

**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF SABINO TOWN & COUNTRY ESTATES**

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**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SABINO TOWN & COUNTRY ESTATES**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sabino Town & Country Estates (this “Declaration”) is made by the owners of the real property described as:

Lots 1 through 77, Sabino Town & Country Estates, a subdivision of Pima County, Arizona, according to the official map or plat thereof of record in the office of the Pima County Recorder in Book 28 of Maps and Plats at page 22 thereof (the “Properties”).

The Owners do hereby declare that this Declaration sets forth a general scheme for the improvement and development of the Properties, which shall be held, conveyed, encumbered, leased and used subject to the following covenants, conditions, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (collectively referred to in this Declaration as the Restrictions). The Restrictions are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Properties. The Restrictions shall run with the Properties, shall be binding upon all persons having or acquiring any interest in the Property, regardless of the source of title of such owners, and shall inure to the benefit of, be binding upon and enforceable by all Owners, the Association and their successors in interest.

**ARTICLE I
DEFINITIONS**

1.1. Association.

“Association” shall mean and refer to Sabino Town & Country Estates Association, an Arizona non-profit corporation, its successors and assigns.

1.2. Common Area.

“Common Area” shall mean and refer to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area comprises all those parcels of land labeled “Common Area A, B and C”, and all other parcels labeled “Common Area,” and shown on the plat of Sabino Town & Country Estates, Lots 1 thru 77.

1.3. Dwelling Unit.

“Dwelling Unit” shall mean and refer to a building or structure designed for single family occupancy and constructed upon a Lot.

1.4. First Mortgage.

“First Mortgage” shall mean and refer to any mortgage, deed of trust or other recorded security instrument by which a Lot, the Common Area or any part or parts thereof is encumbered, and which Mortgage has first and paramount priority, subject only to the lien of general or ad valorem taxes and assessments.

1.5. Governing Documents.

“Governing Documents” shall mean and refer to this Declaration, the Bylaws of the Association, and the Articles of Incorporation of the Association.

1.6. Lot.

“Lot” shall mean and refer to any Lot shown upon the recorded subdivision plat of Sabino Town & Country Estates with the exception of the Streets and Common Area.

1.7. Member.

“Member” shall mean and refer to every person or entity that holds membership in the Association.

1.8. Owner.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee-simple title to any Lot which is a part of the Properties, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

1.9. Properties.

“Properties” shall mean and refer to that certain real property hereinbefore described.

**ARTICLE II
COMMON AREA**

2.1. Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(A.) The right of the Association to establish rules and regulations for any recreational use of the Common Areas.

(B.) The right of the Association to dedicate, transfer, or convey all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, and shall conform to all County Ordinances and subdivision regulations as they exist or as they may be amended. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds of the Members and has been recorded.

**ARTICLE III
THE ASSOCIATION**

3.1. Purpose of Association.

The affairs of the Association shall be conducted by the Sabino Town & Country Estates Association, an Arizona non-profit corporation. The Association shall be responsible for the proper and efficient operation and management of the affairs of the Association and the Common Area as more particularly described herein.

3.2. Articles and Bylaws.

The manner in which the Association holds meetings and attends to other corporate formalities shall be controlled by the provisions of the Bylaws, the Articles of Incorporation and this Declaration, which Declaration shall control in the event of conflict.

3.3. Identity of Members.

Every Owner of a Lot shall be a Member of the Association and such membership shall be appurtenant to and may not be separated from ownership of a Lot.

3.4. Voting Rights.

There shall be one vote allocated to each Lot in all Association matters. Voting rights and procedures are set forth in the Bylaws of the Association.

**ARTICLE IV
COVENANT FOR ASSESSMENTS**

4.1. Creation of the Lien and Personal Obligation for Assessments.

Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (A.) Annual assessments or charges; and
- (B.) Special assessments for capital improvements.

Such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees for collection, shall be a charge upon the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees for collection shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

4.2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas. Included in these purposes, the Association may purchase insurance to protect the interests and property of the Association and those of its elected directors and officers while serving in their elected capacity.

4.3. Annual Payment of Taxes and Insurance Premiums.

Taxes and insurance on the Common Areas and insurance to protect the Association's elected directors and officers will be billed to and paid by the Association from the annual assessment.

4.4. Annual Assessment Amount.

The Board of Directors may increase the annual assessment no more than 10% above the prior year's annual assessment. To increase the annual assessment more than this amount, the assent is required of 2/3rds of the Owners who are voting in person or by absentee ballot at a duly-held meeting called for that purpose, the quorum for which shall be 51% of the Owners who are eligible to vote.

4.5. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstructions, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the Owners who are voting in person or by absentee ballot at a duly-held meeting called for that purpose, the quorum for which shall be 51% of the Owners who are eligible to vote.

4.6. Uniform Rate of Assessments.

Annual and special assessments must be fixed at a uniform rate for all Lots.

4.7. Due Dates.

The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto via first class U.S. Mail or email. The due date for payment of the annual assessment shall be January 31 of each year. Special assessments may be collected on a quarterly basis or as otherwise decided by the Association's Board of Directors. The Association shall, upon demand, and for a charge, furnish a certificate signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

4.8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 10% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his/her Lot.

4.9. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the Association's assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**ARTICLE V
USE RESTRICTIONS**

5.1. Common Area Use.

The Common Area is for the use of Association Members and their guests, tenants and invitees only.

- (A.) The Common Areas shall be used for no purpose other than drainage, underground utilities and bicycle, pedestrian and equestrian passage for Members and their guests. All Common Area use shall comply with Pima County, Arizona, laws and ordinances; for example, all domestic animals shall be leashed in the Common Areas and their owners shall remove any waste deposited by said animals.
- (B.) All motorized vehicles are prohibited from the Common Areas with the exception of vehicles used in maintenance or similar activities for the improvement of the Common Areas.
- (C.) The Common Area shall not be used for storage of any property or for dumping of any materials.
- (D.) No Member shall alter the land or vegetation of the Common Area except as authorized by the Association's Board of Directors.
- (E.) No more than 15% of the land within the Common Areas shall be occupied by buildings or structures, which shall be constructed for no purpose other than those described under Section 5.1(A), above, except that meetings of the Association may be conducted in building(s) constructed upon the Common Areas. No building or structure shall be erected on Common Area closer than 75 feet from any Lot line.

5.2. Lot Use.

- (A.) Each and every Lot shall be used for private residential purposes only. No pre-fabricated houses shall be erected upon any Lot in the subdivision.
- (B.) No business or profession of any nature shall be conducted upon any Lot except as allowed under Section 5.2.C. No building or structure, intended for or adapted to business purposes, double house, flat building, lodging house, rooming house, hospital or sanitarium shall be erected, placed, permitted or maintained upon any Lot.
- (C.) An Owner or occupant residing on a Lot may conduct a home business solely within the private confines of a Dwelling Unit so long as:
 - (1.) The existence or operation of the business activity is not apparent from the outside of the Dwelling Unit, and no sound or smell from the outside of the Dwelling Unit indicating the conduct of business is detectable;
 - (2.) The business activity conforms to all zoning requirements for the Properties;
 - (3.) The business activity does not involve frequent or annoying traffic by persons

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coming on the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties;

(4.) The business activity is consistent with the residential character of the Properties and does not constitute a nuisance or hazardous or offensive use, nor threaten the security or safety of other residents of the Properties;

(5.) None of the following occurs: use or storage of heavy equipment or machinery, manufacturing, drilling, or burning.

(D.) No room or rooms in any Dwelling Unit, nor any accessory buildings, or parts thereof may be rented or leased to others by the owner or owners of any Lot; nothing in this paragraph, however, shall be construed as preventing the renting or leasing of an entire Lot, together with its improvements.

(E.) Any building or structure constructed, or any activity conducted upon any of the Lots subject to these restrictions, shall conform in all respects to CR-1 zoning ordinances, permits, and building codes of Pima County, Arizona.

5.3. Architectural Standards.

All of the following shall require approval by the Architectural Review Committee as described in Article V, Architectural Control, prior to construction or placement upon a Lot.

(A.) Each Lot may only have one single-family one-story Dwelling Unit. Alterations to an existing Dwelling Unit or the construction of a new or replacement Dwelling Unit shall be limited in maximum height and profile so as to be compatible with existing homes in the Properties. Replacement of Dwelling Unit roofs or walls resulting in the same height and profile as the roofs or walls being replaced are not subject to this Restriction. Each building with a roof visible from ground level upon neighboring Lots, roads or streets must be covered by a tile, shingle, asbestos or built-up roof covering, or other similar material and shall require approval by the Architectural Review Committee as described in Article VI, Architectural Control, prior to its construction or placement upon a Lot.

(B.) Exterior remodeling of any existing Dwelling Unit, attached structure, storage facility or other outbuilding visible from neighboring Lots, roads or streets shall require approval by the Architectural Review Committee as described in Article VI, Architectural Control.

(C.) All new additions visible from neighboring Lots, roads or streets shall be attached to the Dwelling Unit, shall be constructed with similar external materials as those used in the Dwelling Unit, shall be of similar architectural style and construction materials as existing Dwelling Units in the Properties, and shall require approval by the Architectural Review Committee as described in Article VI, Architectural Control, prior to its construction or placement upon a Lot.

(D.) Any new storage facility or other out building shall require approval by the Architectural Review Committee as described in Article VI, Architectural Control, prior to its construction or

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placement upon a Lot.

(E.) All exterior installations, including solar panels with associated equipment, fences and enclosures shall require approval by the Architectural Review Committee as described in Article VI, Architectural Control, prior to its construction or placement upon a Lot.

(F.) Exterior fences shall be constructed of either:

- (1.) Masonry;
- (2.) Wrought iron or other metal bars of similar appearance; or
- (3.) A combination of these materials.

The exterior fence shall be of similar approved architectural style as those of existing Dwelling Units in the Properties.

(G.) Any swimming pool, associated equipment and accessories constructed on any parcel shall require approval as to size and location by the Architectural Review Committee as described in Article VI, Architectural Control, prior to its construction or placement upon a Lot.

(H.) All clothes lines, equipment, service yards, wood piles, storage piles, trash containers, animal runs and similar devices shall be fenced in (see Section 5.3.F. for exterior fence requirements) or kept screened by adequate planting or other means in such manner as to conceal them from the view of neighboring Lots, roads or streets.

(I.) No radio or television antenna or aerial shall be constructed or installed which shall extend beyond ten (10) feet in height over the highest point of the roof upon which same is installed. No flagpole shall be erected greater than twenty (20) feet above ground level.

(J.) Basketball hoops or stanchions shall require approval as to size and location by the Architectural Review Committee as described in Article VI, Architectural Control, prior to construction or placement upon a Lot. Consideration shall be given to minimize its visibility from neighboring Lots, roads or streets.

(K.) Playground equipment or structures shall require approval as to size and location by the Architectural Review Committee as described in Article VI, Architectural Control, prior to its construction or placement upon a Lot. Consideration shall be given to minimize its visibility from neighboring Lots, roads or streets.

(L.) Portable sports equipment (such as soccer nets, basketball stands, hockey goals, etc.) may not be visible from neighboring Lots, roads or streets except while in use.

5.4. Vehicle Restrictions; Additional Structures and Equipment.

No recreational vehicle, camper, boat, commercial vehicle, construction or like equipment, mobile or stationary trailer of any kind, or automobile storage or parking of a dead or junk automobile or truck, as the same are customarily defined, shall be kept upon any Lot, whether occupied or not, for a cumulative period exceeding a total of 14 days in any calendar year unless same shall be substantially screened from the roadway and from other neighboring Lots and Dwelling Units. Exceptions to the 14-

day limit shall require written approval from the Association.

5.5. Construction Guidelines.

No temporary house, house trailer, tent or other outbuilding shall be placed or erected upon any part of said Lot in any manner at anytime prior to its being fully completed in accordance with approved plan (as hereinafter provided) nor shall any Dwelling Unit, when completed, be in any manner occupied until made to comply with all requirements, conditions and restrictions herein set forth. During the actual construction or alteration of a building upon any Lot, a necessary temporary building for storage of materials, etc., may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any building upon any part of said Lot shall be executed diligently from the commencement thereof until completion thereof.

5.6. Demolition.

No building of any nature shall be removed from outside said Properties to any Lot within said Properties without the express consent of the Association. In the event a building shall be authorized to be placed from without the said Lot, said building shall comply in all respects with each and every provision of this Declaration relating thereto. In the event that any building substantially destroyed by fire or other cause remains unrepaired or is not removed from the Properties within the period of one year from and after such destruction, the Association or its agents shall have a right of entry upon the land for the purpose of removing said building and to charge the expense of such removal to the owner of such Lot.

5.7. Drilling.

No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of the Properties, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products or substances be produced or extracted therefrom. The Association or its successors or assigns may drill for water on the Common Area, if allowed by applicable law, for use by Association Members.

5.8. Advertising and Signage.

No billboards or advertising signs of any character shall be erected upon any Lot, other than a name and address plate of the occupant of any Dwelling Unit with the following exceptions:

- (A.) The erection and maintenance of signs and billboards used in connection with the sale of houses or Lots (including “for sale”, “for lease” and “open house”) in the subdivision providing such signs shall be in conformity with the industry-standard size sign, which shall not exceed 18 inches by 24 inches, and the industry-standard size rider, which shall not exceed 6 inches by 24 inches.
- (B.) The erection and maintenance of political signs upon an owner’s Lot must conform with Chapter 18.79.110 of the Pima County Code, Sign Standards.
- (C.) Temporary signage for special events such as parties, receptions and garage sales may be posted on the day of the event and shall not remain posted longer than two days after the event.

5.9. Lot Maintenance.

No Lot shall be used in whole or in part for the storage of rubbish of any kind, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition. All activities conducted on Lots shall comply with county, state and federal law.

5.10. Animals.

No cattle, sheep, goats, pigs, poultry, rabbits, fowl or other livestock shall be kept or maintained upon any Lot. This restriction shall not be construed as prohibiting the keeping of ordinary domestic animals upon said Lot.

5.11. Native Growth.

Native growth may only be removed from a Lot as necessary for the construction and maintenance of roads, driveways, landscaping, Dwelling Units, garages and other outbuildings, or walled-in service yards and patios.

5.12. Lot Subdivision.

No Lot or Lots shall be subdivided except for the purpose of combining the resubdivided portions with another adjoining Lot or Lots, provided that no additional Lot is created thereby. Any ownership or single holding by any person comprising parts of two adjoining Lots or of the whole of one Lot and part or parts of one or more adjoining Lots shall for all purposes of this declaration of conditions and restrictions, be deemed as constituting a single Lot.

5.13. Lot Activities.

All activities conducted upon Lots shall comply with county, state and federal law.

ARTICLE VI
ARCHITECTURAL CONTROL

6.1. Owner Responsibility.

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to, or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Board of Directors of the Association, or by an Architectural Review Committee composed of three or more representatives, including one Board Member, appointed by the Board.

Plans and specifications must be sent via certified mail, return receipt requested, to Sabino Town & Country Estates' post office box or hand delivered to its representative to the Architectural Review Committee. If sent via certified mail, the applicant's receipt signed by a Sabino Town & Country Estates representative shall constitute proof of delivery.

If the applicant does not receive a response from the Board or its representative to the Architectural Review Committee within 10 business days that their request has been received, the applicant must make a verifiable attempt to insure the request has been received by the Association's Board of Directors or its representative to the Architectural Review Committee.

6.2. Association Responsibility.

In the event the Board or its Architectural Review Committee fails to approve or disapprove such design and location within 30 days after said plans and specifications have been received by it, approval will not be required and this Article will be deemed to have been fully complied with.

Upon receipt of the application from the applicant, the Association's Board of Directors or its representative to the Architectural Review Committee must notify the applicant without delay of the date that the request has been received and is in process.

The Architectural Review Committee will review the request, and with the concurrence of a majority, will recommend approval or disapproval. The criteria for approval or disapproval will be the specific provisions listed in Article V of this document, including that the proposed construction will be of similar architectural style and construction materials as existing homes in the Properties. If the provisions herein are vague or unclear, the Board or its Architectural Review Committee will apply criteria that are similar to existing homes in the Properties and consistent with previous rulings.

The Architectural Review Committee will respond with approval or disapproval to the applicant using certified mail, return receipt requested, or other verifiable form of delivery. If disapproving the request, the Architectural Review Committee must provide the reason(s) for disapproval and, if possible, provide alternatives that could facilitate approval.

6.3. Owner Recourse.

In the event of disapproval by the Architectural Review Committee, the applicant shall have the right to a review of the Committee's decision by the Board of Directors.

**ARTICLE VII
ENFORCEMENT**

7.1. Right of Association to Enforce.

The Association or any Lot Owner has the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Declaration. This shall include enforcement of Rules and Regulations adopted by the Association's Board of Directors to carry out its purposes and duties under this Declaration.

7.2. Enforcement Procedures.

If a violation of the Declaration has been brought to the attention of the Board of Directors, the following four-step enforcement procedure will be followed:

STEP 1:

(A.) Informal Notification.

When a violation of the Declaration or an Association Rule is noted or reported to the Association's Board of Directors, an authorized Association representative will contact the Lot Owner in writing via first class U.S. mail or hand delivery. This informal notification will describe the violation and request that the Lot Owner rectify it within the following two weeks.

STEP 2:

(B.) First Notice of Violation.

If the Lot Owner has failed to correct the violation within two weeks from the date of the informal notification, a first notice of violation will be sent to the Lot Owner of record via certified mail, return receipt requested, with a timetable for corrective action, which will be at least 10 business days from the date of the notice.

(C.) Contents of First Notice.

The first notice of violation from the Board of Directors or its authorized agent shall provide at least the following information:

- (1.) The rule or restriction that allegedly has been violated.
- (2.) Action(s) required to cure the violation.
- (3.) The date of the violation or the date the violation was observed.
- (4.) The first and last name of the person(s) who observed the violation, which may be a member of the Board of Directors or the Board's authorized agent.
- (5.) A copy of this Article to ensure the Lot Owner is aware of the process he or she must follow to contest the notice.

(D.) Contesting the Notice of Violation.

If the Lot Owner wishes to contest the first notice of violation, he or she shall provide the Board with a written response by certified mail, return receipt requested, within 10 business days after the date of the Association's first notice of violation, which shall include a request for any additional information he or she requires. This response shall be sent via certified mail, return receipt requested, to the Association at the address shown on the notice of violation.

(E.) Response by Association to Owner.

Within 10 business days after receipt of the Lot Owner's response, the Board or its authorized agent shall respond to the Lot Owner with a written explanation via certified mail, return receipt requested, regarding the notice of violation, and shall provide any additional information the Lot Owner reasonably requires.

STEP 3:

(F.) Second Notice of Violation.

After the procedure in 7.2.C and 7.2.E is completed, or after the initial 10 business day notice period set forth in the first notice of violation, if the Lot Owner has not responded, a follow-up inspection will be conducted by the Board or its authorized agent. If the Lot Owner has not cured the violation(s) within the time specified, a second notice of violation will be sent via certified mail, return receipt requested, wherein the Lot Owner will be instructed to cure the violation(s) within 7 calendar days after the date of the second notice.

STEP 4:

(G.) Notice of Hearing.

A follow-up inspection will be conducted on or after the deadline date of the second notice of violation. If the non-compliance still has not been corrected, the Board shall send the Lot Owner a "Notice of Hearing" via certified mail, return receipt requested, wherein the Owner will be invited to attend the next Board Meeting and have the opportunity to be heard. In the event the next scheduled Board meeting is more than 30 days away, the Board may schedule an Executive Hearing Panel Session to be held not sooner than 14 days (except with concurrence by the Owner for an earlier meeting) from the date of the mailing of the "Notice of Hearing". The date, time and location of the hearing shall be stated in the Notice of Hearing.

(H.) Hearing Panel.

A quorum of the Board of Directors shall act as the Hearing Panel at the Board's regularly-scheduled meeting or at the specially scheduled Executive Hearing Panel Session. The Hearing will be held in executive session after the conclusion of the open Board meeting. If an Executive Hearing Panel Session is conducted, no other Association business may be discussed at this meeting.

(I.) Designated Representative.

A Lot Owner may present to the Board, prior to the Hearing, written notification that another person is the Owner's designated representative. A designated representative may speak on behalf of the Owner.

(J.) Procedure for Hearing.

The Lot Owner and/or his/her designated representative will be given an opportunity to present supporting documentation and testimony to show cause why other enforcement action should not be taken against the Owner by the Board. At the conclusion of this meeting, the Lot Owner and/or his/her representative will be dismissed and the Hearing Panel will continue the meeting to arrive at its decision.

(K.) Proof of Delivery of Notice.

Proof of delivery to the Lot Owner of the Notice of Hearing shall be deemed adequate if a copy of the Notice, together with a statement of the date and manner of delivery is entered into the minutes of the meeting, by the officer, director or agent who mailed via certified mail, return receipt requested, or delivered the notice.

(L.) Procedure if Owner or Representative Does Not Appear.

If the Lot Owner or his/her representative does not appear at the Hearing, the Board may refer the matter to the Association's attorney for further action. All attorney costs shall be borne by the Lot Owner who does not appear, and/or have his/her representative appear, at the Hearing.

(M.) Hearing Panel's Decision.

If a Hearing is conducted, notice shall be sent via certified mail, return receipt requested, to the Lot Owner by the Board or its designated representative within 15 days after the date of the Hearing Panel's decision.

(N.) Post-Hearing Decision Grace Period.

An additional grace period of 10 days, beyond the date of receipt of the decision of the Hearing, will be granted for correction of any violation brought before the Hearing Panel.

(O.) Referral to Attorney.

If violation correction has not been obtained at the conclusion of this process, the Board may refer the matter to the Association's attorney for further action. Unless the matter goes to court and the Lot Owner prevails, all attorney costs shall be borne by the Lot Owner who has not corrected the violation.

7.3. No Obligation to Enforce.

The Association is not obligated to take any enforcement action if the Board determines, in its sole discretion, that because of considerations pertaining to the Association's finances, possible defenses, the time and expense of litigation or other enforcement action, the likelihood of a result favorable to the Association, or other factors deemed relevant by the Board, enforcement action would not be appropriate or in the best interests of the Association.

7.4. Notice of Violation.

In the event that any Owner, his/her guests, tenants or family members are in violation of any of the provisions of the Governing Documents, the Association, after providing notice and an opportunity to cure the violation, has the right to record a "Notice of Violation" with the Pima County Recorder's Office, stating the name of the Owner, the Lot and the nature of the violation, and the Association's

intent not to waive any of its rights of enforcement. The Notice shall remain of record until the violation is cured.

7.5. Cumulative Rights and Remedies.

All rights and remedies of the Association under the Governing Documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy.

7.6. Violation of Law.

Each and every provision of this Declaration, as amended from time to time, is subject to any and all applicable federal, state and local governmental rules and regulations, ordinances and subdivision regulations. Any violation of any federal, state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Properties is declared to be a violation of the Governing Documents and subject to any and all enforcement procedures set forth in the Governing Documents.

7.7. Attorney Fees.

The prevailing party in any Court action shall be awarded reasonable attorneys' fees and costs. If no Court action is brought, the Association shall be reimbursed by the pertinent Owner(s), all reasonable attorneys' fees and costs it incurs in enforcing the Governing Documents.

7.8. Waiver.

No delay or omission on the part of the Association in exercising its right to enforcement of this Declaration shall be construed as a waiver of or acquiescence in any breach of any of the restrictions and covenants. No right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against the Association for or on account of its failure or neglect to exercise any right, power or remedy herein provided for in the event of any such breach, or for imposing herein provisions, conditions, restrictions or covenants which may be unenforceable.

**ARTICLE VIII
GENERAL PROVISIONS**

8.1. Mortgagee's Rights and Obligations.

A violation of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property. But such provisions, conditions, restrictions and covenants shall be enforceable against any portion of said property acquired by any person through foreclosure or by deed in lieu of foreclosure of any violation of the provisions, conditions, restrictions and covenants herein contained occurring after the acquisition of said property through foreclosure or deed in lieu of foreclosure.

8.2. Severability.

In the event that any one or more of the provisions, restrictions and covenants herein set forth shall be held by any court of competent jurisdiction to be null and void, all remaining provisions, conditions, restrictions and covenants herein set forth, shall continue unimpaired and in full force and effect.

8.3. Interpretation.

The Board of Directors has 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 Board's construction or interpretation of the provisions of the Governing Documents shall be final, conclusive and binding on all Owners.

8.4. Amendment.

This Declaration may be amended by the affirmative vote of 75% of the Lot Owners. Any amendment shall become effective upon recordation with the office of the County Recorder of Pima County, Arizona, including a certificate of the President and Secretary of the Association, certifying that, at a meeting of the Owners, duly called, or by mail vote, the Owners of at least 75% of the Lots consented to such amendment, and that copies of such written consents are in the corporate records of the Association.

**ARTICLE IX
SUBORDINATION AND UTILITIES**

9.1. Subordination.

All of the covenants, conditions and restrictions herein are subject to all ordinances and subdivision regulations of Pima County and the State of Arizona as they now exist or as hereafter amended.

9.2. Utilities.

Electric power and water service will be made available through private utility companies or government utilities authorized by the State of Arizona. The Association guarantees no certain quality or quantity of water or electric power to be furnished by said private companies or government utilities and shall in no event be liable for any shortage of water or electric power, due to causes beyond the control of Sabino Town & Country Estates.

**ARTICLE X
TRANSFER OF PROPERTY OWNERSHIP**

10.1. Notification of Property Transfer.

Owners shall notify the Association, in writing, of their intention to sell or otherwise transfer their interest in a Lot. The Association requires the name and address of a proposed purchaser, or their agent, in order to provide the purchaser, or their agent, with required Association documents.

10.2. Property Transfer Document Preparation Fee.

Buyers shall be assessed a property transfer document preparation fee at the time property ownership is transferred to them to cover the Association's costs of complying with applicable Arizona statutes. The Board of Directors may raise this fee by up to 10% per year without a vote of the Membership. An annual increase in excess of 10% requires the approval of two-thirds of the Members.

**ARTICLE XI
PRIOR DECLARATIONS SUPERSEDED**

This Declaration supersedes and replaces all previous Declarations of Covenants, Conditions and Restrictions pertaining to Sabino Town & Country Estates as recorded in the office of the Pima County Recorder, including:

- A) Docket Book 12556 at pages 609-618, dated May 19, 2005;
- B) Docket Book 12483 at pages 1690-1698, dated February 4, 2005;
- C) Docket Book 10730 at pages 371-380, dated February 9, 1998; and
- D) Docket Book 5477 at pages 707-717, dated March 7, 1977.

IN WITNESS WHEREOF, the undersigned certify that at least 75% of the Members in Good Standing have consented in writing to the adoption of this Amended and Restated Declaration. The signed consents are attached.

SABINO TOWN & COUNTRY ESTATES CORPORATION,
an Arizona non-profit corporation

President

ATTEST:

Secretary

State of Arizona
County of Pima

This instrument was acknowledged before me this ____ day of _____, 201__, by _____, President of Sabino Town & Country Estates Association, an Arizona non-profit corporation.

Notary Public _____