **Declarant's Rights.** Any of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided, further, that no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and/or sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonable required, convenient or incidental to the construction and/or sale of such Lots, including, but not limited to, business offices, signs, model units and sales offices, and Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots or other portions of the property owned by Declarant and any clubhouse or community center which may be owned by the Association, for models, sales offices and other purposes related to Declarant's sales activities on or with respect to the property. This Section may not be amended without the express written consent of Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of: (a) seven (7) years from the date this Declaration is recorded; or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

11. **Interpretation of the Covenants.** Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary

by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of this Declaration shall be final, conclusive and binding as to all persons and property benefitted or bound by the provisions of this Declaration.

12. **Severability.** As determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not effect the validity or enforceability of any of the other provisions of this Declaration, but such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable.

13. **Rule Against Perpetuities.** If any interest purported to be created by this Declaration is challenged under the rule against perpetuities or any related rule, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest. The "lives in being" for computing the period of perpetuities shall be (a) those which would be used in determining the validity of the challenged interest, plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

14. **Change of Circumstances.** Except as otherwise expressly provided in this Declaration, no change of conditions or circumstance shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

15. **Declarant's Disclaimer of Representations.** Anything to the contrary in this Declaration notwithstanding, Declarant makes absolutely no warranties, representations or agreements whatsoever that the plans presently envisioned for the development of The Pueblo, in whole or in part, can or will be carried out, or that any land now owned or hereafter acquired by Declarant is or will be subjected to this Declaration, or that any such land (whether or not it has been subject to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

16. **Limitation on the Declarant's Liability.** Notwithstanding anything to the contrary herein, it is expressly agreed that Declarant shall have no personal liability to the Association, or to any Owner, Occupant or other person, arising under, in connection with, or resulting from this Declaration.

17. **Reference to Covenants in Deeds; Binding Effect.** Deeds to any instruments affecting any Lot or any part of the property may contain the provisions of this Declaration by reference to this Declaration; but regardless of whether any such reference is made in any deed or instrument, each and all of the provisions of this Declaration shall run with and burden The Pueblo and each portion thereof and be binding upon each Owner and Occupant and all other parties having any right,

title, or interest in, or otherwise coming upon, using, or enjoying the property, their heirs, personal representatives, executors, administrators, successors and assigns.

18. **Gender and Number.** Wherever the context of this Declaration so requires, words used in the masculine gender shall include the feminine and neuter genders; words used in the neuter gender shall include the masculine and feminine genders; words in the singular shall include the plural; and words in the plural shall include the singular.

19. **Captions and Titles.** All captions, titles or headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

20. **Relation to Master Association Documents.** The Pueblo, the Association, the Members and this Declaration are subject and subordinate to the Master Declaration, the Architectural Guidelines, the Tract Declarations, and the Master Association and its articles, bylaws and rules, all as are or may be amended. The Master Association's approval of this Declaration does not constitute approval of any rights of Declarant to the extent those rights may conflict with the Master Declaration.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed to be effective as of the date set forth above.

PAR PUEBLO, L.L.C.
By: Par Builders, Inc.
Its: Manager

By: [Signature]

Its: [Signature]

FILED
FEB 23 1995
MARICOPA COUNTY

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 21st day of February, 1995, by Ralph Hagan, the President of Par Builders, Inc., the Manager of Par Pueblo, L.L.C., an Arizona limited liability company.

My commission expires:

Connie F. Sinclair
Notary Public

4c:wp51\hogan\hoganpue.ccr/010695

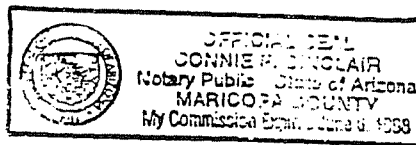


EXHIBIT "A"

Lots 1 through 84, inclusive, The Pueblo at Andersen Springs,
as shown in Book 390 of Maps, page 49, records of Maricopa
County, Arizona.

