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**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**THE SHORES AT RAINBOW LAKE**

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**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR THE SHORES AT RAINBOW LAKE**

This Amended and Restated Declaration of Covenants, Conditions, and Restrictions (the "Declaration") is made this \_\_\_ day of August, 2001, by The Shores At Rainbow Lake Community Association, an Arizona non-profit corporation (the "Association").

**WITNESSETH:**

**WHEREAS**, the real property described on Exhibit A attached hereto and improvements, and the appurtenances, easements and rights appurtenant thereto (collectively referred to herein as the "Property") has previously been submitted and subject to a Declaration of Covenants, Conditions and Restrictions; which instrument was recorded in Docket 825, pages 248 through 309, inclusive, records of Navajo County, Arizona, imposing certain covenants, conditions and restrictions upon the real property located in Navajo County, Arizona, described in the Declaration.

**WHEREAS**, the Declaration of Covenants, Conditions and Restrictions for the Shores at Rainbow Lake was amended by (i) instrument dated May 8, 1987 and recorded on May 15, 1987 in Docket 868 at Pages 832-845, inclusive, (ii) instrument dated May 15, 1990 and recorded May 24, 1990 in Docket 995, Pages 149-152, inclusive, (iii) instrument dated January 7, 1991 and recorded January 16, 1991 in Docket 1019, Pages 436 through 439, inclusive, and (iv) instrument dated February 26, 1992 and recorded February 28, 1992 in Docket 1068, Pages 99-104, inclusive.

**WHEREAS**, the Declaration of Covenants, Conditions and Restrictions for the Shores at Rainbow Lake, as previously amended, shall be referred to herein as the "Initial Declaration."

**WHEREAS**, the Initial Declaration provides that it may be amended by the written approval or of the affirmative vote, or any combination thereof, of Owners representing not less than sixty-seven percent (67%) of the votes in each class of membership in the Association and that this Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Shores at Rainbow Lake has been approved by the written approval or the affirmative vote, or any combination thereof, of Owners representing not less than sixty-seven percent (67%) of the votes in each class of membership.

**WHEREAS**, the Initial Declaration provides that any amendment approved by the Owners representing not less than sixty-seven percent (67%) of the votes in each class of membership shall be signed by the President or Vice President of the Association and shall certify that the amendment has been approved as required by the Initial Declaration.

**WHEREAS**, the Association now desires to amend and restate the Declaration of Covenants, Conditions and Restrictions in its entirety.

**NOW, THEREFORE**, the Association hereby declares that all of the said real property described on Exhibit A attached hereto (hereinafter sometimes referred to as the Shores at Rainbow Lake) shall be held, sold, and conveyed subject to the easements, restrictions, covenants, and conditions contained in this Declaration which are for the purpose of protecting the value and desirability of, and which shall run with said real property, and be binding on all parties having any right, title or interest in said real property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.



## ARTICLE 1

### DEFINITIONS

- 1.0. "**Annual Assessment**" means the assessments levied against each Lot and Parcel, and the Owner thereof, pursuant to Section 5.1 of this Declaration.
- 1.1. "**Architectural Committee**" means the committee of the Association to be created pursuant to Section 4.9 of this Declaration.
- 1.2. "**Architectural Committee Rules**" means the rules and guidelines adopted by the Architectural Committee pursuant to Section 4.9 of this Declaration, as they may from time to time be amended or supplemented.
- 1.3. "**Articles**" means the Articles of Incorporation of the Association, as they may from time to time be amended.
- 1.4. "**Assessable Property**" means each Lot or Parcel.
- 1.5. "**Assessment**" means an Annual Assessment, Special Assessment or Extraordinary Assessment.
- 1.6. "**Assessment Lien**" means the lien created and imposed by Article 5 of this Declaration.
- 1.7. "**Assessment Period**" means the period set forth in Section 5.4 of this Declaration.
- 1.8. "**Association**" means The Shores At Rainbow Lake Community Association, an Arizona non-profit corporation.
- 1.9. "**Association Rules**" means the rules adopted by the Board pursuant to Section 4.2 of this Declaration, as they may from time to time be amended.
- 1.10. "**Board**" means the Board of Directors of the Association.
- 1.11. "**Bylaws**" means the Bylaws of the Association, as they may from time to time be amended.
- 1.12. "**Cluster Residential Common Area**" means the real property, together with all improvements situated thereon, designated on the Project Plat as Tracts F and U and the real property, together with all improvements situated thereon, owned or leased by the Association and restricted by this Declaration or any Tract Declaration to the exclusive use of the Owners, Residents and Lessees of Cluster Residential Units.

1.13. "**Cluster Residential Unit**" means a portion of a building located within the Project intended for independent ownership for use and occupancy as a residence by a Single Family and which is attached by a common wall to one or more other portions of the same building which are also intended for independent ownership for use and occupancy as a residence by a Single Family. By way of illustration, the term "Cluster Residential Unit" shall include condominium units and attached townhouse units but shall not include single family houses situated on separately platted lots or rental apartments.

1.14. "**Cluster Residential Use**" means the use of a portion of the Project for the construction, development, sale, lease and use of Cluster Residential Units together with related areas intended for the use and enjoyment of the Owners, Lessees and Residents of the Cluster Residential Units.

1.15. "**Common Area**" means all real property together with the buildings, structures and improvements thereon, which is owned or leased by the Association for the use and benefit of all or less than all of the members of the Association, and shall include the Cluster Residential Common Area and the Detached Residential Common Area. With respect to Tracts L and M, "Common Area" shall mean the land underlying the Lake and shall not include the water in the Lake which is owned by the Show Low Irrigation District. The Common Area to be owned by the Association at the time of the conveyance of the first Lot or Parcel to a Purchaser is Tracts A, F, G, H, J, K, L, M, N and P as shown on the Project Plat.

1.16. "**Common Expenses**" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

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

1.18. "**Detached Residential Common Area**" means the real property, together with all improvements situated thereon, designated on the Project Plat as Tracts G, H, I, N and P, and all other real property, together with all improvements situated thereon, owned or leased by the Association and restricted by this Declaration or any Tract Declaration to the exclusive use of the Owners of Detached Residential Units.

1.19. "**Detached Residential Unit**" means a building situated upon a Lot intended for independent ownership for use and occupancy as a residence by a Single Family.

1.20. "**Detached Residential Use**" means the use of a portion of the Project for the construction, development, sale, lease and use of Detached Residential Units together with related areas intended for the use and enjoyment of the Owners, Residents and Lessees of the Detached Residential Units.

1.21. "**Extraordinary Assessments**" means any assessment levied pursuant to Section 5.3 of this Declaration.

1.22. "**Lake**" means Rainbow Lake, portions of which are designated on the Project Plat as Tracts L and M.

1.23. "**Lake Areas**" means the Lake and the Lakefront Easement Areas.

1.24. "**Lakefront Easement Area**" means, with respect to all Lakefront Lots and Lakefront Parcels other than Lots 120-127, inclusive, those portions of the Lakefront and Lakefront Parcels which lie within twenty feet (20') of the Lake and, with respect to Lots 120-127, inclusive, means the portions of those Lakefront Lots which lie within forty feet (40') of the Lake, and any other portions of Lakefront Lots or Lakefront Parcels which are subject to easements, as shown on or created by the Project Plat or any other recorded plat of dedication or subdivision plat or by this Declaration or any Tract Declaration, for the purpose of providing access to and for the construction, use, maintenance and operation of the Lake.

1.25. "**Lakefront Facilities**" means docks, wharves, floats, slips, ramps, piers, landings and other structures or equipment designed for use with, and for access to, the Lake.

1.26. "**Lakefront Lot**" means a Lot, all or a portion of which is contiguous to a Lake.

1.27. "**Lakefront Parcel**" means a Parcel, all or a portion of which is contiguous to a Lake.

1.28. "**Land Use Classification**" means the classification established by this Declaration or any Tract Declaration which designates the type of improvements which may be constructed on a Lot or Parcel and the purposes for which such Lot or Parcel, and the improvements situated thereon, may be utilized.

1.29. "**Lessee**" means the lessee or tenant under a lease, oral or written, of any Lot or Parcel including an assignee of a lease.

1.30. "**Lot**" means a portion of the Project intended for independent ownership and use and designated as a lot or as a condominium unit on the Project Plat or on any Neighborhood Plat and, where the context indicates or requires, shall include any Residential Unit, building, structure or other improvements situated on the Lot.

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

1.32. "**Neighborhood Association**" means any homeowners association or similar association formed or organized pursuant to any Neighborhood Declaration.

1.33. "**Neighborhood Common Area**" means all real property, and all improvements located "hereon, owned or leased by a Neighborhood Association for the common use and benefit of the members of the Neighborhood Association.

1.34. "**Neighborhood Declaration**" means any declaration of covenants, conditions and restrictions, condominium declaration or similar instrument, other than this Declaration or a Tract Declaration, recorded against any part of the Project.

1.35. "**Neighborhood Plat**" means any subdivision plat or condominium plat recorded against any part of " the Project, and all amendments, supplements and corrections thereto.

1.36. "**Owner**" means the record owner, whether one or more Persons, of beneficial or equitable title (and legal title if the same has merged with the beneficial or equitable title) to the fee simple interest of a Lot or Parcel. Owner shall not include (i) Persons having an interest in a Lot or Parcel merely as security for the performance of an obligation, or (ii) a lessee or tenant of a Lot or Parcel. Owner shall include a purchaser under a contract for the conveyance of real property, a contract for deed, a contract to convey, an agreement for sale or any similar contract through which a seller has conveyed to a purchaser equitable title in a Lot or Parcel under which the seller is obligated to convey to the purchaser the remainder of seller's title in the Lot or Parcel, whether legal or equitable, on payment in full of all monies due under the contract. Owner shall not include a purchaser under a purchase contract and receipt, escrow instructions or similar executory contracts which are intended to control the rights and obligations of the parties to the executory contracts pending the closing of a sale or purchase transaction. In the case of Lots or Parcels the fee simple title to which is vested in a trustee pursuant to Arizona Revised Statutes, Section 33-801, et seq., the Trustor shall be deemed to be the Owner. In the case of the Lots or Parcels the fee simple title to which is vested in a trustee pursuant to a subdivision trust agreement or similar agreement the beneficiary of any such trust who is entitled to Possession of the trust property shall be deemed to be the Owner.

1.37. "**Parcel**" means any real property, and all buildings, structures and improvements situated thereon, restricted by this Declaration or a Tract Declaration to Detached Residential Use or Cluster Residential Use except for (i) Lots, (ii) Common Area, (iii) Neighborhood Common Area and (iv) any real property owned by or dedicated to the United States, the State of Arizona, Navajo County, any municipality having jurisdiction over the Project, or any part thereof, or I any political subdivisions thereof, for as long as any such entity or political subdivision is the owner thereof or for so long as said dedication remains effective.

1.38. "**Person**" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

1.39. "**Primary Roadway**" means the roadway designated on the Project Plat as Rainbow View Drive and that portion of the roadway designated on the Project Plat as Shoreline Circle which is south of Rainbow View Drive, together with all improvements situated thereon.

1.40. "**Project**" means the real property described on Exhibit A attached to this Declaration, together with all improvements situated thereon.

1.41. "**Project Documents**" means this Declaration, the Articles, the Bylaws, the Association Rules and the Architectural Committee Rules.

1.42. "**Project Plat**" means the plat for The Shores At Rainbow Lake recorded in Book 16 of Maps, page 21-27, records of Navajo County, Arizona, and all amendments, supplements and corrections thereto.

1.43. "**Purchaser**" means any Person who by means of a voluntary transfer becomes the Owner of a Lot or Parcel.

1.44. "**Recording**" means placing an instrument of public record in the office of the County Recorder of Navajo County, Arizona, and "Recorded" means having been so placed of public record.

1.45. "**Resident**" means each Owner or Lessee residing in any Residential Unit, the members of the immediate family of such Owner or Lessee residing with such Owner or Lessee, and any other person residing with such Owner or Lessee.

1.46. "**Residential Unit**" means a Cluster Residential Unit or a Detached Residential Unit.

1.47. "**Single Family**" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons not all so related, who maintain a common household in a Residential Unit.

1.48. "**Special Assessment**" means any assessment levied and assessed pursuant to Section 5.2 of this Declaration.

1.49. "**Tract Declaration**" means a declaration recorded pursuant to Section 2.0 of this Declaration.

1.50. "**Visible From Neighboring Property**" means, with respect to any given object, that such object is or would be visible to a person six feet tall, standing at ground level on any part of such neighboring property.

ARTICLE 2

**LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS**

**2.0. Tract Declarations.** The Association shall have the right, but not the obligation, to record one or more Tract Declarations with respect to particular property designating Common Areas, establishing the Land Use Classification for the property if the Land Use Classification has not been established by Section 2.1 of this Declaration or if the Association desires to change the Land Use Classification established by Section 2.1 and establishing such additional covenants, conditions, and restrictions as may be appropriate for that property. A Tract Declaration may be only amended by a written instrument executed by (i) the Owners of all of the property subject to the Tract Declaration and (ii) the Association. The Association hereby declares that all of the real property within the Project is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred, in whole or in part subject to this Declaration, any Recorded Tract Declaration and any Recorded Neighborhood Declaration applicable thereto, as such instruments may be amended or modified from time to time; provided, however, property which is dedicated to the public or a governmental entity for public purposes shall not be subject to this Declaration while owned by the public or the governmental entity, although restrictions imposed in this Declaration upon the Owners, Lessees and Residents concerning the use and maintenance of such public areas shall at all times apply to the Owners, Lessees and Residents. This Declaration and the Tract Declarations are declared and agreed to be in furtherance of a general plan for the subdivision, improvement, sale and lease of the Project and are established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project. This Declaration shall run with all Lots, Parcels and other property in the Project for all purposes and shall be binding upon and inure to the benefit of the Association, all Owners, Lessees and Residents and their successors in interest, and all other persons having a Recorded interest in all or any part of the Project.

**2.1. Land Use Classifications.** The Land Use Classification for the Lots designated on the Project Plat as Lots 1 through 136, inclusive, and for the real property designated on the Project Plat as Tract B, D AND E shall be Detached Residential Use. The Land Use Classification for the Real property designated on the Project Plat as Tract C shall be Cluster Residential Use. The real property designated on the Project Plat as Tracts F and U shall be Cluster Residential Common Area. The real property designated on the Project Plat as Tracts G, H, I, N and P shall be Detached Residential Common Area. The Land Use Classifications for all other property within the Project shall be fixed by The Association in a Tract Declaration Recorded for that portion of the Project pursuant to Section 2.0 of this Declaration. A Tract Declaration may also change the Land Use Classification established by this Section for Lots 1 through 136, inclusive, and Tracts B, C, D, E, F, G, H, I, N, P and U. The Tract Declarations shall be construed as a supplement to this Declaration and fully a part hereof for all purposes to the same extent as if all of the provisions thereof were set forth in this Declaration. The Land Use Classifications for Lots and Parcels established by this Declaration or by a Tract Declaration shall not be changed except as specifically permitted by this Declaration, and no Lot or Parcel shall be used for any use other than a use allowed under the established Land Use Classification for such Lot or Parcel. Except as specifically provided in this Declaration, the definitions and

characteristics of the Land Use Classifications, and specific permitted and prohibited uses in such classifications, shall be determined in the Tract Declarations.

**2.2. Architectural Control.** Except as otherwise expressly provided in this Declaration, no improvements, alterations, repairs, excavation, grading, landscaping or other work which in any way alters the exterior appearance of any Lot or Parcel, or the improvements located thereon, from its natural or improved state existing on the date this Declaration was first Recorded shall be made or done without the prior written approval of the Architectural Committee, and no such work shall be commenced until a site plan for the Lot or Parcel upon which the work is to be performed has been approved in writing by the Architectural Committee. The site plan shall show the location of all Residential Units, buildings or other structures to be constructed on the Lot or Parcel. The Architectural Committee shall not approve the construction of any Detached Residential Unit unless the plans and specifications for the Detached Residential Unit provide for the construction of a garage containing adequate space for the parking of at least two (2) automobiles. No building, fence, wall, Residential Unit or other structure shall be commenced, erected, maintained, improved, altered, or made without the prior written approval of the Architectural Committee. All subsequent additions to or changes or alterations in any Residential Unit, building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of Lots or Parcels, shall be subject to the prior written approval of the Architectural Committee. No changes or deviations in or from the plans and specifications once approved by the Architectural Committee shall be made without the prior written approval of the Architectural Committee.

**2.3. Temporary Occupancy and Temporary Buildings.** No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence, either temporary or permanent. Temporary buildings, trailers or other structures used during the construction of a Residential Unit shall be removed immediately after the completion of construction, and in no event shall any such buildings, trailer or other structures be maintained or kept on any property for a period in excess of twelve months without the prior written approval of the Architectural Committee.

**2.4. Maintenance of Lawns and Plantings.** Each Owner of a Lot or Parcel shall keep all shrubs, trees, hedges, grass and plantings of every kind located on (i) his Lot or Parcel, (ii) planted public right-of-way areas between sidewalks (or bikepaths) and the street curb in front of his Lot or Parcel (iii) any other public right-of-way or easement area which abuts the Owner's Lot or Parcel and which is located between the boundary line of his Lot or Parcel and the paved area of any street, sidewalk, bikepath or similar area, and (iv) any non-street public right-of-way or easement area adjacent to his Lot or Parcel, neatly trimmed, and shall keep all such areas properly cultivated and free of trash, weeds and other unsightly material; provided, however, that such Owner shall not be responsible for maintenance of any area over which (i) the Association assumes the responsibility in writing; (ii) the Association has been given such responsibility by a Recorded instrument as provided in Section 6.0 of this Declaration; or (iii) Navajo County or any municipality having jurisdiction over such property assumes responsibility, for so long as the Association, Navajo County or such municipality assumes or has responsibility.

**2.5. Nuisances; Construction Activities.** No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, Parcel or other property, and no odors or loud noises shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of such other property. No other nuisance shall be permitted to exist or operate upon any Lot, Parcel or other property so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot, Parcel or other property. Normal construction activities and parking in connection with the building of improvements on a Lot, Parcel or other property shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots, Parcels and other property shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved in writing by the Architectural Committee. In addition, any construction equipment and building materials stored or kept on any Lot, Parcel or other property during the construction of improvements may be kept only in areas approved in writing by the Architectural Committee, which may also require screening of the storage areas. The Architectural Committee in its sole discretion shall have the right to determine the existence of any such nuisance.

**2.6. Diseases and Insects.** No Person shall permit any thing or condition to exist upon any Lot, Parcel or other property which shall induce, breed or harbor infectious plant diseases or noxious insects.

**2.7. Repair of Building.** No Residential Unit, building or structure on any Lot, Parcel or other property shall be permitted to fall into disrepair and each such Residential Unit, building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished. In the event any Residential Unit, building or structure is damaged or destroyed, then, subject to the approvals required by Section 2.2 of this Declaration, such Residential Unit, building or structure shall be immediately repaired or rebuilt or shall be demolished.

**2.8. Antennas.** No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation including, without limitation, satellite or microwave dishes, shall be erected, used or maintained outdoors on any Lot, Parcel or other property, whether attached to a Residential Unit, building or structure or otherwise, unless the antenna or device is a direct broadcast satellite (DBS) antenna less than one meter in diameter, a multi-point distribution service (MDS) antenna less than one meter in diameter, an antenna designed to receive television broadcast signals, or any other type of antenna which the association must allow pursuant to rules promulgated by the Federal Communications Commission ("FCC") (hereinafter referred to as "Permitted Antennas"). If an Owner wishes to install a Permitted Antenna, the Owner must apply to and comply with all rules and guidelines established by the Architectural Committee.