

STATE OF ARIZONA
County of Yavapai

I do hereby certify that the within instrument was filed and recorded at request of Transamerica Title Insurance Co. on June 30 A.D. 1980 at 12:20 o'clock P.M., Book 1307 Official Records, Page 353-359 Inclusive, Records of Yavapai County, Arizona.

WITNESS my hand and official seal the day and year first above written.

Patsy C. Jenney, County Recorder
By _____ Deputy

**RESTATED DECLARATION OF RESTRICTIONS
CATHEDRAL VIEW SUBDIVISION
SEDONA, ARIZONA**

THIS RESTATED DECLARATION is made this 27th day of June, 1980, by FIRST AMERICAN TITLE INSURANCE COMPANY OF ARIZONA, an Arizona corporation (the "Trustee"), concerning the following described premises (the "Subdivision"):

Cathedral View, Lots 1 through 242, inclusive, a subdivision in Yavapai County, Arizona, according to the plat recorded in the Office of the County Recorder of Yavapai County, Arizona, in Book 16 of Maps, Page 91.

WITNESSETH:

WHEREAS, pursuant to the "Substitution of Trustee" dated March 27, 1972, Trustee succeeded to the interest of Lawyer's Title of Arizona as the trustee and record owner of the following 68 Lots of the total 242 Lots in the Subdivision: Lots 14, 16, 36, 39, 40, 41, 43, 45, 46, 47, 49, 64, 67, 68, 69, 71, 72, 75, 91, 92, 101, 102, 103, 106, 131, 133, 138, 139, 140, 146, 147, 156, 157, 160, 162, 164, 178, 179, 180, 189, 190, 191, 192, 193, 197, 198, 200, 201, 202, 209, 210, 211, 212, 213, 214, 215, 225, 226, 227, 228, 229, 230, 232, 233, 235, 236 and 237, and a portion of Lot 222; and,

WHEREAS, to govern the Subdivision, Trustee's predecessor caused to be recorded that certain "Declaration of Restrictions, Cathedral View, Sedona, Arizona," in Book 775, pages 2-7, records of Yavapai County, Arizona (the "Superseded Declaration"); and,

WHEREAS, paragraph 28 of the Superseded Declaration authorizes Trustee, as the successor developer of the premises, to amend the Superseded Declaration at any time until 75 percent of the 242 Lots have been conveyed; and,

WHEREAS, as the owner of 68 of the 242 Lots in the Subdivision, Trustee has conveyed less than 75 percent of the Lots and thus is empowered to amend the Superseded Declaration and is doing so hereby pursuant to instructions from its beneficiary; and,

WHEREAS, Trustee does hereby publish this Restated Declaration as an amendment and complete replacement of the Superseded Declaration such that from this date the Superseded Declaration shall be deemed withdrawn, nullified and of no further force or effect and this Restated Declaration shall be deemed the sole statement of the Restrictions, Covenants and Conditions applicable to the Subdivision and each and all of the Lots therein.

THEREFORE, at the direction of its beneficiary, Trustee declares that the Subdivision and all of its Lots, shall be held, sold, conveyed, used and improved subject to the provisions of this Restated Declaration, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision, and all of which are hereby declared to be for the benefit of the Subdivision, all of its Lots, the owners thereof, and their heirs, successors, grantees and assigns. This Restated Declaration establishes a general plan for the improvement and development for the Subdivision and its use, occupancy and enjoyment. All of the provisions hereof shall be construed as covenants running with the land and equitable servitudes for the benefit of and binding upon all parties having or acquiring any right, title or interest in the Subdivision, any Lots therein, or any portion thereof, irrespective of whether referenced in a deed or other applicable instrument of conveyance.

1. As used herein, the following terms shall have the following meanings;

1.1 "Association" shall mean the Village of Oakcreek Association an Arizona non-profit corporation, also referred to as "VOCA."

1.2 "Articles" shall mean the Village of Oakcreek Association Articles of Incorporation, as and if amended.

1.3 "By-Laws" shall mean the Village of Oakcreek Association By-Laws, as and if amended.

1.4 "Lots" shall mean each of the 242 portions of the Subdivision, and the improvements thereon or used in conjunction therewith, which have been divided into separate dwelling components as set forth in the Plat.

1.5 "Common Elements" shall mean and refer to all property to be owned or maintained by the Association for the mutual use and enjoyment of the Owners together with the improvements, fixtures, equipment and personal property located on or used in conjunction therewith.

1.6 "Members" shall mean and refer to any person, corporation, partnership, joint venture or other legal entity who is a member of the Association as provided in paragraph 24(A).

1.7 "Owner" shall mean and refer to the record owner, whether one of more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Lot as provided in paragraph 24(A). "Owner" shall include the purchaser of a Lot under an executory contract for the sale of real property. "Owner" does not include persons or entities who hold an interest in any Lot merely as security for performance of an obligation.

1.8 "Plat" shall mean the plat of the Subdivision as recorded in Book 16 of Maps, page 91, records of Yavapai County, Arizona, as and if amended.

1.9 "Committee" shall mean the Architectural Control Committee established under the By-Laws of the Village of Oakcreek Association to perform the duties and function of architectural control provided for by this Restated Declaration of Restrictions.

2. No building except a single family residential dwelling together with such other incidental architecturally compatible buildings ordinarily used in connection with a residence shall be erected, maintained or permitted on any Lot. No dwelling shall be occupied until such dwelling is 100 percent completed. No incidental buildings shall be commenced until the primary building is completed. No store, office or other place of business shall be permitted. No mobile, pre-fabricated or modular home shall be permitted.

3. No residence shall be erected upon any of the lots unless such residence contains at least 1,400 square feet of enclosed living area. The term "living area" is exclusive of floor space in porches, garages and carports whether open or enclosed. All residences shall be constructed of brick, cement block or other substantial masonry construction, or insulated frame construction.

4. No construction, including fences, hedges, walls, reroofing, remodeling and alterations including, but not limited to color thereof, shall be commenced, erected or maintained until plans in duplicate and specifications showing the square footage, location of the structure, nature, kind, shape, height, materials and approximate cost of same, shall have been submitted to and approved in writing as to conformity and harmony of external design with existing structures on the property by an Architectural Committee designated by and a part of the Village of Oakcreek Association. The plans submitted must include the four elevations and the overall specifications must be acceptable under minimum FHA standards. An acceptable completion date must be stated. No elevation of construction shall be permitted on any lot greater than sixteen (16) feet above the highest point of that lot. No metal or reflective roof surfaces shall be allowed. No roof mounted heating and cooling units shall be allowed. If at a future date it becomes necessary and desirable to install solar collectors for home energy use, the Architectural Committee can approve such installations without violating these restrictions, providing height restrictions are adhered to. In conjunction with such

approval the Architectural Committee can require suitable screening as a condition of approval.

Swimming pools must be enclosed by a six (6) foot fence with gates to be locked when pool is not in use and all plans for pools must first be approved by the Architectural Committee.

Upon completion of construction, owner or builder must clear the property of building materials and debris within thirty (30) days. Owners or builders are expected to acceptably maintain the appearance of the property until occupancy.

No submission of a residential plan will be considered for approval by the Architectural Committee unless accompanied by a landscaping plan. Landscaping approved by the Architectural Committee must be completed within six (6) months following the completion date of the residence. No grass of the Bermuda type, or any of its varieties shall be planted on any of said lots. No trees or shrubs in excess of four (4) feet in height may be cut or moved except with the prior written approval of the Architectural Committee.

5. Set Back Lines: No home, including additions or appurtenances attached thereto, will be placed on any lot except within the maximum land area for homes which is described as being that area which is contained within the minimum set back lines as defined by the Yavapai County Planning and Zoning Ordinance in effect at the time of construction.

6. An easement within the setback areas is hereby reserved and granted to the undersigned, its successors and assigns, upon, across, over and under the premises for ingress, egress, replacing, repairing and maintaining all utilities, including but not limited to water and electricity.

7. No store, office or other place of business of any kind and no hospital, sanatorium or other place for the care or treatment of the physically or mentally ill shall be erected or permitted, and no business of any kind or character whatsoever shall be conducted from or located on any such lot.

8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose. No more than two (2) pets, dogs or cats, shall be permitted on any lot and dogs must be kept in enclosed yard or on leash at all times. Excrement shall not be allowed to accumulate within animal enclosures.

9. No chain link fencing or other wire fencing shall be permitted on any lot, and no fence shall be more than six (6) feet in height. No solid fences that will obscure vision will be permitted between the front wall line of the residence and the street, and side wall line in the case of corner lots. All tanks, clotheslines, and

other equipment shall be screened from view of the neighboring streets or lots by appropriate fences or plantings. Carports are not to be used for open storage and garage doors shall be closed except when in use. Property owners are responsible for keeping their lots landscaped and free of weeds.

10. No prefabricated building or structure of any nature whatsoever, permanent or temporary, shall be moved or placed upon or assembled or otherwise maintained on any lot. However, a temporary office, tool shed, saw shed, and lumber shed may be maintained upon any lot or lots by a building contractor for the purpose of erecting a building on the lot. Such temporary structures shall be removed at completion of construction of such building, or within six (6) months of placement thereon, whichever occurs first. No garage or carport shall be commenced or erected on any lot until construction of the dwelling, complying with these restrictions shall have been commenced by a responsible contractor pursuant to a bona fide building contract, and all buildings shall be of the same or similar type as that of the dwelling erected on the lot on which said buildings are located.

11. All rubbish, trash or garbage shall be removed promptly from the premises and shall not be allowed to accumulate thereon, and shall not be burned. Garbage and trash receptacles must be covered and concealed. Empty garbage containers must be removed from the street as soon as possible after pickup.

12. No structure, planting or other material shall be erected, placed or permitted to remain upon any portions of the property which would obstruct, retard or change the direction of any actual or potential flow of water thereover.

13. No noxious, offensive or unlawful activity shall be conducted upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to occupants of any portion of the premises.

14. No advertising signs of any kind shall be displayed to the public view on any lot except real estate "For Sale" signs, which may be no larger than three (3) square feet.

15. No recreational vehicle, motor home or truck, nor any motor vehicle which is under repair or not in operating condition shall be placed or permitted to remain on the street, or any portion of any lot that is exposed to public view.

16. All personal cars must be fully parked on the owner's lot and in the carport or on the driveway. No in-street and cul-de-sac parking will be permitted at any time except for approved deliveries, pickups or short-time visitors.

17. No lot or lots shall be resubdivided except for the purpose of adjusting boundaries, providing however, that no additional lot is created thereby.

18. No camping trailer, boat trailer, travel trailer, boat, or pick-up camper unit may be stored on any lot permanently unless enclosed and not visible from any adjoining or nearby lots.

19. Exterior lighting must be shaded and diffused so as not to create a nuisance to others.

20. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any lot.

21. No television, radio or other electronic antenna shall be erected above the roof-line of the residence unless approved in writing by the Architectural Control Committee.

22. No individual water supply system shall be permitted on any lot, and no individual sewage disposal system shall be permitted on any lot.

23. Unless suitable retaining walls are constructed to support the earth, the natural angle of repose of the ground shall not be altered by excavation within five (5) feet of any boundary line of any lot by other than a slope of one and one-half (1½) feet horizontal to one (1) foot vertical, PROVIDED HOWEVER, that nothing in this paragraph shall be construed to prevent any such alteration in any manner with or without retaining walls, as approved by the Architectural Committee.

24. In order to promote and maintain efficiency and cooperation for the full enjoyment of the various owners of the premises, the premises are hereby declared to be subject to the powers of the Village of Oakcreek Association, an Arizona non-profit corporation (hereinafter referred to as "the Association"), as hereinafter set forth and as set forth in the Article of Incorporation of the Association.

A. The following described record owners of lots within the premises shall be members of the Association: (i) the beneficial owner (second beneficiary of any trust having more than one beneficiary) as to each lot to which record title is held by First American Title of Arizona, as trustee, which is not subject to a recorded agreement of sale; (ii) every vendee under a recorded agreement of sale as to such lot, so long as the interest of such vendee thereunder has not been forfeited or foreclosed; and (iii) in all other cases, the record holder of legal title thereto. Each such owner shall automatically be a member of the Association upon becoming an owner and shall remain a member until such time as his ownership ceases, for any reason, at which time his membership shall automatically terminate.

There shall be one membership for each lot, as shown on the latest recorded subdivision plat, and fractional membership for a fraction of such lot, regardless of the number of persons who may own an interest in such lot or fraction thereof. With regard to any lot held by a husband and wife in joint tenancy or as tenants in common, the husband shall be deemed to be the member and shall remain such until both such husband and wife shall advise the Association in writing that the wife shall be the member, whereupon the wife shall be deemed to be the member. With regard to any lot held by more than one person (other than husband and wife) as joint tenants in common, the member shall be deemed to be the person among them whom all of such joint tenants or tenants in common shall notify the Association in writing is the member, and until the Association receives such none of them shall be deemed to be a member.

B. The Village of Oakcreek Association (VOCA) shall have the right and power to levy periodic assessments against each Lot at such time as the Lot is sold by the subdivider. Such assessment shall not exceed two percent per annum of the land value of the lot as hereinafter defined. In addition to the periodic assessment VOCA shall have the right and power to levy an initial membership assessment equal to the assessment for six months computed on the rate of the periodic assessment. Unsold Lots held by the subdivider shall be valued at \$6,000 when sold for purposes of computing the assessment.

Each assessment shall be a separate and distinct debt and obligation of the property. If such assessment of any installment thereof is not paid when due, there shall become a lien upon the lot or lots upon recordation by the Association of a notice of default. Such lien shall be subject and subordinate to the lien of any mortgage upon the lot or lots which is made in good faith and for value and is recorded prior to the recordation of such notice of default. The Association shall have the right and power to record such notice of default within sixty (60) days following the occurrence of such default, and shall commence proceedings to enforce such lien within six (6) months following such recordation. The foregoing remedy shall be in addition to any other remedies provided by law for the enforcement of such assessment obligation. The Association shall have the right and power to levy interest on delinquent assessments at the lesser of 15 percent or the highest legal rate allowed by law in Arizona.

Assessments collected by the Association may be used and expended for any activity or matter in respect of which the Association is empowered to act, including without limitation, the maintenance, care and preservation of the common elements, buildings, grounds and improvements other than privately owned buildings. The term "common elements" shall include all areas within the premises or other property included within the area of the Village of Oakcreek Association, maintained for the common use and enjoyment of members of the Association. Such common elements shall include but shall not be limited to, the golf course and clubhouse, other real property, community facilities, swimming pools, pumps, trees, pavement, streets, pipes, wires, conduits and

improvements other than privately owned buildings, and future elements as they are added.

C. In addition to the foregoing, the Association shall have all powers set forth in its Articles of Incorporation and By-Laws, as they may be amended from time to time.

25. That for the purpose of enforcing these presents, the Association and its successors are hereby granted, a lien against the interest of any grantee of any unit, his heirs, executors, administrators or assigns, to secure the faithful performance of each and every term and condition set forth herein, and in the event of non-performance or default by any such grantee, the lien against the interest of such grantee in said unit may be foreclosed by the Association in the same manner as a realty mortgage and that any redemption thereafter shall nevertheless, be subject to the lien herein created as to other or future events or non-performance or default; provided, however, it is specifically understood and agreed that any lien herein created or which at any time accrues by virtue of the provisions hereof, and the terms hereof, shall at all times be subordinate and inferior to the lien and the terms and conditions of any bona fide mortgage in which a lending institution is the mortgagee, whether such mortgage be now in existence or be hereafter made and placed against all or any portion of the above described premises and herein created shall be secondary and subordinate to any such bona fide institutional mortgage lien regardless of the time such mortgage lien is placed of record.

26. The right of partition or to seek partition, shall not be available to any person, partnership, Association or corporation owning any interest of any kind in and to any portion of the above described premises.

27. If there shall be a violation or threatened or attempted violation of any of the foregoing covenants, conditions, stipulations or restrictions, it shall be lawful for any person, persons, or the Village of Oakcreek Association owning or having an interest in any of the premises to prosecute under proceedings at law or in equity against all persons, violating or attempting to violate or threatening to violate any such restrictions, covenants, conditions or stipulations, and either to prevent him or them from so doing, or to recover damages or other doings from such violations.

28. These restrictive covenants run with title to the premises and each and every portion thereof, and shall be binding upon all parties and all persons claiming under the undersigned until twenty (20) years from the date hereof, at which time said covenants and restrictions shall automatically be extended for successive periods of ten (10) years each; provided, however, that any time said covenants and restrictions may be changed in whole or in part or revoked entirely by a vote of a majority of the owners of the lots within the premises. Deeds of conveyance of said property or any part thereof may contain the above restrictive

covenants by reference to this document but whether or not such reference is made in such deeds or any thereof, each and all of such restrictive covenants shall be valid and binding upon the respective grantees. Violation of any one or more of such covenants may be restrained by any court of competent jurisdiction and damages awarded against such violator, provided, however, that a violation of these restrictive covenants or any one or more of them shall not effect the lien of any mortgage now of record, or which hereafter may be placed or recorded, upon said parcels or any part thereof.

29. Invalidity of any one or more of the foregoing covenants, conditions, restrictions, or stipulations shall in no way affect any other provision hereof, which shall remain in full force and effect.