

Desert Shores Homeowners Association, Inc.
Rules and Regulations

Adopted February 23, 2017, and Updated June 29, 2022; September 27, 2023; October 25, 2023; February 23, 2024; and February 25, 2025

INTRODUCTION

These Rules and Regulations have been adopted by the Board pursuant to Article 4, Section 4.5, Second Amended and Restated Declaration of Condominium and of Covenants, Conditions, and Restrictions (CC&Rs). These rules govern the use and maintenance of the Condominium by any Owner, Tenant or Guest. These rules govern the use and maintenance of the Condominium by any Owner, Occupant, Tenant, or Guest. These rules explain violations and the consequences of violations, except in extraordinary circumstances. The Board urges any Owner or Occupant who anticipates or has just experienced an extraordinary circumstance that may necessitate a violation of a rule for up to 48 hours to notify the Property Manager or Board Chairman, or both, immediately to resolve the matter as quickly as possible and to record the date and time of notification.

The Board has adopted reasonable rules to protect the health, safety, welfare, recreation, uniform architectural aesthetics, fair market value, and common good of the Association and its Owners, Occupants, Tenants, and Guests.

These rules are effective April 1, 2017, with amended updates effective July 1, 2022, September 27, 2023, October 25, 2023, February 23, 2024, and February 25, 2025.

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USE OF PROPERTY AND OCCUPANCY RESTRICTIONS

The Board refers Owners, Occupants, Tenants, and Guests to Article 9 of the CC&Rs for the general restrictions.

GENERAL ENFORCEMENT ACTIONS

Violation of these R&Rs, the CC&Rs, or the Bylaws of Desert Shores HOA may result in any of the following actions (*please see below for fine policy as it relates to dogs and Administration/Work Order Fee*):

1. **Courtesy Warning Notice** – Written notification, sent via email and USPS, of intent to place a fine on the account of the Owner in the amount of **\$100.00** if the violation is not remedied within fifteen (15) days.
2. **Fine Notice** – On the sixteenth (16) day from the date of the initial Courtesy Warning Notice, should the violation still exist, written notification shall be sent stating that a fine of **\$100.00** has been placed on the homeowner's account and that if the non-compliance item is not remedied within the following fifteen (15) days of this written notification, fines can be assessed at **\$200.00 every fifteen (15) days** to the applicable Unit account ledger until the item is remedied.
3. **Further Violation Consequences in addition to Fines** – Additional actions, which may include fines and/or attorney fees, will be initiated at the discretion of the Board.
4. **Reoccurrence of Violation**– If a violation happens again after the 1st occurrence, the process is permitted to move directly to the issuance of a fine letter and associated fine, as long as the reoccurrence happens within 12 months of the previous violation.

Fine Policy for Proof of Insurance:

1. Failure to provide the required Proof of Insurance information no later than the date of the Annual Meeting or the last Friday in March by 5:00 p.m. will result in fine(s). The initial fine will be levied on the day after the deadline and thereafter, a fine will be levied every 30 days until proof of insurance is provided. Each fine will be \$100.00.

Fine Policy for Dogs at Desert Shores:

1. **Courtesy Warning Notice** – Written notification, sent via email and USPS, of intent to place a fine on the account of the Owner in the amount of **\$200.00** if the violation is not remedied immediately or is a repeat occurrence with a different dog. If the owner supplies appropriate and required paperwork for the dog (per Rules and Regulations, page 10 under PETS), within ten calendar days of the written request date, then the \$200.00 fine will not be added to the owner's Association account.
2. **Fine Notice** – On the eleventh (11) day from the date of the initial Courtesy Warning Notice, should the appropriate and required paperwork not be submitted to the Association's management company, written notification shall be sent stating that a fine of **\$200.00** has been placed on the homeowner's account. Fines can be assessed at \$200.00 every fifteen (15) days to the applicable Unit account ledger until the dog is removed from the Desert Shores property.

Renewal of Service or Support animal paperwork will be required annually. If the Service or Support animal is due to a permanent disability, this requirement will be waived if the owner provides documentation of the permanent disability.

Administration/Work Order Fee:

Should any Owner(s), Owners' Tenant(s), Resident(s), or Guest(s) or Vendor(s) of Owner/Tenant/Resident create any issue(s) where the Association must send out a vendor and/or Association representative to clean-up, or that creates an unnecessary nuisance to other owners and/or residents, or take any administrative action or incur any expense created by the issue, the associated Owner's Unit will be assessed a \$250.00 Administration/Work Order Fee. Should any actual damages or costs incurred exceed this amount, then the higher amount will be assessed in addition to the Administration/Work Order Fee.

Examples include but are not limited to: Cleaning up the pool area after a gathering, cleaning of a common area due to mess caused or left, dumping of non-permitted bulk trash placed in or around the dumpsters, non-permitted construction items placed in or around the dumpster, or facilitating animal waste pick-up. Pursuant to Section 5.3 of the CC&R's, the Association may enforce collection of such amounts in the same manner and to the same extent as provided for in the Declaration for the collection of assessments.

An Owner may provide the association with a written response to the violation notice, whether or not monetary penalties were imposed by the notice, by sending the response by Certified Mail within twenty-one (21) *calendar days* after the date of the notice (ARS 33-1242). Upon this request, the process that the unit owner must follow to contest the notice will be provided.

Once the dispute has been received, the Board of Directors will make a decision on the matter which will be final and binding. The Association, through the Board of Directors, may take corrective action to bring any violation into compliance at the expense of the Owner. The Managing Agent may act for the Association as directed by the Board of Directors.

Any fine issued for violation or deviation of the governing documents will be assessed to the Owner's account and will accrue a late fee if not paid in full on the last day of the month.

USE OF PROPERTY

Business use of Units and Common Areas or other electronic networking system, by telephone, by U.S. or other mail system that do not EXHIBIT External signs of activity, traffic, parking, or personnel are permissible. Except for service calls essential for maintenance, of a unit or the common areas, businesses may not be conducted if they do any of the following:

1. Add noise that disturbs any other resident or violates the City of Phoenix Noise Ordinance.
2. Add traffic flow in and out of the property.
3. Obstruct parking or occupy assigned parking spaces or excessive guest parking spaces.
4. Add personnel in a unit or common area.

Childcare of a reasonable number of children related to a unit owner is permissible; the Property Manager may ask for proof of relationship or guardianship. Childcare or daycare of non-relatives is prohibited.

ARCHITECTURAL CHANGES CONTROL

In addition to Article 8 of the CC&Rs, non-structural changes to replace doors and windows require prior written approval of the Board of Directors to ensure harmony with the color scheme and the Common Elements, and the Rules and Regulations. Architectural Change Control Request Forms, attached as **EXHIBIT A**, or may be requested from the Property Management Company and should be submitted for approval before the next board meeting. Changes within the unit are subject to the building permit requirements of the City of Phoenix, and compliance is the responsibility of the unit owner. Changes of a non-structural nature may not damage another unit, common elements, or

personal property of others. Changes of a nonstructural nature to the interior unit must be covered under the individual homeowner's insurance policy of the unit owner making the change. *See also insurance rules.*

Note: Architectural Change Requests will be *denied* to any homeowner that is not current in their HOA assessments, fees and fines.

BARBEQUES

The Association has provided gas barbeque grills next to the tennis courts and pool area for resident use. Two charcoal grills are provided on the southeast side of the pool opposite the Office. Any person using a grill is required to turn it off after use and to deposit all refuse in Association dumpster for trash. Misuse or damage to any barbeque grill or the surrounding area can result in a fine and or a fee to clean or repair the area.

No unit, patio, or balcony is permitted to have a charcoal grill, gas grill, hibachi, and outdoor fire pit or beehive fireplace. Only electric barbecue grills are permitted in individual unit patios or balconies. No barbeque grills are allowed in the common elements other than those placed by the Association.

DRAPERIES, SHADES, SCREENS, AND SECURITY BARS

1. Interior draperies, shades, curtains, or window treatments are required on any window that can be seen from the outside even if the unit is vacant. They must be white, off- white, or almond on the side that can be seen from the outside and not reflective. They must be kept clean and in good repair.
2. Exterior patio and balcony draperies, which are optional, must be marine canvas, uniform in style and color, as approved by Desert Shores. Supplier lists may be obtained from the Property Management Office. Screens or shades are permitted if using the association's pre-approved styles. For shades, "Coolaroo" brand crank rolldown sunscreens, in the color "Southern Sunset", are available for purchase through home improvement stores. For screens to enclose the unit's balcony or patio, quick approval is to use "Patriot Sun Control Company" with bronze color framing metal. They offer two screening options: 1. To block the sun select black sunscreen with 80% to 90% UV protection, or 2. to allow light and eliminate insects, select charcoal insect screen".

All Options listed in this section must remain in well-maintained condition and appearance, or must be removed within thirty (30) days after written notification by the Property Management Company. Replacement exterior draperies, which are optional, must comply with the rules set forth in this section.

3. Security bars (if any), which can be seen from the outside, must be white, off-white, or almond in color.
4. Written Advance Architectural Change approval is required for screens, shades, exterior draperies and security bars.

ENTRANCE DOORS

1. All exterior front doors shall be painted either the same color as the building or the same color as the trim, as identified by the Property Manager.
2. Only almond-colored security doors are permitted.
3. Conventional screen doors must be without glass and must be almond or match the brown building trim.
4. Glass entry doors are not permitted. Current owners with glass doors are grandfathered in. New owners must remove glass doors within thirty (30) days of purchasing the unit.

ELEVATORS

1. Buildings 1, 3, 4 & 6 contain elevators. Replacement or duplicate keys will be provided to unit owners for a fee of \$10 by the Property Management Company.
2. Children under the age of 16 are prohibited from using the elevators unless accompanied by a parent or guardian, except in the case of a disability or medical condition.
3. Owners, Occupants, Tenants, or Guests are financially liable for any damage done to elevators, inside or out, by their children.
4. Each elevator is equipped with a telephone to summon help in the event of an elevator emergency. Please notify the Property Manager of any elevator malfunction.

Violation of these rules can result in a request by the Board to surrender the elevator key, temporarily or permanently, and/or a fine per incident.

EXTERIOR FLOORING MATERIALS

1. Entrances, balconies, or patios may be tiled or carpeted with outdoor carpeting but may not extend over the concrete rim of the balcony or patio. The tile or carpet must be kept clean and in good repair.
2. Torn, stained, or broken flooring must be replaced as soon as possible or within sixty (60) days after notification by the Property Management Company.
3. No change in flooring material is allowed to change drainage of rainfall, which must continue to drain away from the buildings.
4. All other types of flooring require architectural approval.

GARBAGE, TRASH, AND RECYCLING

1. When a recycling dumpster is available, only those items posted in the dumpster area may be recycled in the appropriate Recycle dumpster. Nothing may be deposited in the recycling dumpster that is listed as prohibited.
2. Cardboard boxes must be flattened before placement in a dumpster. Only small broken-down boxes are allowed. Pallets and large crates are not allowed in a dumpster.
3. Trash and garbage are not allowed on patios, balconies, or entryways. All garbage must be bagged and tied prior to placement in a dumpster.
4. Mattresses, large appliances, hot water heaters, furniture, toilets, carpeting, drywall and other contracting materials, and other bulky items must be removed from the property at the unit owner's expense and is prohibited from deposit into a dumpster or on the common areas.
5. Automotive parts, oil, antifreeze, gasoline and other fuels, illegal or hazardous materials, explosives, and ammunition are prohibited from deposit into dumpsters or on the common areas.
6. Pet waste must be bagged and tied prior to placement in a dumpster.

Violations may result in a work order fee, a per item charge for the cost of removal and delivery to an approved disposal site, a charge for the cost of cleanup, and/or referral to law enforcement officials for illegal or hazardous materials.

GUNS & WEAPONS

Deadly weapons, explosives, firearms, and prohibited weapons as defined in A.R.S. section 13-3101, are prohibited in the common areas of Desert Shores Condominiums.

HOLIDAY DECORATIONS

1. Holiday Decorations may be placed on the entrance door to the unit, the windows of the Unit and on the Unit patio or balcony.
2. The entrance light adjacent to the Unit is maintained by Desert Shores; homeowners/tenants are not allowed to change the bulb. Homeowners/tenants may change the color of the light bulb on their patio/balcony.
3. Decorations may be displayed beginning thirty (30) days prior to any holiday. Decorations must be removed within fifteen (15) days after the holiday.

INSURANCE

1. A master policy is a blanket policy for all Association common elements for property and liability. This policy shall be paid for equally by all owners and covers the structure of 141 units.
Each unit owner is liable for the amount of the Association's insurance deductible and is required to purchase and maintain sufficient insurance to cover the deductible of \$25,000. **Pursuant to the Association's CC&Rs, Article 7.2 and 7.6, each unit owner is liable for the amount of the Association's insurance deductible and is required to purchase and maintain sufficient insurance to cover the deductible.** Proof of insurance (a summary page from your insurance company of your policy coverage) must be provided to the Property Manager annually, no later than the date of the Annual Meeting or the last Friday in March by 5:00 p.m. (Article 7.2 and 7.6).. Proof of insurance is available from your insurance agent.
Failure to provide the required information by the dates mentioned above will result in fine(s). The initial fine will be levied on the day after the deadline and thereafter, a fine will be levied every 30 days until proof of insurance is provided. Each fine will be \$100.00.
2. Notification to the Association of potential damage upon an Owner's obtaining actual notice of a water leak or mold that could damage any unit or the Common Elements shall be given to the Property Manager or the President of the Board immediately, in order to minimize further damage. (Article 7, 7.8)
3. The owner is responsible for mold remediation and must provide a certification that mold has been properly remediated within 5 days after completion. (Article 7, 7.7)
4. Casualty insurance purchased by the Association excludes the units, and each Owner is required to provide insurance coverage for their floor coverings, wall coverings, built-ins including cabinets and fixtures, HVAC equipment, furnishings, personal property, appliances, plumbing, and personal liability. (Article, 7, 7.2) The purpose of owners carrying insurance is to prevent a catastrophic financial burden for homeowners and the community at large.
5. Assessments for a common expense benefiting fewer than all of the units, (for example a plumbing stack that serves only three units), shall be assessed exclusively against the units benefited based on the percentage of damage caused to each unit, unless the damage was caused by another owner's negligence or actions. (A.R.S 33-1255.C.2)

LANDSCAPING POLICY

1. No plants, shrubs, or trees may be added, thinned, or removed on the Common Elements without prior written approval of the Board of Directors in accordance with a landscape plan approved by the Board. No individual Board member, unit owner, resident or volunteer is authorized to perform landscaping activities without full Board approval in advance.
2. Unit Owners may plant their own foliage inside their patio walls but must keep them trimmed to a level no higher than the ceiling of their patio. Such foliage cannot hang over the patio wall and

must be neatly trimmed and maintained. Patios must be kept clear of all debris (including trash and landscape debris) and must be kept weed-free at all times.

3. No new shrubs, flowers, or trees may be planted between the parking spaces and the retaining walls without prior Board approval.

LOADING ZONES

Twenty (20) minute loading zones are clearly marked with signs. The time limit does not apply to emergency, police, fire, ambulance, or government vehicles on the property for city, state, or federal inspections. Unit owners will be liable for violations by their Tenants and Guests. The Board encourages unit Owners and Tenants to contact the Property Management Company in advance of any extraordinary situation. Violators will receive a notification sticker on their vehicle. If the violation repeats, the violator will be subject to a fine following the General Enforcement Action rules.

LOCKS AND KEYS

The common area facilities are locked to comply with Arizona laws to prevent drowning and to prevent access by persons other than Unit Owners in good standing and their Tenants and Guests. Replacement keys cost \$25 each and can be obtained at the Property Management Company's office. When a tenant vacates a unit, the unit Owner is expected to retrieve the key from the tenant to protect the safety of all unit Owners. A key security deposit per key is recommended. When a unit owner sells a unit, the Do Not Duplicate key must be returned to the Property Management Company in exchange for a \$10 refund.

MONTHLY ASSESSMENTS

Maintenance Assessment Fees, also known as Dues, are due monthly unless pre-paid. Fees are due on the first day of the month. They are late on the second day of the month. A late fee of \$35 will be added to the homeowner's account if payment is not received by noon on the 15th day of the month. If the 15th falls on a weekend, payments must be received by noon on the following business day.

NOISE

1. All unit Owners, Occupants, Tenants, and Guests shall comply with the City of Phoenix Noise Ordinance. Construction and remodeling activities shall not begin before 7:00 a.m. and shall not continue after 7 p.m., except in the case of emergency plumbing or emergency air conditioner /heat pump repairs.
2. Disturbances of the peace from music, parties, televisions, Unit Owners, Guests, and Tenants, pets, operation of equipment, or other activities beyond reasonable daily living sounds is prohibited.
3. Car alarms that continue beyond 3 consecutive minutes, car horns, and similar sources of disturbances are not allowed.

Violations shall be reported to the Property Manager as soon as possible and any unit Owner, Tenant, or Guest notified of a disturbance of the peace or violation of the noise rules must stop the noise immediately. Law enforcement officials may be notified of serious or repeated incidents.

NUISANCES

1. Recreational use of the following equipment is not permitted within the DSHOA Common Areas: bicycles, skateboards, rollerblades, scooters, other wheeled toys, lasers, or remote-controlled airplanes.
2. Motorized scooters are permitted in the case of a disability or medical condition.
3. Toys and sports equipment that may endanger Owners, Tenants, or Guests are not to be used on walkways or stairways.
4. Graffiti is prohibited throughout the DSHOA Common Areas.

PARKING, DELIVERY AND SERVICE VEHICLES, AND MOVING VANS

1. Vendors delivering appliances or furniture and moving vans, including U-Haul and other rented moving vans may be allowed to park in the Common Areas up to 24 hours if two conditions are met:
 - Advance notice of the dates involved must be provided to the Property Management Company or President of the Board; and
 - The vehicle does not block any Owner’s assigned parking space or a Loading Zone or fire hydrant or fire lane or the entrance or exit to the complex.
2. Service vehicles may use the Loading Zone spaces up to twenty (20) minutes and Guest Parking spaces thereafter up to six (6) hours. These same conditions apply to service vehicles as to Vendor delivery vehicles, except in case of emergency repairs to plumbing or air conditioning.
3. Exceptions may be granted in extraordinary circumstances, but only after prior notice to and approval by the Property Management Company or President of the Board.
4. All uncovered parking spaces marked as Guest Parking are for guests only, and all guest vehicles are subject to the CC&Rs and these rules. Guests are prohibited from parking in assigned covered spaces. Owners are not allowed to park in the designated guest parking spaces.
5. The following vehicles may not be parked on the property at any time to protect the integrity of the parking area surface and safety:
 - Commercial vehicles with carrying capacity above one (1) ton.
 - Vehicles leaking oil, fluid, and/or grease and/or inoperable.
 - Vehicles with torn, flaked, cracked, split, damaged, or unsightly appearance as determined solely within the discretion of the Board.
6. The following vehicles may not be parked in the Common Areas without board approval:
 - Vehicles backed into a parking space so that the license plate cannot be seen.
 - Motor homes and recreational vehicles, including dirt bikes ATV’s, boats, motorcycles, campers, and trailers.
7. No vehicles repairs may be performed in the Common Areas, except emergency battery charge or replacement.
8. Guest parking violations may result in enforcement action against the Owner, fines, and/or towing of the vehicle at the Owner’s expense.

PETS

1. Dogs are not allowed to be kept as pets on Desert Shores’ property. Service and Support dogs will be allowed with appropriate certification and/or a request as per federal law, the Americans with Disabilities Act. This paperwork, including “Fair Housing Act Disability Verification Letter” and “Service/Support Dog Registration” form, attached as **EXHIBIT F and F.1**, will be required to be submitted to the Property Management Company in the timeline outlined in the “ENFORCEMENT ACTIONS” section of this Rules and Regulations document.
2. Any homeowner with a Service or Support dog must comply with Desert Shores’ noise rule and cannot bother other residents or the community or may be subject to compliance fines under the nuisance section of this Rules and Regulations document. This includes but is not limited to excessive barking and aggressive behavior. You must curb your dog.
3. Visitors, Short Term Rentals or Overnight Visitors may not bring dogs. If the animal falls under the Service or Support dog scenario as mentioned above, then the appropriate and required paperwork must be submitted to the Association’s management company within 7 days prior to the date that the dog will be on property.

4. Cats are allowed as well as other minor pets that do not bother residents with noise. Proper disposal of waste is expected, by bagging and disposing of all refuse. These are to be kept as inside pets and not permitted to be loose or to roam outside of the Unit. Proper and healthy care is expected. The Board of Desert Shores reserves the right to determine proper care, whether a nuisance exists, or excessive number of pets.
5. All pets must be supervised when outdoors.
6. The Board encourages pet owners to provide a photograph of each pet and the unit number to the Property Manager so that if the pet escapes from the unit, it can be returned to the correct unit.
7. Public safety risks posed by a pet may be addressed by the Board.

RADIO/TELEVISION ANTENNAS, SATELLITES AND CABLE SYSTEMS

If an owner would like to add a satellite dish to the roof of his building either for their own use or the use of their renter, they must fill out a satellite request form (attached as **EXHIBIT B**) or can be made available from the Property Management Company. The owner is responsible for having the dish removed when they (or the tenant) move out. If it is not removed, the owner will be fined \$100.

The following provisions apply to any new device installed after August 1, 2016, and only to the following types of antennas governed by Federal Communications Commission (“FCC”) rules:

- Direct Broadcast Satellite (“DBS”) antennas one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed, while DBS antennas larger than one meter are *still prohibited without the approval of the Architectural Committee*.
- Multi-point Distribution Service (“MDS”) antennas one meter or less in diameter or diagonal measurement, designed to receive video programming services (wireless cable) or to receive or transmit fixed wireless signals other than via satellite, may now be installed, while MDS antennas larger than one meter are *still prohibited without the approval of the Architectural Committee*.
- Antennas designed to receive and/or transmit data services, including Internet access may be installed.

If the FCC expands the types of antennas that fall under the FCC Rule, these rules shall encompass those antennas as well. All other antennas, except the ones listed above, are *still prohibited without the approval of Architectural Committee*.

If the antenna is one of the types allowed without prior approval from the Architectural Committee, the antenna/satellite must still comply with the following regulations:

- Antennas, masts, and any visible wiring must be fastened down and painted to match the color of the structure to which they are installed, so long as doing so will not void the manufacturer’s warranty or affect the quality of the signal.
- The antenna/satellite must comply with all applicable city, county, and state laws, regulations and codes. The Association must be provided with a copy of any applicable governmental permits.
- Installation must be pursuant to the manufacturer’s instructions.
- In order to protect against personal injury and property damage, an antenna/satellite may not be placed in a location where it may come into contact with a power line.
- In order to protect against personal injury and property damage, all antennas/satellites are required to be properly grounded and secured to a “sled”, usually made available by the satellite company or the installer. This “sled” must be placed on the roof area only and kept out of view from the ground or other units as best as possible for necessary reception.

The owner is responsible for all costs associated with the installation and maintenance of an antenna/satellite. In addition, the owner is responsible for all damage caused by or connected with the antenna/satellite. The owner must hold the Association harmless and indemnify the Association in the event that someone is injured by the antenna. The owner shall keep the antenna/satellite in good repair so that it does not violate any portion of these guidelines.

An owner must complete the notification form attached to these guidelines as **EXHIBIT B** and submit a copy of the completed form to the Association within five (5) business days after installing an antenna/satellite allowed pursuant to these guidelines. If requested by the Association, the owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the antenna/satellite.

In the event of a violation of these provisions, the Association may bring an action for declaratory relief with the FCC or the Maricopa County Superior Court after notice and an opportunity to be heard. If the FCC or Court determines that the Association Rule is enforceable, the owner may face monetary penalties pursuant to the terms of the governing documents. If an antenna/satellite poses a serious, immediate safety hazard, the Association may seek injunctive relief to compel the removal of the antenna. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of these guidelines.

If any provisions of these guidelines are ruled invalid, the remainder of these rules shall remain in full force and effect. If the FCC modifies its rules, the modified rules shall be incorporated into these rules as if fully set forth herein.

RENTAL UNITS

Each owner of property that becomes a Landlord is responsible for the following:

1. Informing prospective Tenants that they are moving into a property with rules and regulations, to include that pet dogs are not allowed on property.
2. Supplying copies of said documents to Tenants.
3. Supplying the Property Management Company, within fifteen (15) calendar days of any tenant change, a copy of the completed Rental Property Information form and Third-Party Designee Authorization, if applicable. This is required for all rentals of 30 days and longer. These documents are attached as **EXHIBIT C** or can be obtained by contacting the Property Management Company directly.
4. Maintaining current information on the occupants of the unit and supplying this information to the Association's Managing Agent within fifteen (15) calendar days of any change for all rentals of 30 days and longer.
5. Failure to report tenant information in a timely manner fifteen (15) calendar days, will result in a fine of \$100. The fine will continue to be levied every month after the initial fine until tenant information is provided to the management company. It is pertinent the HOA / Management Company have tenant information to manage emergency situations when they arise.
6. Desert Shores is governed by the Second Amended and Restated Declaration of Condominium and of Covenants, Conditions and Restrictions for Desert Shores recorded with the Maricopa County Recorder's Office at Instrument No. 2011-0701034 ("Declaration"), the Bylaws, and the Association's rules and regulations, and any amendments thereto. Section 9.11 of the Declaration, in relevant part, states that "No Owner may lease less than his entire Unit...". This means units must be rented in their entirety. Renting of the unit in part is not permitted for example the renting of bedrooms to different people is a violation of this rule. If a violation becomes known, a violation warning letter will be sent to the unit owner specifying the deadline for compliance. If the violation continues beyond the deadline, a fine of \$100 per month of non-compliance will commence and continue until the violation no longer exists.

7. Violation of the governing documents by a Tenant is the responsibility of the Owner and all fines will be assessed to the Owner of the property.
8. Units may not be rented either wholly or in part for commercial or business use.
Please Note: When filing a Rental Property Information form, there will be a \$25 fee (in reference to ARS 33-1260-01) which will be assessed to your account. This fee is limited by the law to be assessed once per tenancy. Owners are responsible for updating this form upon the addition or removal of a tenant or the commencement of a new lease. If the lease is a month-to-month renewal, please indicate the start date for the month-to-month agreement. We will request this information again on the 6-month anniversary of the date indicated. If we have not received the properly completed form(s) back by the due date described in the Rental Information Request that will be mailed to the owner, a late fee of \$15 (also in reference to ARS 33-1260-01) will be assessed. The Arizona Revised Statutes language is shown directly below:

Condominiums/ Arizona Revised Statutes: 33-1260.01. Rental property; unit owner and agent information; fee; disclosure:

- A. A unit owner may use the unit owner's unit as a rental property unless prohibited in the declaration and shall use it in accordance with the declaration's rental time period restrictions.
- B. A unit owner may designate in writing a third party to act as the unit owner's agent with respect to all association matters relating to the rental unit, except for voting in association elections and serving on the board of directors. The unit owner shall sign the written designation and shall provide a copy of the written designation to the association. On delivery of the written designation, the association is authorized to conduct all association business relating to the unit owner's rental unit through the designated agent. Any notice given by the association to a unit owner's designated agent on any matter relating to the unit owner's rental unit constitutes notice to the unit owner.
- C. Notwithstanding any provision in the condominium documents, on rental of a unit an association shall not require a unit owner or a unit owner's agent to disclose any information regarding a tenant other than the name and contact information for any adults occupying the unit, the time period of the lease, including the beginning and ending dates of the tenancy, and a description and the license plate numbers of the tenants' vehicles. If the condominium is an age restricted condominium, the unit owner, the unit owner's agent or the tenant shall show a government issued identification that bears a photograph and that confirms that the tenant meets the condominium's age restrictions or requirements.
- D. On request of an association or its managing agent for the disclosures prescribed in subsection C of this section, the managing agent or, if there is no managing agent, the association may charge a fee of not more than twenty-five dollars, which shall be paid within fifteen days after the postmarked request. The fee may be charged for each new tenancy for that unit but may not be charged for a renewal of a lease. Except for the fee permitted by this subsection and fees related to the use of recreational facilities, the association or its managing agent shall not assess, levy or charge a fee or fine or otherwise impose a requirement on a unit owner's rental unit any differently than on an owner-occupied unit in the association.
- E. Notwithstanding any provision in the condominium documents, the association is prohibited from doing any of the following:
 1. Requiring a unit owner to provide the association with a copy of the tenant's rental application, credit report, lease agreement or rental contract or other personal information except as prescribed by this section. This paragraph does not prohibit the association from acquiring a credit report on a person in an attempt to collect a debt.
 2. Requiring the tenant to sign a waiver or other document limiting the tenant's due process rights as a condition of the tenant's occupancy of the rental unit.
 3. Prohibiting or otherwise restricting a unit owner from serving on the board of directors based on the owner's not being an occupant of the unit.

4. Imposing on a unit owner or managing agent any fee, assessment, penalty or other charge in an amount greater than fifteen dollars for incomplete or late information regarding the information requested pursuant to subsection C of this section.

F. Any attempt by an association to exceed the fee, assessment, penalty or other charge authorized by subsection D or E of this section voids the fee, assessment, penalty or other charge authorized by subsection D or E of this section. This section does not prevent an association from complying with the housing for older persons act of 1995 (P.L. 104-76; 109 Stat. 787).

G. An owner may use a crime free addendum as part of a lease agreement. This section does not prohibit the owner's use of a crime free addendum.

H. This section does not prohibit, and an association may lawfully enforce a provision in the condominium documents that restricts the residency of persons who are required to be registered pursuant to section 13-3821 and who are classified as level two or level three offenders.

I. An owner of rental property shall abate criminal activity as authorized in section 12- 991.

ROOFS

The responsibilities of the roof are the responsibility of the Owners collectively. It is the responsibility of each Owner to report any leaks promptly to the Board or its agent. Only authorized repair or service personnel are permitted on the roof.

DRAINS

Some Common Element Drains service all three vertical units (such as kitchen sink drains) which connect under the ground slab to the Common Element Main Drain (drain which service all units in the building. If a Common Element Drain servicing three units is damaged/clogged by unit owner(s), it is the responsibility of the unit owner(s) to restore the damaged drain per our CC&R's Article 5 Section 5.3.

Some owner actions that cause damage/clogs are: allowing food to go down the kitchen sink drain or excessive use of the garbage disposal sending too much ground food down the drain or flushing wet wipes down the toilet drain.

SIGNS

Signs required by legal proceedings are permitted without approval of the ARC. The following signs are also permitted without approval of the ARC, provided they adhere to the following guidelines:

1. "For Sale", "For Rent" and "For Lease" signs and sign riders and temporary "Open House" signs on an Owner's Limited Common Element that are:

a. Not larger than the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. This subsection applies only to a commercially manufactured or produced sign.

b. No open house or real estate signs may be placed in or on the common elements of the condominium complex.

2. Political signs shall be allowed no earlier than seventy-one days before the day of an election and no later than three days after an election day.

(A.R.S. 33-1261)

SMOKING

Smoking is allowed *only* in the Units and on the Unit patios/balconies. *Smoking is prohibited in any common area of Desert Shores.* This includes outside of any Unit entrance, on any walkway or in the stairwell, as well as in the parking lot, pool area and tennis/pickle ball courts.

SOLICITING

All door-to-door solicitations are prohibited. This includes unauthorized distribution of handbills, notices, newspapers, personal, business, charitable, political, entertainment or any other solicitation by Residents or non-residents on the common area or delivered to individual units.

SWIMMING POOL AND SPA

See attached Pool Use Policy, shown as **EXHIBIT E**.

TENNIS/PICKLEBALL COURTS

Owners, Tenants and Guests must obey the posted Court Code of Conduct.

UNIT FRONT ENTRANCE DÉCOR

With Board approval, by submitting an Application for Design Review, a limited number of items listed below may be placed in the common area directly outside of your unit, or in a corner if your unit is directly beside one. The color and design of the items should enhance the overall curb appeal of Desert Shores.

1. Plants: A maximum of two (2) plants/pots no larger than eighteen inches (18”) in diameter may be placed directly outside your unit or in a corner adjacent to it. Plants must be watered and cared for on a regular basis or the Board will remove them.
2. Small bistro sets, a maximum of two (2) decorative chairs or a small bench are acceptable if they are kept clean and in good repair.
3. No wall hangings of any type are allowed on any common area wall.
4. No mats are allowed on any common area walkway. A mat is acceptable in a unit entrance provided it is kept clean and in good repair.
5. No items may extend into the walkway more than three (3) feet.
6. Any items found to impede a common area walkway or to pose a safety hazard for residents will be removed.
7. Outdoor lights that serve only the Unit entrance are permitted, including motion lights.
8. The Board will consider curb appeal of the entire complex in administering these rules.
9. Owner/Resident assumes all risk of personal items kept outside of the Unit.

UNIT PATIOS AND BALCONIES

1. Patio and outdoor furniture are permitted on patios and balconies, so long as the quantity does not constitute storage or hoarding. All items in view must be kept neat, clean and in good repair. Owner/Resident assumes all risk of personal items kept in these areas.
2. Ceiling fans and outdoor lights that serve only the owner’s patio or balcony are permitted, including motion lights. Floodlights, spotlights or other high intensity lighting directed towards any other units, buildings, or common areas, is prohibited without prior Architectural Change Control written authorization of the Board.
3. Plants and shrubs, including silk plants, are permitted on patios and balconies, so long as they do not encroach on the unit above or below or on the common walls and are kept neat, clean and in good repair.
4. The following items are prohibited on patios, balconies, and entrance areas including railings:
 - Storage boxes or stored furniture or appliances or bicycles or exercise equipment
 - Hanging laundry, towels, sheets, blankets, rugs, or shoes
 - Satellite Dishes
5. Homeowners are not allowed to put any personal items on the lawn at Desert Shores.
6. The Board will consider curb appeal of the entire complex in administering these rules.
7. The Unit patio or balcony is the responsibility of the Owner. Owner/Resident assumes all risk of personal items kept outside of the Unit.

Architectural Change Control Request

EXHIBIT A

All applications for changes to the exterior of your unit must be submitted to the Desert Shores Homeowners Association, Inc. ("the Association") Architectural Committee/Board of the Directors. The Association's Covenants, Conditions and Restrictions (CC&R'S) require that a homeowner obtain the prior written approval for any exterior patio alteration, interior architectural or flooring change to the unit within Desert Shores Condominiums ("the Community").

Please note that the approval application must be completed in a timely manner. A project completion date is required on the Application. If additional time is required for you to finish your project, an extension request will need to be submitted in writing to the address, fax or email address shown below.

To comply with the CC&R'S, please submit this application with all the required attachments to:

Desert Shores Homeowners Association, Inc.
4130 E. Van Buren St. Suite 360, Phoenix AZ
85008 Phone: 602-863-3600 Fax: 602-560-0525
Email: info@360communitymgmt.com or through the website: 360propertymgmt.com

The time period for approval begins when this application is received by the Committee. The Committee has up to (30) days to approve with conditions, or disapprove the application. If you have not received any form of communication from the Committee or the Association after (30) days, please call the Community Manager for a status update.

Homeowner's Name: _____
Homeowner's Mailing Address: _____
City/State/Country: _____ Zip: _____
Desert Shores Unit Address: _____
Phone: _____ Email: _____

The undersigned hereby submits its Application for Design Review to the Architectural Committee or the Board of Directors of the Association for review and approval of the following item(s):

Please indicate the change requested and submit marked items for application.

___ Tile or hard flooring installation within unit
___ Change or addition to patio area
___ New Windows/Patio Doors
___ Other _____

Please provide full details (below or on a separate sheet if more space is required) for purpose and/or reason of change to include the following:

___ Dimensions _____
*if hard flooring, indicate size of proposed flooring pieces (i.e., 12x12)
___ Material (type of flooring, i.e. ceramic, stone, wood) _____
___ Descriptions of materials to be used as a flooring underlayment material, including thickness.

___ Room Name of Installation (i.e., family room, dining room, etc.) _____

___ New Flooring Installation Area Square Footage _____

Per the CC&R's, this is required if installing any hard floor material in a second or third floor unit

___ Drawings and/or photographs of the proposed project (if visible from other units)

Additional Details: _____

Licensed Contractor ___ Yes ___ No

Expected completion date _____

Please notify me at () _____ if you have any questions. I understand that should the application not be complete in order to determine approval or disapproval; the Architectural Committee or Board will disapprove the Application and return it to me with a statement for the disapproval. The owner agrees to comply with all applicable City, County, and state laws and to obtain all necessary permits. I also agree to provide Desert Shores HOA with a copy of all applicable permits and licenses for the unit file. I will also display any and all required documents on the exterior of the building during construction through completion. This application and any submitted materials or attachments will be retained for the Association's records.

I certify that all assessments (dues) are current for this property, that I, the applicant, am the homeowner and assume all responsibilities for approval and all requested information for the project will be supplied to the Architectural Control Committee and no work will commence until written approval has been received.

Homeowner's Signature _____ Date _____

FOR ASSOCIATION USE ONLY

___ Approves the above application

___ Approves the above application with the following conditions:

___ Disapproves the above application with the following reason (s):

Architectural Committee

Date

Architectural Committee

Date

Desert Shores Homeowners Association
c/o 360 Community Management
4130 E. Van Buren St., Suite 360
Phoenix, AZ 85008
602-863-3600 Ofc / 602-560-0525 Fax

EXHIBIT B

Notice of Installation of Antenna / Satellite

Homeowner(s): _____

Address: _____

Phone: Day: _____ Evening: _____

Type of Antenna:

Direct Broadcast Satellite 18 Inch Other Size: _____

Television Broadcast

Multi-point Distribution Service Size: _____

Internet Size: _____

Company Performing Installation: _____

Installation Location: Roof: _____ (on the required sled)

Date Installation Performed: _____

Please indicate the method of installation: _____

Will the installation be in compliance with all Association guidelines (which include manufactures' guidelines and applicable building codes)? Yes
No

I will comply with all of the Association's rules for installing, maintaining, and using antennas. I assume liability for any damage to the Association and other owners' property that occurs to antenna installation, maintenance, and use.

Signed: _____

Date: _____

Desert Shores Homeowners Association
c/o 360 Community Management
4130 E. Van Buren St., Suite 360
Phoenix, AZ 85008
602-863-3600 Ofc / 602-560-0525 Fax

EXHIBIT C

Rental Property Information

You will need to complete and return the form indicating if you are leasing your property. This information form needs to be completed on every lot within the Association that you lease and each time a new lease is signed, whether or not the tenant changes. If it is not a rental property, please indicate in the space below and return to our office.

Re: Property Parcel/Lot: _____ Property Address: _____

Owner's Mailing Address: _____

Property Owner's Phone Numbers: Home: _____ Cell: _____

Property Owner's E-Mail Address: _____

Please circle the appropriate answer to the following questions:

- Is this property a rental property? Y N
(If the answer is yes, please complete the following information)

- Does the Property Owner reside at another property within the Association? Y N

- Per the Association's Rules and Regulations, each Owner that becomes a Landlord is responsible to complete this form and keep all of the tenants contact information current with the Association, as well as the following:
 - Inform prospective Tenants that they are moving into a property with rules and regulations.
 - Supply copies of said documents to Tenants

- Have you advised of and provided a copy of the Association's Rules and Regulations to your tenants? Y N
(Please note, owners of the property are responsible for their tenants if applicable and will incur violation fines on the property's account for any violation caused or created by their tenants)

Tenant's Contact Information:

Name: _____ Email: _____

Phone Numbers: Home: _____ Cell: _____ Addtl #'s: _____

Tenant's Vehicle Information:

Make, Model and Color: _____ License Plate#: _____

Make, Model and Color: _____ License Plate#: _____

Lease Information:

Start Date: _____ End Date: _____

(If applicable) Month to Month Start Date: _____

Note: If Month to Month status changes with a lease with the same tenant, or a new tenant leases your property, you will need to notify us within 15 Business days of that status change date.

Owner's Signature: _____ Printed Name: _____ Date: _____

Desert Shores Homeowners Association
c/o 360 Community Management
4130 E. Van Buren St., Suite 360
Phoenix, AZ 85008
602-863-3600 Ofc / 602-560-0525 Fax

EXHIBIT C.1

Third Party Designation

Owner Information:

First Name: _____ Last Name: _____ Phone: _____

Company Name: _____ Email: _____

Property Address (Street, City, State, Zip): _____

Designated Third Party Information:

First Name: _____ Last Name: _____ Phone: _____

Company Name: _____ Email: _____

Company Address (Street, City, State, Zip): _____

Designation: (please check one of the following):

Effective Date of Request: _____

- Designated Third Party listed above **IS** the primary agent for all Association related matters, to include any notice relating to the rental. Owner will still be copied in on all Association billing, compliance and community notices. Exception: board member eligibility and voting rights.
 - Option: Owner mailing and contact information to be completely removed and replaced with the Designated Third Party until otherwise updated by Owner. _____ Owner Initials
- Designated Third Party listed above **IS NOT** the primary agent for all Association related matters; however, add the agent's contact information as alternate for all Account correspondence until otherwise updated by Owner.

Regardless of Designation chosen above, please check any applicable boxes below for the information you wish to have relayed to your designated third party:

- Bills, Statements and/or Coupon Books _____ Owner Initials
- Property Compliance Notices _____ Owner Initials
- Pool Keys / Front Entrance Gate Keys / Clubhouse Keys (if applicable) _____ Owner Initials

Property Owner's Signature: _____ Date: _____

Owner's Witness, Name & Signature: _____ Date: _____

Designated Third Party Authorized Signor: _____ Date: _____

Third Party's Witness, Name & Signature: _____ Date: _____

Pool Use Policy

The Board of Directors of the Desert Shores Homeowners Association has approved the following policy regarding use of the HOA community pool:

Initial Access

- Use of the pool is for strictly for Desert Shore's residents. Any guests are the sole responsibility of the key holder and must always be accompanied by the key holder.
- Use of the pool is both a right and a privilege.
- Access to the pool is by means of a key.

Process to obtain a key

Homeowners

- Contact the property management company to request a pool key.
- Homeowner account must be current with no delinquency and have no outstanding compliance issues (beyond initial courtesy letter)
- Owner must sign and acknowledge they have read this Pool Use policy and will abide by the posted Pool rules.
- Pool key will be sent to homeowner.

Renters

- Contact your landlord to request access as the owner of the property or his agent must make the request to the property management company.
- Landlord must be compliant with the homeowner requirements above.
- It is between the homeowner and the renter if the \$25 deposit is part of the rental costs or if it is charged separately to the renter.
- Owner and renter must sign and acknowledge they have read this Pool Use policy and will abide by the posted Pool rules.
- The key will be sent to the homeowner or his agent to be forwarded to the renter. The key may be sent to the renter directly if authorized by the homeowner.

- All Required Renal information must be current. Renter names, Lease Dates, Car information.

Continued Access

- Continued access to the pool is dependent upon the homeowner’s account staying current, having no outstanding compliance issues (*beyond initial courtesy letter*), and the persons using the pool acting in a responsible way by following the posted pool rules. ***There must also be a copy on file of this Pool policy signed by the owner, and if applicable, the current renter.***

All pool rules are posted at the pool and must be obeyed. They are:

1. Pool Quiet Hours are from 10pm-8am	2. Appropriate swimwear must be worn at all times.
3. The maximum capacity of this pool is 40 people.	4. No running, diving, or horseplay in or around the pool area.
5. This is a private pool for use by Desert Shores Homeowners Only. All trespassers will be prosecuted. A.R.S. 13-1502-A1	6. Do not play with floatation devices. These are for emergencies only.
7. There is no lifeguard on duty. Swim at your own risk.	8. No glass or alcohol in the pool or play area at any time.
9. All children under 16 years of age must be accompanied by an adult 18 years of age or older.	10. In case of an emergency call 911. 11. No Smoking in the Pool Area.

Pool Parties

- The pool cannot be reserved exclusively for a party (i.e. only party attendees allowed in).
- Pool parties must not interfere with others’ enjoyment and use of the pool.
- For large parties (8 people or more) a reservation must be made with the HOA management company accompanied by a \$100 refundable deposit.
- No bouncers or similar equipment are allowed in the pool area.
- The party organizer is responsible to bag up and remove all trash generated by the party.
- Any expenses to clean up the area after a large party will be deducted from the \$100 deposit.
- A person (along with his/her family) *will* lose their pool access privileges if caught for the following:

Vandalism – Access revoked for 30 days

Abuse against other persons using pool: Access revoked for 30 days

Playing with the safety ring:

1st occurrence – warning letter

2nd occurrence – Access revoked for 30 days

Use of alcohol: Access revoked for 30 days

Excessive noise including loud music: Access revoked for 30 days

Minors not accompanied by a person over 18 years old:

1st occurrence – warning letter

2nd occurrence – Access revoked for 30 days.

Unauthorized entry - Access revoked for 30 days

Hosting a large pool party (as previously defined) without a reservation:

Access revoked for 30 days

Any other violation – at the discretion of the HOA Board of Directors

Acknowledgement

Owner: _____

Renter (if applicable): _____

Desert Shores Unit#: _____

I acknowledge that I have read and understand the above Pool Use Policy.

Homeowner

Date

Renter (if applicable)

Date

FAIR HOUSING ACT DISABILITY VERIFICATION LETTER

**CONFIDENTIAL INFORMATION
CONFIDENTIAL DISABILITY VERIFICATION LETTER
FOR USE WITH ANIMAL ACCOMMODATION REQUESTS**

1. I hereby declare that the following statements are true and correct to the best of my knowledge:

_____ ("Patient") is my patient, whose address is: _____

2. My name, business address, and business telephone number are as follows:

3. I am a duly licensed health care professional and my medical license number is (if applicable):

4. I have a professional relationship with the Patient involving the provision of health care or disability-related services. The date of my last consultation with the Patient was _____.

5. The Federal Fair Housing Act defines a handicapped person as one who has a physical or mental impairment which substantially limits one or more of such person's major life activities. I hereby verify that Patient is a handicapped person pursuant to the above definition from the Fair Housing Act. I also understand the housing provider is not requesting a diagnosis or detailed information about the nature of the disability, including medical records.

Major Life Activities affected: _____

Description of Substantial Limitations: _____

6. Type of Animal for Which Accommodation is Being Requested: _____

7. If the Patient is disabled as described in No. 5 above, please describe how the animal is needed to treat the disability or disabilities.

8. Please describe how the requested accommodation will ameliorate the effects of the Patient's disabilities, *i.e.* describe the relationship between the animal and the disability.

Signature _____

Name _____

Date _____

Desert Shores Homeowners Association
c/o 360 Community Management
4130 E Van Buren St, Ste 360
Phoenix, AZ 85008
602-863-3600 Ofc / 602-560-0525 Fax

EXHIBIT F

Service/Support Dog Registration

Owner Tenant

Name: _____

Address: _____

Phone: (Day) _____ (Evening) _____ Email: _____

Dog Information:

Breed: _____

Weight: _____

Age: _____

Coloring: _____

Name of Dog: _____

Documentation Required:

_____ Physician's letter regarding the need for the Service/Support animal

_____ Service Animal Only: Training and Service Certification Document

_____ Picture of the Dog

I understand that I will need to register my Service/Support animal *annually with the Association. I also have read and understand the Rules and Regulations as it pertains to noise, barking and behavior of my dog and assume liability for any damage to the Association and other owners' property that is caused by my dog.

Signature: _____

Date: _____

Fine Policy for Dogs at Desert Shores:

1. **Warning Notice** – Written notification of intent to place a fine on the account of the Owner in the amount of **\$200.00** if the violation is not remedied immediately or is a repeat occurrence with a different dog. If the owner supplies appropriate and required paperwork for the dog (per Rules and Regulations, page 10 under PETS), within ten (10) calendar days of the written request date, then the \$200.00 fine will not be added to the owner's Association account.
2. **Fine Notice** – Written notification that a fine of **\$200.00** has been placed on the homeowner's account. A continuous fine of \$200.00 every fifteen (15) days will be assessed for each day that the dog remains on the Desert Shores property.

*Renewal of Service or Support animal paperwork will be required annually. If the Service or Support animal is due to a permanent disability, this requirement will be waived if owner provides documentation of the permanent disability.



CARPENTER HAZLEWOOD

Carpenter, Hazlewood, Delgado & Bolen, PLC

ATTORNEYS AT LAW

PHOENIX

1400 East Southern Avenue
Suite 400
Tempe, Arizona 85282-5691
T 480-427-2800
F 480-427-2801

e-mail: greg@carpenterhazlewood.com
direct: 480-427-2843

August 22, 2016

SENT VIA EMAIL ONLY

Board of Directors
Desert Shores Homeowners Association, Inc.
c/o 360 Property Management
668 North 44th Street, Suite 256-E
Phoenix, Arizona 85008

Re: Liability for Damage to the Interior of Units

Dear Members of the Board:

We have been asked to provide an opinion regarding the Association's liability for damage to the interior of individual Units. In drafting this opinion letter, we have reviewed the "Second Amended and Restated Declaration of Condominium and of Covenants, Conditions and Restrictions for Desert Shores" (the "CC&Rs"), recorded in the Office of the Maricopa County Recorder at Instrument No. 2011-0701034. As with many legal issues, the question presented—whether the Association is or is not liable for damage to the interior of an individual Unit—generally depends upon the specific factual circumstances of each instance.

The CC&Rs, at Article 3, Sections 3.2, 3.3, and 3.4 define the following categories of property within the Association:

3.2 Unit Boundaries. ...The boundaries of each Unit shall be the interior finished surfaces of the floor, ceiling and perimeter walls thereof, as set forth on the Plat. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces are a part of the Unit, and all other portions of the walls, floors or ceilings are a part of the Common Elements.

3.3 Common Elements. The Common Elements include all property within the Condominium except for the Units....

3.4 Limited Common Elements. If any chute, flue, duct, wire, conduit, pipe, bearing wall, bearing column or other fixture lies partially within and partially outside of the designated boundaries of a Unit, any portion serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion serving more than one Unit or any portion of the Common Elements is part of the Common Elements. Any shutters, awnings, window boxes, doorsteps, stoops, entryways, exterior doors, windows or other fixtures designed to serve a single Unit, but located outside the boundaries of that Dwelling Unit, are Limited Common Elements allocated solely to that Unit.

As evident from the language above, a “Unit” is comprised of the space between the finished surfaces of the four walls, ceiling, and floor of the Unit, inclusive of such finished surfaces. All other property within the Association is part of the Common Elements. Certain portions of the Common Elements, however, are further sub-defined in Section 3.4 as “Limited Common Elements.” Additionally, the CC&Rs clearly and cleanly divide maintenance responsibilities between the Association and Unit Owners. *See* Article 5, Sections 5.1 and 5.2 of the CC&Rs. The Association is responsible for maintaining the Common Elements, with the exception of the Limited Common Elements. Unit Owners are responsible for maintaining their individual Units and any Limited Common Elements allocated to their Units.

You have specifically requested guidance in the event that damage to the interior of a Unit results from the breakdown or failure of a portion of the Common Elements required to be maintained by the Association. As an initial matter, please recall the distinction between Common Elements and Limited Common Elements referenced above. If damage to the interior of a Unit results from the breakdown or failure of a Limited Common Element (required to be maintained by an individual Unit Owner), the analysis that follows is not applicable. Pursuant to the CC&Rs, the Association has no responsibility to maintain, repair, or replace the Limited Common Elements. *See* Article 5, Section 5.2 of the CC&Rs.

We are frequently presented with questions concerning a condominium association’s liability when a roof or shared water pipe (both part of the common elements) breaks down or fails, resulting in water damage to the interior of a unit. In such instances, we do not believe that a condominium association is automatically responsible for damage to the interior of a unit. The situation is no different here. The Association is not “strictly liable” for interior damage to a Unit. In other words, there must be some element of fault for the Association to be found liable. Although there is no clear law on

the subject, it is our opinion that the Association is governed by a “negligence” standard with regard to such water leaks, which for an owner to succeed on such claim requires them to prove: (i) the existence of a duty (on the part of the Association); (ii) a breach of that duty; and (iii) such breach was the actual and proximate cause of their damage. In other words, an owner necessarily must prove that the Association breached its maintenance duty. Proving such a breach is not always easy. This is particularly true with a “first” leak. With respect to roof leaks, it is possible for interior damage to occur during a heavy rainstorm even when there is no negligent maintenance involved. With respect to cracks in a shared water pipe, such cracks can develop quickly and even in situations where the Association performs regular inspections.

Given the Association’s maintenance obligations regarding the Common Elements, one method to avoid “negligent maintenance” arguments is for the Association to be able to demonstrate that it has routine maintenance procedures for all items it is obligated to maintain. It should keep records of all such routine maintenance (including leak calls), and repair records.

When Unit Owners either seek reimbursement for interior damages or ask the Association to repair/replace anything within the interior of the Units, the Association should immediately try and establish the cause. Even second or third leaks are not necessarily a result of negligence. Establishing that the Association was negligent is a Unit Owner’s burden and responsibility. Thus, unless the Board concedes that damage occurred as a result of the Association’s negligent maintenance, the Association should decline to pay for any interior damage and/or to remediate such damage. A Unit Owner may legally challenge the Board’s decision, but such challenging owner would need to prove up the elements of negligence to be successful.

As a final note, the obligation to maintain is often different from the obligation to insure. The governing documents for many condominium associations require such associations to provide insurance covering damage to the interior of units, even though such associations have no responsibility to maintain the interior of units. Nevertheless, the Association’s obligation to maintain is virtually identical to its obligation to insure. The CC&Rs at Article 7, Section 7.2 provide in relevant part as follows:

Casualty Insurance. The Association shall obtain and maintain multi-peril type policy covering the Common Elements and the structure of the Buildings within the Condominium, excluding the Units...

(A) The Association does not intend to carry insurance coverage for the following:

(i) Floor coverings of any kind, including but not limited to: carpeting, vinyl goods, ceramic tile, hardwood flooring. In the event of a loss, coverage will stop at the upper edge of the sub-flooring.

(ii) Wall coverings of any kind; no coverage is intended to be provided for dry wall or plastered surfaces, or for anything permanently attached to these surfaces. In the event of a loss, coverage stops at the inside edge of the vertical stud wall and the lowest edge of the ceiling joist or rafter.

(iii) Cabinetry, built-in appliances, or electrical/plumbing fixtures, including all HVAC equipment located inside or outside of the Unit.

(B) It is the intent of the Association to provide, at a minimum, “bare walls coverage.” Each Owner shall be responsible for covering all portions of the Unit not covered by the Association, including his furnishings and personal property, personal liability, and all contents, appliances and plumbing within the Unit.

Based on the language above, the CC&Rs clearly indicate that the Association has no obligation to insure any portion of the Units. In fact, the language above suggests that the Association is actually prohibited from insuring the individual Units.

We hope this information has been helpful. Please feel free to contact me at (480) 427-2843 or greg@carpenterhazlewood.com with any questions or concerns.

Very truly yours,

A handwritten signature in blue ink that reads "Greg Stein". The signature is written in a cursive, slightly slanted style.

Greg Stein, Esq.
for

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ARTICLE 7 INSURANCE AND DAMAGE

7.1 Insurance Obtained by the Association. The Association shall obtain and maintain in full force and effect at all times certain casualty, liability and other insurance as hereinafter provided. All such insurance shall be obtained from responsible companies duly authorized to do insurance business in the State of Arizona.

7.2 Casualty Insurance. The Association shall obtain and maintain multi-peril type policy covering the Common Elements and the structure of the Buildings within the Condominium, excluding the Units, as a minimum, fire and extended coverage, and all other coverage in kinds and amounts customarily acquired or required for projects similar in construction, location and use, including, without limitation, sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, and windstorm and damage, in an amount not less than 80% of the cash value of the insurable property (based upon replacement cost as determined at least once every two years by a qualified insurance appraiser selected by the Board).

(A) The Association does not intend to carry insurance coverage for the following:

(i) Floor coverings of any kind, including but not limited to: carpeting, vinyl goods, ceramic tile, hardwood flooring. In the event of a loss, coverage will stop at the upper edge of the sub-flooring.

(ii) Wall coverings of any kind; no coverage is intended to be provided for dry wall or plastered surfaces, or for anything permanently attached to these surfaces. In the event of a loss, coverage stops at the inside edge of the vertical stud wall and the lowest edge of the ceiling joist or rafter.

(iii) Cabinetry, built-in appliances, or electrical/plumbing fixtures, including all HVAC equipment located inside or outside of the Unit.

(B) It is the intent of the Association to provide, at a minimum, "bare walls coverage." Each Owner shall be responsible for covering all portions of the Unit not covered by the Association, including his furnishings and personal property, personal liability, and all contents, appliances and plumbing within the Unit. The Association will provide the level of coverage that is in the best interest of the Association and the Owners, as determined by the Board of Directors. If, in the future, the Board determines that modifying the insurance coverage requirements of this provision would be in the best interest of the Association and the Owners, the Board may modify the insurance coverage upon providing the Owners with thirty (30) days written notice of the change to insurance coverage so that the Owners may obtain any additional coverage necessary.

7.3 Public Liability and Property Damage Insurance. The Association shall obtain and maintain insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Elements with minimum bodily injury limits of at least \$1,000,000.00 per occurrence.

7.4 Workmen's Compensation and Employer's Liability Insurance. The Association shall obtain and maintain workman's compensation and employer's liability insurance as may be necessary to comply with applicable laws.

7.5 Other Insurance Maintained by the Association. The Association shall also have the power or authority to obtain and maintain other and additional insurance coverage, including but not limited to casualty insurance covering personal property of the Association, fidelity bonds or insurance covering employees and agents of the Association and insurance indemnifying officers, directors, employees and agents of the Association.

7.6 Payment of the Association's Insurance Deductible.

(A) Except as set forth in paragraph (E), if damage occurs solely to one Unit, the Owner of the Unit shall be responsible for payment of the insurance deductible in full. In the event that the cost for such repair, replacement, or restoration to such Unit is less than the insurance deductible, the Owner shall be responsible for full payment of the cost for repair, replacement, or restoration thereof, unless the damage was caused by another Owner's negligence or actions.

(B) Except as set forth in paragraph (E), if damage occurs to more than one Unit but not to the Common Elements, the deductible shall be prorated based on the percentage of damage caused to each Unit. In the event that the costs for repair, replacement, or restoration to such Units are less than the insurance deductible, the costs shall be prorated based on the percentage of damage caused to each Unit and each respective Owner shall be responsible for full payment of his or her pro rata share, unless the damage was caused by another Owner's negligence or actions.

(C) Except as set forth in paragraph (E), if damage occurs to one or more Units and to the Common Elements, the deductible shall be prorated based on the percentage of damage caused to each Unit and the damage caused to the Common Elements. In the event that the costs for repair, replacement, or restoration to such Units are less than the insurance deductible, the costs shall be prorated based on the percentage of damage caused to each Unit and the damage caused to the Common Elements.

(D) Except as set forth in paragraph (E), if damage occurs solely to the Common Elements, the Association shall pay the deductible, unless the damage was caused by an Owner's negligence or actions (or the negligence or actions of the Owner's residents, tenants, guests or pets).

(E) If the negligence or actions of an Owner (or the Owner's residents, tenants, guests or pets) causes the damage, the Owner shall be responsible for the full amount of the deductible. In the event that the costs of repair, replacement, or restoration for such damage to a Unit or the Common Elements is less than the insurance deductible, the Owner shall be responsible for full payment of the costs thereof.

(F) The Board shall determine the amount of deductible, or cost incurred if the amount is less than the deductible, to be paid by each party. If an Owner is required to pay a deductible, or cost incurred if the amount is less than the deductible, to repair any Unit or the Common Elements, the Association shall charge the Owner for the cost of the deductible, or cost incurred if the amount is less than the deductible, as a special assessment. Any such cost shall be assessed exclusively against the Owner's Unit, and shall be collectible in the same manner as regular assessments.

(G) If damage is caused to the Common Elements that is not covered by insurance, and if such damage was caused by the negligence or actions of an Owner, or an Owner's residents, tenants, guests, or pets, the Association shall charge the Owner for the cost to repair such damage, which cost shall be paid by the Owner, upon demand, to the Association. Any such cost shall be assessed exclusively against the Owner's Unit as a special assessment, and shall be collectible in the same manner as regular assessments.

(H) If damage is caused to one Unit by another Unit, the Owners of the Units involved shall be responsible for determining who is responsible for paying for the damage and paying for any deductible, or costs thereof if less than the deductible. The Association does not intend to get involved in disputes between Owners regarding damage.

(I) Each Owner needs to be aware of the amount of the Association's insurance deductible so that the Owner carries proper insurance coverage to meet any gaps in insurance coverage. Each Owner should check with his insurance carrier to ensure that his policy will cover the cost of the Association's insurance deductible.

7.7 Mold. The Owner of the Unit is responsible for all remediation of mold that occurs within a Unit or any Limited Common Element allocated to that Unit. The Owner is also responsible for remediating any mold to the Common Elements or Units if the damage is caused by the act or neglect of an Owner or his invitee, or guest or other authorized Occupant or visitor of such Owner, or due to the Owner's failure to comply with the Declaration or Rules. If the Owner is responsible for remediating any mold as set forth in this paragraph, the Owner must provide the Association with certification that the mold has been properly remediated within five (5) business days of the completion of the remediation. Furthermore, the Owner is responsible for remediating any mold on any items contained within the Unit, including, but not limited to, costs of cleaning contaminated furniture, clothing or floor coverings. Additionally, the Owner is responsible for any other costs that may be associated with mold within the Unit, including but

not limited to, the cost of alternate lodging or storage until the mold is remediated. In the event that an Owner refuses to remediate the mold damage for which the Owner is responsible or has not commenced remediation within seven (7) calendar days after receipt of written notice from the Association of the mold damage and the Owner's responsibility therefor, the Board, an authorized representative of the Board, or of the manager or managing agent, or authorized contractor of the Association shall be entitled to reasonable access to each of the Units as may be required in connection with the mold remediation and shall have the authority to remediate such mold and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such Owner and such assessment shall constitute a lien against the defaulting Owner's Unit. In the event that the Board, the manager or managing agent, receives information of possible mold infestation, the Board has the right but not the obligation to test said questioned Common Elements or Unit(s). If mold is discovered and is the result of, the act or neglect of an Owner or his invitee, or guest or other authorized Occupant or visitor of such Owner, or due to the Owner's failure to comply with the Declaration or Rules, all expenses to the Association, including but not limited to, the cost of the testing shall be charged and assessed against such Owner and such assessment shall constitute a lien against the Owner's Unit.

7.8 Notifying Association of Potential Damage. An Owner shall notify the Association immediately upon obtaining actual notice of a water leak or mold that could damage any Unit or Common Elements. Specific procedures for such notification shall be set forth in the Rules.