

AMENDED AND RESTATED BY-LAWS
OF PHASE SIX HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Section 1. The corporation, hereinafter referred to as the “Association” has been formed for the purpose of serving as the Homeowners Association for Phase Six Homeowners Association, Inc., also known as Briarwood Six and Briarwood Six Phase Two Homeowners Association, Inc., a subdivision, according to plat recorded at Book 227, of Maps, page 49, in accordance with the terms of the Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded with the County Recorder of Maricopa County, Arizona, at Docket _____, page _____, et seq. (such document as hereafter amended and in effect from time to time being hereinafter called the “Declaration”).

Section 2. Definitions. Terms used herein which are defined in the Declaration shall have the same meanings as in the Declaration.

Section 3. Application of By-Laws. All present and future Owners, tenants, future tenants, or other employees or any other person that might use the facilities of the Association in any manner are subject to the provisions of these By-Laws. The ownership or rental of any of the Lots in the Association or the mere action of occupancy of any of said Lots will signify that these By-Laws are accepted, ratified and will be complied with by the occupant or Owner.

Section 4. Priority of Declaration. The provisions of the Declaration shall have priority over these By-Laws, and any provision hereof which is contrary to or inconsistent with the Declaration (as amended from time to time) shall be void to the extent of such inconsistency.

ARTICLE II

Section 1. Voting. The voting rights of the members shall be as provided in the Declaration, including without limitation provisions for voting the membership of Lots owned by two or more persons. Absentee ballots may be submitted via mail, hand delivery by a third party, fax, email or other electronic means.

Section 2. Majority of Owners. As used in these By-Laws the term “Majority of Owners” shall mean those Owners holding at least fifty-one (51%) of the votes.

Section 3. Quorum. Except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws, or as may be required by law, the presence in person or by absentee ballot of fifty-one percent (51%) in interest of the Owners shall constitute a quorum.

Section 4. Election of Directors. Elections of Directors shall be by written ballot. At such election, the Members, in person or by absentee ballot, may cast as many votes in the Members in the aggregate as each is entitled to vote under the Declaration and the Articles of Incorporation, multiplied by the number of Directors to be elected. Each such person may cast the whole number of votes to which he is entitled for one candidate or distribute such votes in any manner he chooses among two or more candidates. The candidates receiving the largest number of votes shall be elected.

ARTICLE III

Section 1. Corporate Responsibilities. The corporation will constitute the Homeowners Association, as defined in the Declaration, acting through its Board of Directors and its Members. The Board of Directors shall have the responsibility of administering the Association and exercising all powers and duties provided for by law or in the Declaration, the Articles of Incorporation or these By-Laws, except such matters as are reserved to the members by law or by such Declaration, Articles of Incorporation or By-Laws.

Section 2. Place of Meeting. Meetings of the Members shall be at the Association or at such other convenient place as may be designated by the Board of Directors.

Section 3. Annual Meetings. The annual meetings of the Members shall be held within the first two weeks in March of each year, as designated by the Board. At such meetings there shall be elected by ballot a Board of Directors in accordance with the requirements of the Declaration and the Articles of Incorporation and of these By-Laws. The Members may also transact such other business as may properly come before them at such annual meetings.

Section 4. Special Meetings. Special meeting of the Members may be called by the President, by resolution of the Board of Directors or by Members having at least twenty-five percent of the votes in the Association. The notice of any special meeting shall state the day and hour and the place of such meeting and the purpose or purposes

thereof. No business shall be transacted at a special meeting except as stated in the notice thereof.

Section 5. Notice of Meeting. It shall be the duty of the Secretary, at the direction of the person or persons calling a meeting, to mail or deliver a notice of each annual or special meeting, stating the purposes thereof, the day and hour and the place where it is to be held, to each Member of record, at least ten (10) but not more than fifty (50) days prior to such meeting. If the Secretary fails or refuses to act promptly, the person or persons calling the meeting may do so. The mailing of a notice in the manner provided in this section shall be considered notice served.

Section 6. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by absentee ballot, may adjourn the meeting to a time not more than thirty (30) days from the date of the meeting. New notice, in accordance with Section 5 of this Article shall be provided for the meeting. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Order of Business. The order of business at all meetings of the Members shall be as follows:

- (a) Verification of quorum and appointment of inspectors of election when required.
- (b) Proof of notice of meeting.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Reports of committees.
- (f) Election of members of the Board of Directors when required.
- (g) Old business.
- (h) New business.

ARTICLE IV

Section 1. Number and Qualification of Board of Directors; Classes of Directors.

The affairs of the Association shall be governed by a Board of Directors composed of not less than five (5) nor more than seven (7) persons, all of whom must be Owners of Lots in the Association. The number of Directors shall always be an odd number. Such Directors shall be divided as nearly evenly as possible into three classes, designated Class A, Class B and Class C, serving for staggered three-year terms, one class of which is to be elected at each annual meeting of the members as provided in the Articles of Incorporation.

Section 2. Powers and Duties. The Board of Directors shall have all powers necessary or convenient and shall be responsible for the administration of the affairs of the corporation and may do all such acts and things are not by law, by the Declaration or by the Articles of Incorporation or these By-Laws directed to be exercised solely by the Owners or Members. The Board may appoint committees of its Members and/or Directors as deemed appropriate in carrying out its purposes. All committees shall be chaired by a Board member.

Section 3. Other Duties. Without limiting the generality of Section 2 of this Article, the Board of Directors shall be responsible for the following:

- (a) Care, upkeep and monitoring of the Association and the Common Elements and facilities.
- (b) Preparation of an annual budget and allocation of the budget to the various Lots as provided in the Declaration.
- (c) Collection of assessments from the Owners and the filing of liens and foreclosure thereof where necessary.
- (d) Employment and dismissal of the personnel necessary for the maintenance and the operation of the Association.
- (e) To maintain and make repairs within the Common Area and Lots where such repairs are required for the welfare or safety of the Association or its residents.
- (f) To grant or relocate easements required for the benefit of the Subdivision.

(g) To adopt and amend Rules and Regulations and enforce the same covering the operation and use of all of the property and Common Areas.

(h) To open bank accounts and to designate the signatories required therefor.

(i) To invest any excess funds held or controlled by the Association.

(j) To appoint members of the Architectural Committee as provided in the Declaration.

The foregoing enumeration of specific responsibilities shall not be deemed to limit any other power or duty of the Board of Directors arising by law or under the Declaration, Articles of Incorporation or these By-Laws.

Section 4. Election and Term of Office. Each class of Directors shall be elected for staggered three (3) year terms as hereinabove provided. The Directors shall hold office until their successors have been elected or until his/her death, resignation or removal.

Section 5. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum, or by a sole remaining Director, and any Director so chosen shall serve as a Director until the next election of Directors of such class and until his successor is elected.

Section 6. Resignation and Removal of Directors. A Director may resign at any time upon delivery of written notice of resignation to the President or Secretary of the Association. Such resignation shall be in effect upon receipt or at any later time specified therein, and unless otherwise provided therein acceptance of such resignation shall not be necessary to make it effective. At a special meeting of the Members at which a quorum is present, any Director can be removed by the Members, with or without cause, by a majority vote of the Members who are voting on the matter at a special meeting. The special meeting may only be called upon receipt of a petition that calls for the removal of a member of the Board that is signed by the number of persons who are eligible to vote in the Association at the time the person signs the petition equal to at least twenty-five (25%) percent of the votes in the Association. Once the Board receives this petition a special meeting must be called, noticed and held within thirty (30) days. For the purposes of removal, quorum exists if twenty percent (20%) of the Owners who are eligible to vote in the Association are present at the meeting or have returned an absentee

ballot prior to the meeting. The procedure for removing Directors must comply with Arizona Revised Statute §33-1813.

Section 7. Compensation. No compensation shall be paid to Directors or officers for their services as Directors or officers. No remuneration shall be paid to a Director for services performed by him for the corporation in any capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. Neither a Director nor any officer may be an employee of the corporation. Directors and officers, however, may be reimbursed for any actual expenses incurred in connection with their duties as such officers or directors.

Section 8. Organization Meeting. The first meeting of a newly elected Board of Directors shall be called and held within ten (10) days after the election thereof at such place as a majority of such directors shall approve either before, at or after such meeting.

Section 9. Regular Meeting. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to Owners at least forty-eight hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the Board of Directors. The notice shall state the time, place and purposes of the meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors may be called by the President or Secretary or by a majority of the Directors. Notice to Owners of meetings of the Board of Directors shall be given at least forty-eight hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the Board of Directors. The notice shall state the time, place and purposes of the meeting.

Section 11. Board of Directors' Quorum. At all meetings the Board of Directors, a majority of the number of Directors fixed in these By-Laws shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at a meeting as originally called may be transacted only if proper notice of the new meeting was provided.

Section 12. Fidelity Bonds. The Board of Directors responsible for the funds of the Association shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE V

Section 1. Designation. The principal officers of the Association shall be a President, Secretary and Treasurer, all of whom shall be elected by the Board of Directors, and, in the discretion of the Board, one or more Vice Presidents and such other officers as the Board may from time to time designate. A person may hold more than one office, except that the offices of President and Vice President and President and Secretary shall not be held by the same person simultaneously.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of each new Board and shall hold office at the pleasure of the Board. If the Board of Directors shall fail to act at any such meeting, each current officer shall continue to hold office until his/her successor is elected or until his earlier, death, resignation or removal.

Section 3. Resignation and Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause. Any officer may resign at any time by delivering written notice of such resignation to the Board, the President or the Secretary. Such resignation shall take effect upon receipt or at any later time specified therein, and unless otherwise provided therein acceptance of such resignation shall not be necessary to make it effective. A vacancy in any office may be filled at any regular meeting of the Board of Directors or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He/she shall preside at all meetings of the Members and of the Board of Directors. He/she shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, including, but not limited to, the power to nominate committees, subject to the approval of a majority of the Board, from among the Members from time to time as he/she may in his/her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice-Presidents. Vice-Presidents shall take the place of the President and perform his/her duties whenever the President shall be absent or unable to act. If neither the President nor any Vice-President shall be able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice-

ARTICLE VII

These By-Laws may be amended by a majority vote of the Members at any regular or special meeting where notice of the proposed amendment is included in the call or notice of meeting, provided that these By-Laws shall not be amended to contain any terms or provisions which could be contrary to the Declaration or the Articles of Incorporation as amended from time to time.

ARTICLE VIII

The Board of Directors shall cause to be maintained complete books of account concerning all funds, assets and liabilities of the Association. The Association shall also keep complete minutes of the meetings of its Members, Board of Directors and any committees thereof and a list of the names and addresses of all Members entitled to vote. All such relevant books of account and other records shall be open to inspection upon the written demand as required by A.R.S. §33-1805. Such books and records shall be kept in a location or locations determined by the Board and that is convenient to the Members. Such inspection may be made in person or by agent or attorney, and the right of inspection includes the right to make copies of or extracts from or to perform audits of such books and records.

ARTICLE IX

The fiscal year of the corporation shall begin on the first day of January and end on the 31st day of December of every year.

ARTICLE X

In addition to and not in limitation of any power or duty of the Association to indemnify any person, the Association may pay all expenses, including attorney's fees, incurred by any present or former officer or director of the Association in defending a civil or criminal action, suit or proceeding in advance of the final determination thereof upon the making of the determination provided for in Arizona Revised Statutes § 10-8351; provided; however, that the Board of Directors shall have the right to refuse indemnification in any instance in which the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Association, at its own expense, and through counsel of its own choosing, to defend him/her in any such action, suit or proceeding, unless and until such person is successful on the merits or otherwise in defense of any such action, suit or proceeding; and further provided that the Board of Directors shall have the right to refuse indemnification as to

Presidents shall also perform such other duties as shall from time to time be imposed upon them by the Board of Directors.

Section 6. Secretary. The Secretary shall have the responsibility for keeping the minutes of all meetings of the Board of Directors and the Members, such correspondence as shall be necessary, the official Minute book of the Association, and such other duties as shall from time to time be imposed on him/her by the Board of Directors.

Section 7. Treasurer. The Treasurer shall have the responsibility for funds and securities of the Association and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association and such depositories as may from time to time be designated by the Board of Directors.

ARTICLE VI

Section 1. Assessments. All Owners shall be obligated to pay annual and special assessments in accordance with the Declaration. Any assessments levied or collected which are in excess of the amount required for proper purposes shall be refunded to Owners who paid such assessments.

Section 2. Budget. The Board of Directors shall annually prepare a budget for the Association, determine the amount payable by the Owners to meet the current expenses of the Association and allocate and assess such charges uniformly among the Owners as required by the Declaration. No later than November 30th of each year, the Board of Directors shall adopt a budget for the following year and determine the annual assessment and shall notify all Owners promptly in writing of the amount of such charges payable by each of them respectively and shall furnish copies of the budget on which such common charges are based to all Owners and to their mortgagees if requested in writing.

Section 3. Audit, Review or Compilation. The Board of Directors shall provide for an annual financial audit, review or compilation of the Association. The audit, review or compilation shall be completed no later than one hundred eighty days after the end of the Association's fiscal year and shall be made available upon request to the Members within thirty days after its completion.

