

**BY-LAWS**  
**VILLAGE OF OAKCREEK ASSOCIATION**  
**An Arizona Non-profit Corporation**

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**BY-LAWS**  
**OF**  
**VILLAGE OF OAKCREEK ASSOCIATION**  
An Arizona Non-profit Corporation

**ARTICLE I: DEFINITIONS**

Unless the context clearly indicates a different meaning, the following terms as used in these By-Laws are defined as follows:

**1. *Articles***

“Articles” means the Articles of Incorporation of the VILLAGE OF OAKCREEK ASSOCIATION which are filed in the Office of the Arizona Corporation Commission, as the Articles may be amended.

**2. *Association***

“Association” means VILLAGE OF OAKCREEK ASSOCIATION, an Arizona non-profit corporation, its successors and assigns, formed as an entity through which the Owners may act in accordance with the Master Declaration, other Declaration, Articles, and By-Laws.

**3. *Board***

“Board” means the Board of Directors of the Association.

**4. *Declaration***

“Declaration” means the Declaration of Restrictive Covenants or the Declaration of Horizontal Property Regime applicable to a Lot or Unit located within the Village of Oakcreek whether or not adopting the provisions of the Master Declaration.

**5. *Department***

“Department” means a reporting division of the Association.

**6. *Lot***

“Lot” means a lot or tract, as platted on a recorded plat of a sub-division located in the Village of Oakcreek.

## **7. Master Declaration**

“Master Declaration” means Master Declaration of Restrictive Covenants for All Property in the Village of Oakcreek, recorded June 17, 1981, in Book 1389 Official Records, at Pages 950-976, inclusive of Yavapai County, Arizona, as the same may be amended.

## **8. Member**

“Member” means the Owner of a Lot or Unit.

## **9. Owner**

“Owner” means the record Owner, whether one or more persons or entity, of equitable title (or legal title if equitable title has emerged therewith) to a Lot or Unit. Owner does not include a person or entity holding an interest in a Lot or Unit merely as security for the performance of an obligation.

## **10. Unit**

“Unit” means any parcel of property located in the Village of Oakcreek described other than by subdivision lot number and includes a condominium unit as recognized and described by the Arizona Horizontal Property Regime.

## **11. Village of Oakcreek**

“Village of Oakcreek” means the geographical area of Yavapai County, Arizona, comprised of property which by declaration of restrictive covenants running with the title to the property provide for membership of the Owners in the Association.

## **12. Assessment**

“Assessment” means a levy on each Lot or Unit located in the Village of Oakcreek for the purpose of raising revenue for the Association to be used for its operations, management, payment of taxes, expenses and capital improvements.

## **13. Mail**

“Mail” means to deposit or have deposited a communication in the U.S. mails.

## **14. Common Area**

“Common Area” means real property owned by the Association and maintained for the common use and enjoyment of Owners and shall include, but not limited to, the golf course, community center, community facilities, tennis courts, driveways, parking areas, and all other development or improvement thereon.

## **15. Limited Proxy**

“Limited Proxy” means the delegating of vote by a Membership to a Committee, another Member, an Attorney or Agent at a regular or special meeting of Members to vote on a specific issue on the agenda. Such proxy shall become void upon the adjournment of the meeting.

## **16. Active Golf Course Member**

“Active Golf Course Member” means an Owner who meets the requirements for Active Membership and has paid the applicable lifetime initiation fee established for Oakcreek Country Club.

## **ARTICLE II: PURPOSE, LOCATION AND CORPORATE SEAL**

### **1. Purpose**

This Non-profit Corporation, known as the Village of Oakcreek Association, has been organized as a Non-profit Arizona Corporation to develop a Home-Owners Association with restrictive Lot-Owners and common area covenants, and to develop and maintain recreational and other facilities for the benefit of its Members. The Association shall conduct its affairs and operations as authorized by the Arizona statutes pertaining to non-profit corporations.

### **2. Principal Offices**

The principal office of the Association shall be 690 Bell Rock Boulevard, Sedona, Arizona, or such other place as the Board may designate within Yavapai County.

### **3. Corporate Seal**

A corporate seal shall not be requisite to the validity of any instrument executed by or on behalf of the Association, but if a corporate seal be used, the seal shall have inscribed thereon the name of the Association, the State, and year of incorporation.

## **ARTICLE III: MEMBERSHIP**

### **1. Qualifications and Voting Rights**

The Owner or Owners of a Lot or Unit of the Village of Oakcreek shall be required to become and to remain a Member of the Association. Each Lot or Unit shall be entitled to one (1) vote and a Member shall be entitled to as many votes as the number of lots which he, she, or common owners own. Each Lot shall have one vote regardless of the number of common owners thereof, which vote shall be cast as such common owners agree. A Membership shall not be liable for debts, obligations or liabilities of the Association. An individual ceases to be a Member of the Association when ownership of a Lot or a Unit ceases. A Membership shall be responsible for the payment of annual assessments as detailed in Article VII of the By-Laws.

### **2. Classes of Membership**

There shall be two classes of Membership, Active and Inactive. An Active Membership shall be a membership with the right to vote, participate in all social activities, and use the common areas of the Association. An Inactive Membership shall be deemed when the Membership is in violation of the rules and regulations of the Association or Board, or in default of assessments, dues, or fees of the Association. Other classes of membership may be prescribed.

### **3. Registry of Owners**

A Registry of Ownership of Active and Inactive Members and their addresses shall be maintained in the office of the known place of business, along with relevant books, records, and minutes of the Association. The Registry of Owners, books, records and minutes shall be open for examination as provided by Arizona State statute by any Active Member upon written demand stating the purpose of the examination. The examination may be in person or by agent or attorney at any reasonable time. Copies of, or extracts, may be made from the Registry, books, records, or minutes.

#### **4. Active Membership**

To participate in the activities conducted by the Association, Active Members must be registered in the Registry of Ownership Members of the Association. They shall pay annual assessments, applicable dues, fees or fines in a timely manner and obey all rules and regulations adopted by the Association. Only Active Members shall be entitled to vote or use the common areas and Association Facilities.

#### **5. Guests**

Guests of an Active Member shall be entitled to the use and enjoyment of the common areas and facilities subject to any rules or regulations as may be adopted by the Board of Directors.

### **ARTICLE IV: MEETING OF MEMBERS**

#### **1. Place, Eligible Vote, Quorum and Proxy**

Meeting of Members shall be regular or special, held at the principal office of the Association or at such other designated place within the County of Yavapai. Only an Active Member listed in the Registry of Owners may vote in person, by mail, or by proxy. A majority of affirmative votes cast shall be required for passage of any resolution and twenty (20) percent of the registered memberships shall have voted to constitute a quorum unless stated differently in the Articles of Incorporation, these By-Laws, or Declarations of the Association.

A Limited Proxy as defined in Article I (Definitions) of these By-Laws shall be permitted provided a proxy form has been properly filled out and registered before the meeting with the Secretary of the Board. A proxy may vote the issue stated in the agenda or as amended at the regular or special meeting.

#### **2. Regular Meeting**

There shall be one (1) regular meeting of the Members. The Annual Meeting of the Members shall be held the third Saturday of April at 2:00 P.M. unless the date or time is in conflict with member participation, in which case, the time and/or date may be changed by the Board, provided the Meeting occurs within eight (8) days of the originally scheduled Meeting.

Announcements of the time and date of the Regular Meetings shall be sent by mail by the Secretary of the Board thirty (30) days beforehand to all Active Members. The Annual Meeting shall be accompanied by a "State of the Association" message prepared by the President of the Board, along with the agenda for the meeting. Copies of the minutes of the last Meeting shall be available for review by any Active Member.

#### **3. Special Meetings and Notices**

Special meetings of Members may be called by the President of the Board, or an affirmative vote of five (5) Board Directors, or petition signed by one hundred (100) Lot Owners stating the reason for such meeting. Notice of the meeting, the place, date and time shall be announced by mail to each Membership between ten (10) and fifty (50) days beforehand.

## **ARTICLE V: DIRECTORS**

### **1. General Powers**

The affairs of the Association shall be managed by a Board of Directors with the power given to non-profit corporations by the Arizona Statutes and under guidelines provided by these By-Laws or as hereinafter amended. Actions by the Board shall be directed to protect and administer the Associations property, both real and personal, and for the benefit of Members of the Association. To properly administer the Associations operations and protect its property, the Board shall be given the authority to adopt and supervise rules and regulations which are not in conflict with the Articles of Incorporation, these By-Laws, the Arizona Statutes, or any Association Declarations. Such adopted rules and regulations shall be placed in writing and posted for Members inspection or sent by mail to Members.

### **2. Number, Qualification and Term**

The Association shall have seven (7) Directors. The Directors term of office shall be staggered so that a vacancy of two (2) occurs one year, followed at the next annual election by two (2) vacancies, followed at the next annual election by three (3) vacancies, after which the staggered cycle shall recur. A Director's term of office shall be three (3) years, unless said term is terminated by reason of death, resignation, removal or cessation of Membership. A Director's term of office shall begin and end on the date of the first meeting of the Board after the Annual Election of Directors. Any Active Member of the Association may be a Director and a Director must be a Member of the Association and a resident of the State of Arizona

### **3. Election**

- A. At least three months prior to the Annual Meeting of Members, the President, with approval of the Board shall appoint an Election Committee consisting of one current Director (not the President) and two non-Board Active members.
- B. Within thirty (30) days of appointment, it shall be the responsibility of the Election Committee to communicate to each Membership the number and length of term of vacancy for Directorship. Any Active Member who requests to be listed as a Candidate for Director on the proxy ballot mailed as per 3.C. below, shall submit timely application to the Election Committee. The Election Committee shall confirm the eligibility of each Candidate and each eligible Candidate shall be listed on the proxy ballot.
- C. At least four (4) weeks prior to the Annual Meeting, proxy ballots and instructions shall be mailed to each Active Member, naming the Candidate, his or her biographical resume and reason for running. A return envelope shall accompany the proxy ballot upon which has been placed the return address of the Association office and the number of the Active member as listed in the Registry of Voting Memberships. The number on the sealed proxy ballot shall be used to confirm the correct Active Member. The proxy ballot may be mailed or hand delivered at the office. An Active Member registered for more than one (1) Lot shall receive as many proxy ballots as the number of Lots to which he or she is registered. A voting member may choose to vote in person or by limited proxy at the Annual Meeting.
- C. A Tally Committee, previously appointed by the Board, to consist of three (3) non-Board Active Members and one (1) Board member, none of whom are on the Election Committee, shall confirm for compliance, open, and count the returned proxy ballots and those received at the Annual Meeting. Over the signatures of the Tally Committee, the results of the election shall be transmitted to the President. Said tally shall include the total number of votes cast and counted, the number of votes voided, and the total number of votes received for each candidate. The President shall announce the results at the Annual Meeting. All ballots shall be kept on file for one (1) year.
- D. Of the candidates elected, the candidate(s) with the lowest number of votes will fill any un-expired term(s) caused by a Directorship vacancy.

- F. In case a vacancy occurs before the proxy ballots are mailed, the Election Committee shall either inform the members that additional votes may be cast if the slate contains sufficient Candidates, or, if available, shall add another Candidate. If not, item No. 4 of this Article V shall apply.

#### **4. Vacancies**

A Directorship shall be deemed vacant upon the death, removal, resignation, cessation of ownership in the Association or creation of a new Directorship. The Board, by a majority vote of the remaining Directors, may appoint an Active Member to complete the year of the vacancy. The Board may appoint up to three (3) vacancies during one (1) calendar year. If four (4) or more vacancies occur, a special election of the Membership shall be conducted for all vacancies, including any previously appointed Directors. If vacancies reduce the number of elected Directors below three (3), the remaining Directors shall call a special election by the Members to elect Directors to the vacant Directorships, including any previously appointed Directors. If a By-Law amendment reduces the number of Directorships, the Director of the eliminated Directorship shall be permitted to complete the term of office, except if it became vacant because of death, resignation, removal, or cessation of membership in the Association.

Note: Amended 11-7-92

#### **5. Removal of Directors**

Any Director may be removed at any time, with or without cause, by the affirmative vote of three-fourths (3/4) of the Members present in person or by proxy at a special meeting of the Membership called for such purpose.

#### **6. Place of Meetings**

The Board shall hold any open Board meetings, both regular and special, at the known place of business of the Association.

#### **7. Regular Meetings**

Regular meetings of the Board shall be monthly, except the month of the Regular Meeting of Members, at a specified time and day as determined by a majority vote of Directors at the first meeting following the Annual Meeting of Members. An agenda for Board meetings shall be prepared by the President and posted prior to the meeting. Any change of time, day or place, or change in the agenda shall be communicated to the membership by posting at the known place of business at least ten (10) working days beforehand, time, day and place of a monthly meeting may be changed by a majority vote of Directors, but a cancelled meeting for the month must be rescheduled within that month, and the agenda retained. Regular meetings shall be open to the Active Membership of the Association. Any Active Member may place an item on the agenda for the meeting by submitting a written request. This request shall contain a summary of the subject being brought before the Board. The Board reserves the right to limit the presentation to Active Members of the Association and the allotted time for such presentation. Any rules or regulations adopted as standing rules of a Board shall not conflict with the Articles of Incorporation or these By-Laws, nor be binding on any following Board.

#### **8. Special Board Meetings**

Special meetings of the Board may be called by the President or by request of a majority of Directors. A special meeting shall be announced at least five (5) working days beforehand, when possible, and the time, place and agenda posted. These special Board meetings shall be open to Active Members except that any meetings, regular or special, or

portions of meetings, that pertain to personnel, legal considerations, contractual negotiations, restrictions problems or any other issues exempted under applicable Arizona Statute are not open to the Membership.

## **9. Quorum**

Except as otherwise provided in these By-Laws, a majority of the Board shall constitute a quorum and the concurrence of a majority of those present shall be sufficient to conduct the affairs of the Association, except as may be otherwise specifically provided by Arizona Statute, the Articles, these By-Laws, the Master Declaration, or the Declaration. In the absence of a quorum, a majority of the Directors present may adjourn any meeting until a quorum shall be present.

## **10. Posting of Minutes of Meetings**

The approved and edited minutes of all open Board meetings shall be taken and posted at the place of business by the Secretary within ten (10) working days after the meeting. Any change of the minutes by the Board shall be so noted in the minutes of the next Board meeting. A brief synopsis of Board meeting action shall be communicated to the membership at least four (4) times annually by mail.

## **11. Action Without Meeting**

Unless otherwise restricted by law, the Articles, or these By-Laws, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, if all Directors consent thereto and such consent is documented and filed with the minutes of the Board at the next regular Board meeting.

## **12. Compensation and Reimbursement**

No compensation shall be paid to Directors for their services as Directors. No remuneration shall be paid to a Director for services performed for the Association by the Director in any other capacity except as provided under Article VI. Reimbursement for expenses incurred in excess of One Hundred Dollars (\$100.00) shall be paid to the Director only after such reimbursement is approved by the Board and documented in the minutes of the next regular Board meeting after such expenses are incurred.

## **ARTICLE VI: OFFICERS**

- A. The officers of the Association shall be the President, one (1) or more Vice-Presidents, Secretary, and Treasurer. One (1) person may hold the office and perform the duties of any two (2) or more offices, except the offices of President and Vice-President, or President and Secretary.

The officers of the Association shall be elected by the Board, no sooner than four (4), nor later than ten (10) working days after the Annual Meeting and shall hold office for one (1) year, as defined in Article V, 2., or until death, resignation, removal or cessation of membership. In case of a vacancy, the Board at its next meeting shall elect a Director to that vacancy.

- B. Compensation may be paid to officers for their services as officers in the manner as the Board by resolution may provide. No remuneration shall be paid to an officer for services performed for the Association by the officer in any other capacity-
- C. Any officer of the Association may be removed by a 2/3 majority vote of the Board of Directors at a meeting called for that purpose.

- D. The President shall be the Chief Executive Officer of the Association and shall have general supervision over the affairs of the Association, subject to the control of the Board. The President shall sign all deeds and conveyances, all contracts and agreements, and other instruments requiring execution on behalf of the Association, and shall act as operating and directing head of the Association, subject to policies established by the Board. The President shall be responsible for the agenda of all Board and member meetings and the notification of the Annual Meeting of Members.
- E. There shall be as many Vice-Presidents as shall be determined by the Board, and they shall perform the duties which may be assigned to them. Any one of the Vice-Presidents, as authorized by the Board, shall have all the powers and perform all the duties of the President in case of the temporary absence of the President or the President's temporary inability to act.
- F. The Secretary shall have charge of and be responsible for the Registries and all other records of the Association except records of account. The Secretary shall have prepared the minutes of all Board and member meetings and maintain a file of minutes of all By-Law and Board Advisory Committees. The Secretary shall be responsible for the mailing of notices and information to the Members, and notices of dates and times of Meetings of the Members and the Board. The Secretary shall be custodian of the corporate seal and affix it to all proper instruments when deemed advisable.
- G. The Treasurer shall be responsible for: all funds and securities of the Association; depositing funds of the Association in banks or financial institutions as the Board designates, keeping within the limits of any such depository's federal deposit insurance; investing funds in Federal treasury instruments; maintaining and preparing financial statements, budgets, reports and allocation of funds as required by the Board and Members; preparing and filing governmental reports and tax returns as required by law; ensuring the timely disbursement of authorized funds and the collection of all funds paid to the Association; and establishing and monitoring bookkeeping, accounting and purchase systems to cover all purchases, material, and labor required for or on behalf of the Association. The Treasurer shall follow applicable Generally Accepted Accounting Principles for all accounting, recording and purchasing on behalf of the Association.
- H. The Board may establish and determine the composition and purpose of special and Ad Hoc Committees it deems necessary to carry out the functions of the Association in an advisory capacity. Special committees shall, upon request of the Board, submit minutes of all its meetings to the Board and include recommendations for action. These minutes shall be filed by the Secretary of the Board and made available to any Active Member on request. Ad Hoc Committees shall file a final report with their recommendations to the Board on completion of the assignment. Each following Board after the annual election shall reaffirm, redesign or dismiss special and Ad Hoc Committees of the previous Board. The President of the Board, or designated director, shall be Ex-officio Member without vote to all special and Ad Hoc Committee meetings. The President, with approval of the Board, shall appoint the Chairperson of the special or Ad Hoc Committees. A Committee member need not be a member of the Association except as otherwise required by the Articles, Declarations or these By-laws.
- I. The provisions of the Roberts Rules of Order may be applied to the conduct of all Board of Directors meetings and meetings of the members.

## **ARTICLE VII: POWERS, RIGHTS, AND DUTIES OF THE ASSOCIATION AND MEMBERS**

### **1. General**

The Association and its Members shall have all the powers, rights, duties, and obligations set forth in the Articles, these By-Laws, rules and regulations pursuant thereto, and recorded Restrictions, including, but not limited to, the Master Declaration and any Declaration affecting the property within the Village of Oakcreek as the same may be duly adopted or amended. No transfer of membership in the Association shall be made except as provided in the Articles, By-Laws, Master Declaration, Declaration, or Rules and Regulations.

## **2. Duty of Membership**

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

## **3. Levy of Assessments**

The Association shall have the right and power to levy yearly assessments against each Lot or Unit. All such assessments shall be equalized for all Lot or Unit owners in the sum of one hundred eighty dollars (\$180.00) except for those who on January 22, 1994, are limited in amount not to exceed two percent (2%) of the land value of the Lot or Unit at the time of first sale. The previous maximum of two percent (2%) shall remain in effect for all Lot or Unit owners subject to this limit until the Lot or Unit is transferred. The record of the Yavapai County Recorder's Office shall be determinative of the ownership interests. In this regard, a transfer includes any and all conveyances or contracts for the conveyance of an interest or partial interest in the Lot or Unit to any person or entity not previously having an interest in the Lot or Unit. A transfer shall not include the creation of a voluntary or involuntary lien upon the property or a new form of ownership among persons already having an interest in the property, but shall include transfers resulting from death (devise or intestacy) from a dissolution of marriage or by gift.

The yearly assessments shall be levied in advance. They shall be billed annually and are payable within thirty (30) days of the date due. Unpaid assessments shall be subject to a reasonable late charge and shall bear interest in an amount and at a rate fixed by the Board.

Note: Amended 01-22-94

## **4. Collection of Assessments**

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

## **5. Personal Obligations of Member**

The amount of each assessment shall be a separate, distinct, and personal debt and obligation of the Owner of the Lot or Unit against which the assessment has been made at the time the assessment is made and shall bear interest at the rate fixed by the Board. The Board shall assess interest for non-payment of any assessment or installment thereof thirty (30) days after the date the assessment or installment became due. The Board shall have the right to impose a reasonable late charge for the delinquent payment of any assessment or installment thereof. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may exempt himself or avoid or diminish any personal obligation or liability for payment of any assessment by waiver of the use or enjoyment of any of the private streets, common areas and Association facilities or by abandonment of the Lot or Unit. The purchaser of a Lot or Unit shall be jointly and severally liable, except as otherwise provided herein, with a selling Owner for all unpaid assessments, late charges, and

interest due up to the time of sale, without prejudice, however, to the right of the purchaser to recover from the seller any and all amounts paid by the purchaser to secure or defray the amount of unpaid assessments, late charges, and interest.

## **6. Lien for Assessment**

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

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

The Board shall report to any mortgagee any unpaid assessments remaining delinquent for more than ninety (90) days provided the mortgagee shall have previously requested written notice with respect thereto to the Board. Any mortgagee may, but shall not be required to pay any amounts secured by the lien for assessments created hereunder and upon such payment such mortgagee shall be subrogated to all the rights of the Board with respect to such lien, including priority.

## **7. Release of Lien**

Upon payment or satisfaction of delinquent assessments, late charges, and interest, for which the Association has recorded a lien pursuant to Article VII, Paragraph 6, the Association shall release its lien by causing the necessary notice or release to be recorded in the same manner as the lien. The Owner of the Lot or Unit so released shall pay the costs of preparing and recording the necessary notice of release.

## **8. Foreclosure of Lien**

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

## **9. Estoppel Certificate**

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

## **10. Dues and Fees**

All dues and fees shall be payable when due and delinquent if not paid by date due. The Board shall have the right to impose a late charge and assess interest for non-payment of delinquent dues, such late charge and interest to be in an amount and a rate fixed by the Board.

## **11. Management Agreements**

Upon resolution of the Board, the Association may enter into management agreements with third parties to provide for the administration, management, repair, maintenance, and operation of the common areas and facilities owned, acquired, or otherwise under the jurisdiction of the Association for the general benefit and use of members.

## **12. Checks, Drafts, Purchase Orders**

All checks, drafts, purchase orders, negotiable instruments, and other orders for the payment of money out of the funds of the Association and all notes, negotiable instruments, or other evidences of indebtedness of the Association shall be signed by an officer or officers, agent or agents of the Association and in such manner as shall be determined by the resolution of the Board.

Notwithstanding the foregoing, payments of all expenditures in an amount less than \$500.00 shall be executed by at least one (1) officer of the Association. All expenditures in an amount in excess of \$500.00 shall be executed by not less than two (2) officers of the Association. Prior authorization and approval of the Board shall be required for payment of any non-budgeted expenditures. Approval and authorization of all non-budgeted expenditures shall be documented in the minutes of the meeting of the Board.

## **13. Budget and Finance**

- A. No later than thirty (30) days before January 1<sup>st</sup> of each year a budget of estimated revenue and expenditures and estimated capital expenditures for the fiscal year shall be adopted by the Board and made available for inspection by the members at the place of business. A summary of the budget shall be presented at the Annual Meeting of Members. At the discretion of the Board, the budget may be reviewed at any time and if changes are made, they shall be reported and made available to the membership.

Total capital expenditures for the year that exceed an amount equivalent to 150% of the depreciation expense charge for the current year shall require the approval of a majority vote of Active Members taken either by mail or at an Annual or Special Meeting of Members to include proxies. A quorum of twenty (20) percent of the total Lot-Owners of the Association is required.

- B. The Books of Account shall be reviewed annually by an Independent Certified Public Accountant and the financial statements of the review shall be made available to members and reported at the next Annual Meeting of Members. The Board shall have the authority to request a Certified Audit of the Books of Account at its discretion.
- C. Each Board shall establish spending level restrictions and budget control procedures.
- D. A financial statement summary of the previous year shall be made available to the Membership no later than ninety (90) days after the close of the fiscal year.
- E. Funds in excess of short term needs shall be maintained in accounts bearing interest for the Association as provided by Article VI.G.
- F. The Fiscal Year of the Association shall be the Calendar Year.
- G. The Association shall follow prudent business practices in all aspects of its operation and shall maintain insurance coverage of the appropriate type and in levels sufficient to reasonably protect its assets, employees, volunteers and Directors from operational liability. Such coverage shall include, but not be limited to:

1. Property, Buildings and Personal Property;
2. Public Liability;
3. Fidelity Bonding;
4. Workman's Compensation and Employer's Liability; and
5. Directors and Officers Liability.

H. In order to establish proper reserve levels, the Association shall be required to fund, in cash or cash equivalents, an amount equal to fifty percent (50%) of the total depreciation expense charged for the prior year. Such Reserve Funds shall be separately identified and non-commingled with the general fund monies and may be used to make authorized capital expenditures only, subject to the total capital expenditure limits and authorization procedures contained herein.

Note: Amended 01-21-95

## **14. Sale, Exchange or Dissolution of Common Land and Buildings**

A. The Association, acting through its Board of Directors, may sell, mortgage, or exchange any part of its common property, except those common properties developed for recreational use by its members, provided a majority of memberships vote in the affirmative with at least twenty percent (20%) of the memberships represented at a regular or special meeting where votes cast in person, by proxy ballot or by limited proxy shall be counted.

Note: Amended 01-21-95

B. The Association may dissolve or liquidate all or substantially all of its common property and buildings, provided an affirmative vote of sixty six and 2/3 percent (66 2/3%) of all Lot-Owners of the Association has been obtained

C. For resolution of 14 (A) and (B) above, notice and purpose of the regular or special meeting shall be sent by mail to all active members at least thirty (30) days beforehand.

D. A majority of the Board of Directors may sell, exchange, lease or grant easements of Association common property for the purpose of mutually beneficial realignment of property lines involving recreational facilities developed for member use.

Note: Amended 01-21-95

## **ARTICLE VIII: ARCHITECTURAL REVIEW COMMITTEE**

### **1. Committee Composition**

The membership of the Committee shall be fixed by the Board of three (3) or five (5) regular committee members and two (2) alternate committee members. No committee member shall be required to be an architect or to meet any other particular qualifications for membership except that the Architectural Committee Chairperson shall be an Active Member of the Association.

A Committee member need not be, but may be, a Director or an officer of the Association.

### **2. Alternate Committee Members**

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

### **3. *Appointment and Removal***

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

### **4. *Resignation***

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

### **5. *Duties***

It shall be the duty of the Committee to consider and act upon all proposals or plans submitted to it; to perform other duties delegated to it by the Board; to understand the necessary Committee rules, requirements, regulations, definitions and standards; and to carry out all other duties imposed by the Master Declaration, Declaration, By-Laws, Rules and Regulations.

### **6. *Meetings***

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

### **7. *Architectural Committee Regulations***

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

### **8. *Waiver***

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

### **9. *Liability***

Neither the Committee nor any Committee member 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 or specifications, whether or not defective;
- b. The construction or performance of any work, whether or not pursuant to approved plans or specifications;
- c. The development of any portion of the Village of Oakcreek; or
- d. The execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a committee member, the committee member has acted in good

faith on the basis of information possessed by him or her. Without in any way limiting the generality of any of the foregoing provisions of this section, the Committee, or any Committee member may, but is not required to, consult with or hear the view of the Association or any Owner with respect to any plans, specifications, or any other matter submitted to the Committee.

## **10. Request for Approval**

Request for Committee approval of plans or specifications, together with the plans or specifications and any other information which the Committee may reasonably request, shall be submitted in writing to the Committee at least thirty (30) days prior to the date on which construction is to commence, the Committee shall notify the Owner in writing of its decision either approving or rejecting the plans and specifications. In the event the Committee rejects the plans and specifications, the Committee shall set forth in the notice the reason for the rejection. The decision of the Committee shall be final if the Owner fails to request a hearing in accordance with the procedures outlined in Article VIII, Section 12.

## **11. Failure to Act**

In the event the Committee shall fail to approve, disapprove or otherwise act on plans or specifications within thirty (30) days after receipt of the written request, plans, specifications, or other information requested by the Committee, approval thereof shall be deemed to have been given; provided, however, any dwelling, building or structure embraced by the plans and specifications shall be of masonry or frame construction and the location and size of the dwelling, building or structure shall not be in violation of any of the restrictions contained in the Master Declaration, Declaration, or any applicable law, rule, or regulation of any governmental body or agency having jurisdiction thereof.

## **12. Right of Hearing**

Should the Committee reject or disapprove the plans and specifications submitted, the Owner, within fifteen (15) days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The Committee, upon receipt of the written request for a hearing, shall fix a date, time, and place for the hearing and shall notify the Owner in writing of the date, time, and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the written request for hearing. At the hearing, the Owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall determine, by majority vote, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Written notice of the Committee's decision shall be mailed to the Owner within seven (7) days from the date of the hearing. The decision of the Committee shall be final if the Owner fails to exercise the right of appeal in accordance with the procedures set forth in Article VIII, Section 13.

## **13. Right of Appeal**

In the event the Owner is dissatisfied with the decision of the Committee rendered in accordance with Article VIII, Section 12, the Owner may appeal the decision to the Board. The right of appeal shall be exercised by the Owner within fifteen (15) days from the date the Committee mails notice of its decision to the Owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of the written notice of appeal, shall fix a date, time, and place, for the hearing on appeal and shall notify in writing the Committee and the Owner of the date, time, and place of hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the notice of appeal. At the hearing on appeal both the Committee and the Owner shall be afforded an opportunity to be heard and to present evidence, both oral and documentary, concerning the decision of the Committee. Upon conclusion of the hearing on appeal, the Board shall then determine, by majority vote of all Directors, whether the decision of the Committee shall be affirmed or reversed.

Written notice of the Board's decision shall be mailed to the Committee and Owner within seven (7) days from the date of the hearing on appeal. The decision of the Board shall be final.

## **ARTICLE IX: RESTRICTIONS COMMITTEE**

### **1. *Committee Composition***

The Committee shall consist of five (5) members appointed by the Board.

Two (2) Committee members (the "at-large members") shall be appointed from among the Active Membership of the Association and shall not be Directors or officers of the Association.

The other Committee members shall be qualified persons and Active Members of the Association. They may be, but need not be, Directors or officers of the Association.

One (1) member shall be elected as Chairperson by vote or written consent of a majority of the Committee. The Chairperson shall serve a one-year term and may be re-elected.

### **2. *Removal***

Committee members shall be appointed, and may be removed at any time, by the Board in its sole discretion.

Each at-large member shall be appointed to serve an annual term. At-large members may not serve two (2) consecutive terms but may be reappointed in the future.

The other Committee member shall serve until they resign or are removed by the Board.

### **3. *Resignations***

Committee members may resign by giving written notice to the Board.

### **4. *Duties***

The Committee is authorized to enforce property restrictions in the Master Declaration, Declaration, and Architectural Control Regulations (collectively the "restrictions") by levying fines on violators pursuant to a schedule of fines which the Committee shall adopt; to perform other duties delegated to it by the Board; and to carry out all other duties imposed on it by the Master Declaration, Declaration, By-Law, Rules, and Regulations.

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

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

### **5. *Schedule of Fines***

The Committee, by majority vote or written consent, shall adopt a schedule specifying the recommended fines (or range of fines) for particular violations (or categories of violations) of the restrictions; provided, however, that no fine shall exceed the sum of \$50.00 per day per violation. Subject to the \$50.00 limitation, the schedule may be amended

by the Committee by majority vote or written consent. The Committee may also adopt, amend, and repeal, by majority vote or written consent, such procedures, rules, and regulations, not inconsistent with the Master Declaration, Declaration, or By-Laws, as may be desirable for the performance of its duties.

## **6. Non-Waiver**

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

## **7. Non-Liability**

Neither the Committee nor any member thereof shall be liable to the Association, any Owner, or any other party for damage, loss, or prejudice resulting from any action of the Committee or any member thereof in connection with Committee business, provided that such action was taken in good faith on the basis of information then possessed by the Committee or member.

## **8. Notice of Violation**

No action shall be taken with respect to any reported violation of the restrictions until at least one Committee member or a duly authorized agent has observed the property to determine that the violation exists. If the Committee member or its authorized agent is denied access to the property by the Owner, the violation shall be deemed to exist.

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

- a. the nature of the violation, including the particular restriction being violated;
- b. the steps required to comply with the restrictions;
- c. the time period allowed for compliance (i.e., before a fine will be assessed); and
- d. the consequences of noncompliance, including the potential fine.

The notice may be issued by any Committee member or its authorized agent and shall be mailed or delivered to the Owner.

## **9. Report of Noncompliance/Notice of Fine**

As soon as practicable after the compliance deadline stated in the notice of violation, a Committee member or its authorized agent shall inspect the property to determine whether the violation has been cured. If the Committee member or its authorized agent is denied access to the property by the Owner, the violation shall be deemed to be continuing.

The Committee member or its authorized agent who inspects the property shall prepare a brief report of compliance or noncompliance. If the violation has not been cured, the report shall recommend an appropriate fine pursuant to the Committee's schedule of fines. The Committee shall review the report and, pursuant to the vote or written consent of a majority of the Committee, shall accept, reject, or modify the recommended fine. Written notice of the fine (or other action of the Committee) shall be issued to the Owner as soon as practicable.

## **10. Assessment of Fine**

The notice of fine shall specify:

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

## **11. Right of Hearing**

If the Owner wishes to dispute the fine, a written request for hearing shall be provided to the Committee within ten (10) days after the Owner receives the notice of fine. The request for hearing shall be mailed or delivered to the Committee at the Association's principal office, 690 Bell Rock Boulevard, Sedona, Arizona 86351.

As soon as practicable after receiving the request for hearing, the Committee shall fix a date, time, and place for the hearing and shall notify the Owner in writing at least ten (10) days before the hearing date. The hearing date shall be no later than thirty (30) days after the Committee receives the request for hearing.

The Chairperson of the Committee shall preside at the hearing, which shall be an informal proceeding. A written record, which needed not be a verbatim transcript, shall be kept unless the parties agree to having the hearing recorded on tape. The Owner may be represented by an attorney or other qualified person, provided that written notice is given to the Committee at least three (3) days before the hearing. The Owner shall be solely responsible for any fees or other expenses of such attorney or representative.

Within ten (10) days after the hearing, the Committee shall inform the Owner of its decision in writing. The Committee may take any action which seems reasonable under the circumstances including, without limitation, upholding, reducing, or vacating the fine or extending the time for compliance. The action shall be approved by the vote or written consent of a majority of the Committee.

## **12. Right of Appeal**

The Committee's decision shall be final unless the Owner mails or delivers a written notice of appeal to both the Committee and the Board within fifteen (15) days after receiving the Committee's decision.

As soon as practicable after receiving the notice of appeal, the Board shall fix a date, time, and place for a hearing and shall notify the Owner in writing at least seven (7) days before the hearing date. The hearing date shall be no later than thirty (30) days after the Board receives the notice of appeal.

The hearing shall be conducted in substantially the same manner as the hearing before the Committee. Both the Owner and the Committee may present documentary evidence and testimony. The decision of the Committee shall be upheld unless majority of the Board finds the decision was arbitrary or clearly not supported by substantial evidence.

Upon such finding, the Board may take any action as seems reasonable under the circumstances. The Board's decision shall be communicated to the Owner and the Committee within seven (7) days after the hearing and shall be final.

## **13. Fines Have Same Effect as Assessments**

The effect of a fine, as well as the respective rights and obligations of the Association and the Owner with respect to a fine, shall be the same as for assessments under the following sections of Article VII: Section 4, Collection of Assessments; Section 5, Personal Obligations of Member; Section 6, Lien for Assessment; Section 7, Release of Lien; Section 8, Foreclosure of Lien; and Section 9, Estoppel Certificate.

## **ARTICLE X: AMENDMENTS TO BY-LAWS AND MISCELLANEOUS**

### **1. *Amendments to the By-Laws***

Amendments, additions or repeal of these By-Laws may be proposed by the Board or by signed petition of ten percent (10%) of the active members as of the last annual meeting of the Association.

Note: Amended 01-21-95

A majority of affirmative votes of a quorum of twenty percent (20%) of Active Members as listed in the Registry of Owners shall be required for adoption of the amendment, addition or repeal of the By-Law(s). The vote may be taken by proxy ballot or in person or limited proxy at a regular or special meeting as outlined in Article IV of these By-Laws.

### **2. *Notices***

An entry in the minutes of a meeting of members or the Board that notice has been duly given shall be prima facie evidence that due notice of such meeting was given as required by law and these By-Laws

No mistake, inadvertence, or excusable neglect in the giving of any notice required by these By-Laws, or the contents of any thereof, shall affect the validity of any meeting called thereby, or of any proceeding held at such meeting.

### **3. *Headings and Titles***

Headings and titles in these By-Laws are intended solely for convenience of reference, and shall not affect the terms or provisions of these By-Laws or the meaning thereof.

### **4. *Singular and Plural, Masculine and Feminine***

In these By-Laws, the singular includes the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine, and neuter gender each includes the masculine, feminine or neuter as the context requires.

## **ARTICLE XI: GOLF COURSE DEPARTMENT AND GREENS COMMITTEE**

With the assistance of a Board-commissioned Greens Committee, the eighteen hole Golf Course, known as the Oakcreek Country Club, shall be operated and administered as a Department or Unit of the Association. The following terms and conditions shall govern and control the operation of the Golf Course Department.

### **1. *Greens Committee***

#### **A. *Committee Composition***

Annually, within twenty working days following the Annual Meeting, the Greens Committee will be appointed consisting of two Board members and five Active Golf Course Members.

- (1) The two Board Greens Committee members shall be appointed by the Board.
- (2) Four of the Greens Committee members shall be appointed by the Board from the candidates obtained from the executive leadership of Oakcreek Country Club's member organizations under the following procedures:

- (a) Prior to the annual meeting of Members, the Men's Golf Association and the Women's Golf Association will be requested to canvass and solicit two candidates each for the Greens Committee from their membership. Such candidates must be interested and qualified to serve.
- (b) The Board will appoint two of the Greens Committee members from those candidates received from the Men's Golf Association and two from those received from the Women's Golf Association.
- (3) A seventh "at-large" member shall be appointed by the Greens Committee. This "at-large" member may or may not be a member of the Men's or Women's Golf Associations.
- (4) Association managerial employees including the General Manager, the Professional Golfing Staff, the Greens Superintendent and others as may be assigned will serve and participate as non-voting members of the Greens Committee

The Chairperson and Vice-Chairperson shall be elected by vote of the majority of the Greens Committee.

***B. Term of Committee Membership***

Committee members will serve for a period of one year ending on the date the succeeding Committee is seated. There shall be no limit on the number of terms a past Committee member may be reappointed to serve. Members may be removed at any time by the Board in its sole discretion. If vacancies should occur, the Board will consult with the executive leadership of the Men's and Women's Golf Associations in the selection and appointment of replacements to complete the remaining term of those vacated memberships.

***C. Duties, Responsibilities and Limitations***

Under direction of the Board and subject to such authorities and powers as the Board may confer upon them, the Greens Committee will help provide direction, support and oversight to the management, operation and maintenance of the Golf Course. The Committee shall assist in the preparation of budgets, plans and directives including policies, standards, procedures and rules, to be known as "Golf Course Policies," for approval by the Board. Such Golf Course Policies may be modified, superseded or eliminated as necessary at the sole discretion of the Board.

***D. Departmental Financial Reporting***

The collection, payment and reporting for the revenues, expenses and capital expenditures of the Golf Course Department shall follow appropriate accounting policies and procedures as required under Article VI. G. of these By-Laws.

The payment of all debts, expenses and any other expenditure of the Golf Course Department shall be made solely from Golf Course Department cash flow.

On an annual basis, the net unrestricted cash balance generated by Golf Department operations shall be transferred to the Association for the Association's benefit to be used for the reduction of any existing debt, contribution to the Reserve Fund or reduction of lot assessments.