

**EASTWOOD HOMEOWNERS  
ASSOCIATION  
131 UNITS**

**COLBY MANAGEMENT INC.  
13622 NORTH 99<sup>TH</sup> AVE.  
SUN CITY, AZ 85351  
PHONE: 623-977-3860  
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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF EASTWOOD**

THIS DECLARATION, made this 15<sup>th</sup> day of February, 1977, by CARRIAGE SQUARE HOMES, hereinafter called "Declarant":

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in the County of Maricopa, State of Arizona, which is more particularly described as;

Lots One (1) through One Hundred Thirty-One (131), inclusive, and Tracts A, B and C, of the AMENDED PLAT OF EASTWOOD, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 188 of Maps, page 3.

WHEREAS, Declarant will convey the said property subject to certain protective covenants, conditions and restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting and enhancing the value, desirability and attractiveness of the real property, and all of which are here by declared to be for the benefit of all of the property described herein, and the owners thereof, their heirs, successors, grantees and assigns. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties, or any part thereof. This Declaration hereby establishes a plan for the individual ownership of real property estates, consisting of a lot and the improvements contained thereon, and the ownership by a non-profit association, comprised of all owners of lots within EASTWOOD, of all the remaining property, both real and personal which is hereinafter defined and referred to as the "common areas". Said restrictions establish and impose a general plan for the improvement and development of said property described herein and the adoption and establishment of covenants, conditions and restrictions upon said land and upon any and all housing units constructed or to be constructed thereon and upon the use, occupancy and enjoyment thereof.

**ARTICLE I**

**DEFINITIONS**

Section 1. "Association" shall mean and refer to EASTWOOD ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of equitable title (or legal title if equitable title has merged) of any lot which is a part of the property.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned, or to be owned, by the Association for the common use and enjoyment of the owners, including but not limited to, all of the above-referred to tracts on the above-referred to plat of record and all recorded amendments thereto except streets dedicated to the public and accepted by governmental agency. The common area to be owned by the Association at the time of the conveyance of the last lot is described as Tracts A, B and C on the recorded plat of EASTWOOD, more specifically set forth on Exhibit "A" attached hereto and incorporated herein.

Section 5. "Lot" or "Unit" shall mean and refer to numbered lots shown upon a recorded subdivision map of the properties, recorded in Book 188 of Maps and Plats at page 3.

Section 6. "Declarant" shall mean and refer to EASTWOOD, its successors or assigns, if such successors and assign should acquire more that one (1) undeveloped lot from the Declarant for the purposes of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Corporation" shall mean or refer to EASTWOOD, its successors and assigns.

## ARTICLE II

### MEMBERSHIP

Membership in the Association, except for membership of the Incorporators, the Declarant and the first Board of Directors, shall be limited to record owners of equitable title (or legal title if equitable title has merged) of homes constructed or planned to be constructed on the property described above or on any duly annexed property. An owner of a home shall automatically, upon becoming the owner of said home, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases, for any reason, at which time his membership in said Association shall automatically cease. Ownership of a lot shall be the sole qualification and criteria for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such lot and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and/or records of the Association. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of such lot, the Association shall have the right to record the transfer upon the books of the Association and issue a new membership to the purchaser and thereupon, the old membership, outstanding in the name of the seller, shall be null and void as though the same had been surrendered.

## ARTICLE III

### VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership.

CLASS A. Class A members shall be all those owners as defined in Article II. A Class A member shall be entitled to one (1) vote for each lot owned by a said member as provided above.

CLASS B. The Class B member shall be the Declarant. A Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article II, provided that the Class B memberships shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) Three (3) years from the date of this Declaration.

Section 2. In the event any Class A owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration for a period of fifteen (15) days, or shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said owner's right to vote as a member of the Association shall be suspended and shall remain suspended until all payments are brought current and all defaults are remedied.

Section 3. Voting on any matter may be either in person or by written proxy signed by the Owner.

## ARTICLE IV

### PROPERTY RIGHTS

Section 1. *Owner's Easement of Enjoyment.* Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot, to be subject to those items hereinafter set

forth. It is expressly acknowledged and agreed by all the parties concerned that this paragraph is for the mutual benefit of all owners of the lots in the Association and is necessary for the protection of said owners. Such right and easement of enjoyment shall be subject to such reasonable rules and regulations as from time to time are promulgated by the Board of Directors, which may include:

(a) The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded.

(b) The right of the Association, in accordance with its Articles and By-laws, to borrow money for the purposes of improving the common areas and facilities and in aid thereof, to mortgage said property. The rights of such mortgaging of said property shall be subordinate to the rights of the lot owners hereunder.

Section 2. *Title to the Common Areas.* The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the common areas to the Association prior to the conveyance of the last lot. Said common areas shall be free and clear of all liens and encumbrances, except normal easements, and these Covenants, Conditions and Restrictions at the time of the conveyance.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. *Creation of the Lien and Personal Obligation of Assessments.* The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agrees to pay to the Association:

- (1) Annual assessments or charges, and
- (2) Special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall, in addition to being a lien on the real property, be the personal obligation of the person or persons who was or were the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to a successor in title except by testamentary or intestate transfer or by operation of the laws of joint or common tenancy, unless it is expressly assumed or unless prior to such transfer of title, as evidenced by the records of the County Recorder, or other appropriate governmental agency, a lien for such assessment shall have been filed in writing.

Section 2. *Purpose of Assessments.* The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents and owners of the subject properties by improving and maintaining the common areas and for services and facilities appurtenant thereto.

Section 3. *Maximum Annual Assessment.* Declarant and the owner of each such lot or home, for themselves, their heirs, successors, and assigns, further covenant that each such home shall be subject to annual assessments in amounts to be determined by the Board of Directors and membership as hereinafter provided. The amount, which is to be pro-rated among the members of the Association, shall be established annually by the Board of Directors. Said amount shall be established after the Board of Directors has examined the Annual Reports, to be prepared as hereinafter provided, and the Annual Audit prepared by a Certified Public Accountant.

An Annual Report shall be prepared by or under the direction of the Board of Directors, the exact date of which shall be determined by the Board of Directors. The Board of Directors shall meet with the management corporation, or any other party preparing said report, within forty (40) days following the preparation of the same, to discuss and set the rate for the current year.

At the time of the first conveyance or occupancy, whichever occurs first, of each home, and from time to time thereafter, the Board of Directors or its designated representatives shall notify the owner or owners of each such home as to the amount of the estimated annual assessment and shall, each month, collect for each home or lot one-twelfth (1/12) of said unit's proportional share of said annual assessments. The assessments on a home will commence at the time of the first conveyance or first occupancy of said unit, whichever occurs first, or in any event shall commence as to all homes on the first day of the month following the conveyance of the common areas to the Association.

Until the end of the first fiscal year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be ONE HUNDRED TWENTY (\$120.00) per lot (TEN DOLLARS (\$10.00) per month). From and after said

fiscal year, the maximum annual assessment may be increased by the Board of Directors, effective the first day following the end of each fiscal year, provided, however, that the Board of Directors may not increase said assessment by an amount in excess of TWENTY PERCENT (20%) of the assessment for the year immediately preceding the year for which such increases shall be applicable.

The maximum annual assessment may, at any time after the end of the first fiscal year, be increased (without limitation) by a vote of two-thirds (2/3) of each class of members who are voting in person, or by proxy, at a meeting duly called for that purpose. Those present at such meeting, either in person or by proxy, shall be deemed to be a quorum for all purposes. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a signed certificate setting forth whether the assessment on a specified lot has been paid.

Section 4. *Special Assessments.* In addition to the annual assessments authorized above, the Association's Board of Directors shall have the power and right to levy, in any assessment year, a special assessment applicable to that year only for the purpose of providing for the construction of additional recreational and other common facilities, unexpected repairs, or the alteration, replacement, demolition or removal of common facilities from time to time, as in their discretion appears to be in the best interest of the Association. Any such actions increasing the owners assessment for that year over the then maximum limitation, shall be authorized by an affirmative vote of three-fourths (3/4) of the Board of Directors at a meeting duly called at which a quorum is present, and ratified and approved by the affirmative vote of sixty-six percent (66%) of the members of the Association present at a duly called meeting at which a quorum is present. For the purposes of Section 3 and Section 4 of this Article, the presence at a duly called meeting of members or proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming in any meeting, another meeting may be called by sending written notice to all members in not less than ten (10) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. *Rate of Assessment.* Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis. Each home's pro rata share of any assessment shall be 1/131 of the total amount of said assessment. In the event the actual number of homes constructed is not one hundred thirty one (131), the denominator in the fraction 1/131 shall, wherever it appears in this Declaration, be changed to reflect the correct number of homes. It is understood that Class B members shall be assessed at the uniform rate only on lots on which have been constructed a home which is occupied for residential purposes.

Section 6. *Non-payment of Assessments and Remedies.* Each owner, for himself, his heirs, grantees and assigns covenants that with respect to charges determined during the period that he is an owner, he will remit those charges directly to the management corporation, or to such other party or parties as directed by the Association's Board of Directors.

Any assessments which are not paid when due shall be delinquent. Each owner further agrees that such charges, if not paid within twenty (20) days after the due date, shall bear interest from the date of delinquency at a rate of eight percent (8%) per annum and shall become a lien upon said owner's lot and home and there shall continue to be such lien until fully paid. The lien of all annual and special assessments shall be subordinate to the lien of any first mortgage.

Each owner expressly vests in the Association or its agent, the right and power to bring any action at law against the owner personally obligated to pay the same, or foreclose the lien against the property and that further, interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such owner, by his acceptance of a deed to a lot, hereby expressly vests in the Association all rights and powers necessary and appropriate in connection with the establishment and enforcement of said lien. The lien provided for in this section shall be in favor of the Association and be for the benefit of all other owners. The Association, acting on behalf of the home owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

No owner of a home may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by the abandonment of his home.

Section 7. *Exempt Property.* All properties dedicated to and accepted by a local public authority, the common area, and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Arizona, shall be exempt from the assessment created herein; however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 8. *Insurance.* The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all of the common buildings and facilities, and shall also obtain a Broad Form Public Liability Policy covering all

common elements and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be a common expense. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Board of Directors as Trustee for each of the owners.

## ARTICLE VI

### PARTY WALL

Section 1. *General Rules of Law to Apply.* Each wall which is built as a part of the original construction of the homes, walls or fences upon the properties and placed on the dividing line between the lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto (should there be any party walls).

Section 2. *Sharing of Repairing Maintenance.* The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in equal proportions to such use. In the event any such party wall is damaged or destroyed through the act of one adjoining owner or any of his guests, whether or not such act is negligent or otherwise culpable, so as to deprive the other adjoining owner of the full use and enjoyment of such wall, then the first of such owners shall forthwith proceed to rebuild and repair the same to as good a condition as formerly, with out cost to the adjoining owner.

Section 3. *Destruction by fire or other casualty.* If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof, in equal proportions, without prejudice; however, to the right of any such owners to call for larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. *Right to Contribution Runs with the Land.* The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owners and successors in title.

Section 5. *Arbitration.* In the event of any dispute arising concerning a party wall or under the provisions of this Article, each party shall choose one arbitrator and such arbitrator shall choose one additional arbitrator and the decision will be by the majority of all the arbitrators. Should any one party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party.

## ARTICLE VII

### ESTABLISHMENT OF ZERO LOT LINE EASEMENTS

Section 1. As to any single family residential lot in EASTWOOD Subdivision upon which there is a zero setback for a single family dwelling structural wall, and upon which zero setback CARRIAGE SQUARE HOMES, or any contractor, causes such structural wall to be erected, there hereby is created an easement upon and over the lot immediately adjoining and contiguous with such structural wall erected on the lot line, the width of which easement shall be parallel to such structural wall erected on the lot line (the easement area). The easement hereby created includes the easement area (the "servient tenement") to and for the benefit of the lot immediately adjoining and contiguous with the easement area (the "dominant tenement").

Section 2. Said easement shall be for the purpose of permitting and the maintenance, repair or restoration of any structural wall, underground utilities and roof overhang located on any lot and erected by virtue of a zero setback. The use of the easement area shall be restricted for the purposes of permitting such maintenance, repair or restoration. Such use is subject to the rights of any other easement holder such as a public utility, and is further subject to the rights of the owner of the servient tenement as set forth herein.

Section 3. The owner of the servient tenement shall have the right, at all reasonable times, to enter the easement area in order to repair, maintain or restore any structural wall, underground utilities and roof overhang located on the servient tenement; provided, however, that such entry shall be allowed only during daylight hours and with the prior knowledge of the owner of the dominant tenement.

Section 4. Within the easement area there is hereby created an additional easement in order to cause, allow, suffer and permit the encroachment of footings, roof overhangs and water drainage onto the servient tenement and within the easement area.

Section 5. None of said lots shall be re-subdivided except for the purpose of providing public utilities, provided however that this restriction shall not prevent the conveyance or encumbrance of adjoining or contiguous lots or parts of lots in such a manner as to create parcels of land in a common ownership having the same or a greater area than that already stipulated. Thereafter such part or parts of adjoining or contiguous lots in such common ownership shall, for the purposes of those restrictions, be considered as one lot.

## ARTICLE VIII

### ESTABLISHMENT OF COMMON AREA EASEMENTS

The Declarant, by this covenant, hereby establishes, for the benefit of all owners, a common area easement, more particularly described as shown on Exhibit A attached hereto and incorporated herein as if fully set forth. Said easement is established for the purpose of providing ingress and egress to and from the fences that exist on the individual lot owner's properties and further, for the purpose of the maintenance of the exterior of the fence and other structures that exist as shown on Exhibit A. The purpose and intention of the easement hereby granted is that henceforth, the parties hereto, their respective heirs, executors, administrators and assigns shall allow the Association or its authorized representative to have ingress and egress for the purposes set forth above, over and upon all of that portion set out in Exhibit A. This easement is superior and paramount to the rights of any of the owners over which said easement runs, and it is a covenant running with the land intended to be perpetual. It is agreed that the maintenance of the exterior portions of the walls will be provided for by the Association as part of its duties as heretofore set out.

## ARTICLE IX

### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and locations of the same shall have been submitted to and approved, in writing, as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event the said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

## ARTICLE X

Section 1. Said Property is hereby restricted to residential dwellings for residential use. None of the lots shall be re-subdivided. All buildings or structures erected upon said property shall be of new construction and no buildings or structures will be moved from other locations on to said property, and no subsequent buildings or structures other than housing units, being single family lots, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other type structure shall be used on any portion of said property at any time as a residence, either temporary or permanently. There shall be no chain link or metal fencing of any type permitted on any lot in this subdivision, and in order to preserve the quality development of the subdivision, there shall be no outside storage of boats, motor homes, trailers, campers, dune buggies or the like except in the rear one-half (1/2) of the lot and the same shall be completely hidden from view.

Section 2. Notwithstanding any other provision herein contained to the contrary, it shall be expressly permissible for the builder or developer of the said homes to maintain, during the period of construction and the sale of said houses, upon such portion of the premises as such builder may choose, such facilities as, in the sole opinion of the said builder, may be reasonably required, convenient or incidental to the construction and sale of said homes including, but without limitation, a business office, storage area, construction yard, signs, model units and sales office.

Section 3. No animals, livestock or poultry of any kind shall be raised or kept on any of said lots except for dogs, cats or other household pets which may be kept provided that they are not kept, bred or maintained for any commercial purpose.

Section 4. No advertising signs, billboards, unsightly objects or nuisances shall be created, placed or permitted to remain on the premises, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the owner of any other home or any resident thereof. Notwithstanding any provision herein contained to the contrary, one "for sale" sign per home of not more than five square feet may be used for the purposes of sale or rent of any particular home when there is a salesperson on duty at that home for the purposes of showing the said home as an open house.

Section 5. The common elements shall remain undivided, and shall, at all times, be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the common elements and/or the easements owned by the Association.

Section 6. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antenna shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property, nor upon any structure situated upon the property that exceeds a maximum height of twenty-four inches (24") off the roof and in no instance be visible from the ground or street.

Section 7. The garage doors will remain closed at all times except when in use in entering and leaving the premises. This provision is to enhance the aesthetic appearance of the subdivision.

Section 8. No action shall at any time be taken by the Association or its Board of Directors which in any manner discriminates against any owner or owners in favor of the other owner.

## ARTICLE XI

### SEMI-PUBLIC EASEMENTS

Each lot and property included in the common area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Delcarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. Further, there is created hereby, a blanket-easement upon, across, over and above the above-described premises, for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone and electricity. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property, and to affix and maintain electrical and /or telephone wires, conduits on circuits on, above, across and under the roofs and exterior walls of said homes. The easements provided for in this Article shall in no way affect any other recorded easement on the said premises.

## ARTICLE XII

### EXTERIOR MAINTENANCE

The Association or its duly designated representatives shall maintain and otherwise manage all property up to the exterior lot lines, not limited to the landscaping, parking areas, streets, and common elements and easements, and such additional maintenance as the Board of Directors shall, from time to time, determine to be in the best interest of the Association and its members. The Board of Directors shall use a reasonably high standard of care in providing for said repair, management, and maintenance so that the project will reflect a high pride of ownership. All maintenance and repair of the individual homes (including painting of the exterior of the homes) shall be the sole obligation and expense of the individual homeowners, except to the extent that exterior maintenance and repair as provided by the Association to common walls and other structures, as heretofore defined. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common elements, including fences and other structures within common area easements, shall be taken by the Board of Directors' duly delegated representatives. In the event that the need for maintenance and repair is caused through the willful or negligent act of an owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become part of the assessment to which such lot is subject.

The Association, through its Board of Directors, will establish standards for the upkeep and maintenance of all front yards within the subdivision and it shall be the responsibility of each homeowner to maintain his front yard in such a manner as to meet all accepted standards set by the Association. Should the homeowners fail to provide the necessary maintenance of his front yard, the Association may provide such maintenance and charge the individual homeowner for the cost of same. The same shall be an assessment against the homeowner and shall be a lien upon the property and collectable as provided for in Article V of these Restrictions.

It is understood that at the sole option of the builder, the builder may maintain the front and side yards of the homes that he so desires for a period ending December 31, 1979. It is understood that the developer may cease maintenance and repair at any time at his sole discretion.



## ARTICLE XIII

### DAMAGE OR DESTRUCTION OF PROPERTY

In the event any common element is damaged or destroyed by an owner or any of his guests, tenants, licensees, agents or members of his family, such owner does hereby irrevocably authorize the Association to repair such damaged element in a good workmanlike manner in substantial conformance with the original plans and specifications. The owner shall then repay the Association the amount actually expended for such repairs.

## ARTICLE XIV

### GENERAL PROVISIONS

Section 1. The Association, or any owner, shall have the right to enforce, by a proceeding, in law or in equity, all restrictions, covenants, conditions, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing, leasing, subleasing or occupying any home on said property, their heirs, executor, administrators, successors, grantees and assigns. After the date on which this instrument has been recorded, these covenants, restrictions, reservations and conditions may be enforced by the Association or by its Board of Directors which shall have the right and duty to enforce the same and expend the Association's monies pursuant thereto. It also may be enforced by the owner of any home or anyone or more of said parties.

Section 3. Invalidation of any one of these covenants or restrictions by judgment or by Court Order shall not affect, in any manner, any other provisions, which provisions shall remain in full force and effect.

Section 4. The covenants and restrictions of this Declaration shall run for a term of twenty (20) years from the date this Declaration is recorded, after which time it shall automatically be extended for successive periods of ten (10) years. This Declaration may be amended or revoked during the first twenty (20) year period by an instrument signed by the owners of not less than ninety percent (90%) of the lots and thereafter, by an instrument signed by the owners of not less than seventy-five percent (75%) of the lots. Any amendment or revocation must be recorded.

Section 5. The singular, whenever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply, either to corporation or individuals and men or women shall, in all cases, be assumed as though, in each case, fully expressed.

## ARTICLE XV

### ANNEXATION

Annexation of additional properties that may be contiguous to the properties herein described, shall require the assent of two-thirds (2/3) of the Class A members and two-thirds (2/3) of the Class B members, if any, in person or by proxy, at a meeting duly called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than Sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. The presence of members or proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 15<sup>th</sup> day of February, 1977.

Carriage Square Homes

By Gem Pennington, President

STATE OF ARIZONA

} ss:

COUNTY OF MARICOPA

On this the 15<sup>th</sup> day of February 1977, before me the undersigned officer, personally appeared G.L. Pennington, who acknowledged himself to be the President of CARRIAGE SQUARE HOMES, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Emilee Nagel, Notary Public  
My Commission Expires May 25, 1979

APPROVAL OF MORTGAGEE:  
CONTINENTAL BANK

BY: Dale E. Tilley  
Its Senior Vice President

STATE OF ARIZONA

} ss:

COUNTY OF MARICOPA

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of March, 1977 by Dale E. Tilley, the Senior Vice President, of CONTINENTAL BANK, An Arizona corporation, on behalf of the corporation.

Lucille Elfstrom, Notary Public  
My Commission Expires June 4, 1979



AMENDMENT  
OF THE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF EASTWOOD

AZ CORP COMMISSION  
OF THE STATE OF AZ  
FILED

1998 NOV -4 P 1: 55

APPR. \_\_\_\_\_  
DATE APPR. \_\_\_\_\_  
TERM \_\_\_\_\_  
DATE \_\_\_\_\_

CARRIAGE SQUARE HOMES (the "Declarant"), hereby certifies that:

1. The name of the association is EASTWOOD ASSOCIATION.
2. The Declaration of Covenants, Conditions and Restrictions of Eastwood are hereby amended as follows:

Article I Section 1. is hereby deleted in its entirety.

Article I Section 4. delete EASTWOOD.

Article I Section 6. delete EASTWOOD.

Article I Section 8. is hereby deleted in its entirety.

The following changes to Article I are substituted therefore:

ARTICLE I

DEFINITIONS

Section 1. Shall state: "Association" shall mean and refer to CARRIAGE SQUARE AT GAINNEY VILLAGE, its successors and assigns.

Section 4. Replace EASTWOOD with CARRIAGE SQUARE AT GAINNEY VILLAGE.

Section 6. Replace EASTWOOD with CARRIAGE SQUARE AT GAINNEY VILLAGE.

Section 8. Shall state: "Corporation" shall mean or refer to CARRIAGE SQUARE AT GAINNEY VILLAGE, its successors and assigns.

IN WITNESS WHEREOF, the said Eastwood Association has caused these Declaration of Covenants, Conditions and Restrictions, which were duly adopted by the act of the Board of Directors, to be signed and executed by Caroline Sovell, its President, and attested by Kay Sperduti, its Secretary; on this 28th day of October, 1998, and amendment shall be effective upon the filing with the Arizona Corporation Commission.

CARRIAGE SQUARE HOMES

By Caroline L. Sovell  
Caroline Sovell, President

Attest: Kay Sperduti  
Kay Sperduti, Secretary