

When Recorded Return to:

Tanis A. Duncan  
548 E. Speedway Blvd.  
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AMENDMENT TO EXHIBIT "D" OF THE  
SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR SUNFLOWER

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Pursuant to Section 12.2 of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Sunflower (the "Declaration"), recorded on February 12, 2008, in Docket 13241 at page 164 *et seq.*, Office of the Pima County Recorder, the Board of Directors (the "Board") of Sunflower Community Association ("Association") has the right to amend the Use Restrictions set forth in Exhibit "D" to the Declaration.

On May 1, 2013, the Board adopted a revised version of Exhibit "D" which is attached and incorporated into the Declaration. The President and Secretary of the Association attest that prior to the adoption of Exhibit "D" by the Board on May 1, 2013, Exhibit "D" was posted in a prominent place within Sunflower at least five business days prior to that Board meeting and at least 60 days prior to the effective date of the revised Exhibit "D".

NOW, THEREFORE, this Amendment to Exhibit "D" of the Declaration is being recorded in the office of the Pima County Recorder in accordance with Section 16.2 of such Declaration. This Exhibit "D" amended and supercedes that Exhibit "D" recorded on August 31, 2010 in Docket 13884 at Page 1350, Pima County Recorder.

Dated: June \_\_\_\_\_, 2013

SUNFLOWER COMMUNITY ASSOCIATION  
an Arizona nonprofit corporation

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

STATE OF ARIZONA        )  
                                  ) ss:  
County of Pima            )

ACKNOWLEDGED before me on \_\_\_\_\_, 2013 by \_\_\_\_\_, a s  
President of Sunflower Community Association, an Arizona nonprofit corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF ARIZONA        )  
                                  ) ss:  
County of Pima            )

ACKNOWLEDGED before me on \_\_\_\_\_, 2013 by \_\_\_\_\_, a s  
Secretary of Sunflower Community Association, an Arizona nonprofit corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires:

## **Exhibit “D”**

### **Use Restrictions**

**Revised on May 1, 2013**

- (1) General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Association consistent with this Declaration and any Supplemental Declaration), subject to applicable laws. Any Supplemental Declaration may impose stricter standards than those contained in this Declaration and the Association has the standing and the power to enforce such standards.
- (2) Prohibited Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by the Board:
  - (a) Posting of signs of any kind, including posters, circulars, campaign signs, political signs, and billboards, except those required by law and except as permitted by the Design Guidelines or the Declaration, on any Lot, Common Area, or right-of-way;
  - (b) Subdivision of a Lot into two or more Lots after a subdivision plat including such Lot has been approved and filed with the appropriate governmental authority or changing the boundary lines of any Lot;
  - (c) Construction, installation and/or use of dog runs and animal pens;
  - (d) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;
  - (e) Occupancy of a Dwelling Unit by more than two persons per bedroom in the Dwelling Unit;
  - (f) Capturing, trapping or killing wildlife within the Properties, except (i) in circumstances posing an imminent threat to the safety of persons or pets using the Properties; or (ii) when authorized and supervised by the Board in accordance with a game management program;
  - (g) Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Properties or which result in unreasonable levels of sound or light pollution. The Board, in its sole discretion, will determine whether any exterior lighting is excessive;
    - i. Pickle ball is only permitted to be played in an open venue, using the type

and style of regulation balls and paddles that are on the Association's list of approved equipment.

- (h) Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials (as may be determined by the Board's reasonable discretion and as defined by applicable law) anywhere within the Properties;
- (i) Discharge of firearms or explosives within the Properties. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size;
- (j) Parking of any vehicle (including, but not limited to, any car, truck, motorcycle, boat, or trailer) containing or displaying a "for sale" sign, or other indication of being "for sale" in any driveway or other portion of any Lot, or on any street or any portion of the Common Area; and
- (k) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or Occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as:
  - i. the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit;
  - ii. the business activity conforms to all zoning requirements for the Lot;
  - iii. the business activity does not involve any person conducting such business who does not reside within the Properties, or regular visitation of the Lot or Dwelling Unit by clients, customers, suppliers or other business invitees, or door-to-door solicitation of residents of the Properties; and
  - iv. the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of the residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required therefore.

The Board of Directors may approve an exception to the prohibition for garage sales upon receiving an application for a waiver for an estate sale of decedent's property conducted within a reasonable time after the death of the Owner(s) by individuals who inherited through a will or by the terms of a Trust. In addition, a moving sale waiver may be approved by the Board upon

evidence that a move is imminent. Applications must state the date(s) and time duration of the sale. Both types of sales are permitted for duration of no longer than two days for no longer than eight (8) hours each day. A reasonable start and stop time is required. Only two directional signs are permitted on the common area. The rule for open house signs applies.

The leasing of a Dwelling Unit for single-family residential purposes shall not be considered a business or trade within the meaning of this subsection. "Leasing" for purposes of this Declaration, is defined as regular, exclusive occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwelling Units may be leased only in their entirety. No fraction or portion may be leased. There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing, and shall specifically provide:

- i. That the failure of the lessee to comply with the terms and conditions of the Governing Documents or the Master Association Documents constitutes a material default of the lease which may result in termination of the lease and eviction of the tenant from the Lot, and
- ii. That if the lessee violates the Governing Documents or the Master Association Documents, the lessee shall be deemed in default of the Lease and the Owner shall be entitled to reenter and retake possession of the premises pursuant to the provisions of the Arizona Residential Landlord and Tenant Act, A.R.S. Sections 33-1301 et seq.

All leases which do not contain these provisions shall be deemed null and void at the option of the Association or the Master Association and the Association or the Master Association may require the Owner to immediately evict the lessee, or submit a lease which contains the required provisions. No transient tenants may be accommodated in a Dwelling Unit, and all leases shall be for an initial term of no less than 30 days.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board and to the Master Association by the Lot Owner at least 15 days prior to the execution of the lease. The lease must provide that it is subject in all respects to, and the Owner must make available to the lessee copies of, the Governing Documents and the Master Association Documents. All provisions of the Governing Documents and of the Master Association Documents which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Dwelling Unit. The Board may adopt reasonable rules regulating leasing and subleasing by Owners.

(3) Prohibited Conditions. The following shall be prohibited within the Properties:

- (a) Except as may otherwise be provided in the Design Guidelines, exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, telephone, or other electric currents, power, or signals

of any kind, unless completely contained within the Lot so as not to be visible or discernable by any Person, whose eyes are six feet above the ground level and who is standing at ground level on any portion of the Properties (hereafter, "Visible From Neighboring Property") or otherwise approved pursuant to Article XI; provided the Association shall have the right, but not the obligation, to erect or install and maintain such apparatus, even if "Visible From Neighboring Property," for the benefit of all or a portion of the Properties;

- (b) Walls or fences of any kind on any Lot except as approved in accordance with Article XI;
- (c) Open garage doors. Garage doors shall remain closed at all times except when entering and exiting the garage, and excepting reasonable hours when a resident is working in or around the garage;
- (d) Clotheslines, or other outside facilities for drying or airing clothes;
- (e) Detached garages;
- (f) Excessive exterior lighting on any Lot, including lighting which causes unreasonable glare, unless necessary for public safety purposes on, or lighting of, Common Area. The Board shall in its sole discretion determine whether any exterior lighting is excessive;
- (g) Tents, shacks, or temporary structures on any Lot except as approved in accordance with Article XI or as may be authorized by the Board during initial construction or repair within the Properties. Temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair;
- (h) Temporary or permanent storage buildings or sheds, whether prefabricated, metal or of any other construction whatsoever, which are "Visible from Neighboring Property." No furniture, fixtures, firewood, appliances, machinery, equipment, or other goods or chattels which are not in active use shall be stored in any building or any Lot or Common Area in such a manner as to be "Visible from Neighboring Property;" provided, however, this restriction shall not apply to the property of the Association, (to the extent approved by the Board). Notwithstanding the foregoing, an Owner may be permitted to construct or place a gazebo, pergola, or similar structure within the rear yard of a Lot if permitted by and in conformance with the Design Guidelines and all applicable zoning ordinances and otherwise approved pursuant to Article XI;
- (i) Outdoor playground equipment (except within any Common Area); and
- (j) Lawn art, topiary and/or designs in landscaping softscape or hardscape that appear

unnatural or cause a distraction or are otherwise limited or prohibited by the Design Guidelines (e.g. words, initials, or images). All landscaping shall be maintained in accordance with the Community-Wide Standard.

- (4) Rules Regarding Pets. Raising, breeding, or keeping of animals, insects, or poultry of any kind is prohibited in the Properties except in accordance with the following:
- (a) Subject to any more restrictive conditions imposed by the Master Association, Occupants of Dwelling Units may keep a total of three cats and/or dogs and a reasonable number of other usual and common household pets on a Lot;
  - (b) Pets shall be confined to the Lot or kept on a leash at all times;
  - (c) Owners of pets are responsible for the immediate removal and disposal of all solid animal waste of such owners' pets; all Persons walking pets shall carry animal waste bags, and a hand-held shovel, or other devices designed for removing solid animal waste;
  - (d) No pet shall be allowed to make objectionable noises or an unreasonable amount of noise (as determined in the reasonable discretion of the Board);
  - (e) Pets which are permitted to roam free, make objectionable or excessive noise, leave waste in the Properties, endanger the health or safety of Occupants of other Dwelling Units, or constitute a nuisance or inconvenience to Occupants of other Dwelling Units shall be removed upon request of the Board. If the pet owner fails to honor the request, the Board may remove the pet; and
  - (f) Occupants of Dwelling Units may keep a reasonable number of bird feeders on their Lots so long as such feeders do not create a nuisance to neighboring Lots and subject to any other limitations established by the Board.

This Section (4) does not prohibit the Association from permitting, tolerating, or encouraging use of the Properties, including bodies of water within the Properties, by animals, birds or other wildlife.

- (5) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive, or detrimental to any other portion of the Properties. Woodpiles or other materials shall be stored in a manner so as not to be "Visible from Neighboring Property" and so as not to be attractive to native rodents, snakes, and other animals and to minimize the potential danger from fires. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Properties. Without limiting the generality of any of the foregoing provisions, the Board shall be permitted to establish and enforce reasonable restrictions and guidelines with respect to:

- (a) Noise levels originating from a Lot and with respect to the placement and use of noise making apparatus on any Lot, as determined in the discretion of the Board.
- (b) No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted on the Properties, except in a contained outdoor fireplace or barbeque unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.
- (c) No odors shall be permitted to arise or emit from any Lot, which are offensive or detrimental to any neighboring property, as determined in the discretion of the Board.

Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction consistent with the Community-Wide Standard. During construction periods, trash and debris shall not be permitted to accumulate and shall be removed or placed in appropriate trash containers on a daily basis. Supplies or brick, block, lumber and other building materials shall be piled only in such areas as may be approved in accordance with Article XI. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved in accordance with Article XI, which may also require screening of the storage areas. The Board, in its sole discretion, shall have the right to determine the existence of any such nuisance.

- (6) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot or Common Area except in covered containers of a type, size and style which are approved in accordance with Article XI and the Design Guidelines. In no event shall such containers be “Visible from Neighboring Property” except to be available for collection and then only for the shortest time reasonably necessary for such collection (in no event earlier than 5:00 p.m. the day prior to collection or later than the evening of the day of collection). All rubbish, trash, or garbage shall be removed from the Lots and Common Area and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.
- (7) Trucks, Trailers, Recreational Vehicles, Campers and Boats. No motor vehicle classed by manufacturer rating as exceeding three-quarter (3/4) ton, recreational vehicle, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot, Common Area, or on any street within the Properties; provided, however, that the provisions of this subsection shall not apply to cleaning, loading or unloading and short-term parking which shall be permitted for a cumulative period not to exceed 48 hours in any seven (7) day period. The provisions of this subsection shall not apply to: (a) pickup trucks of three-quarter (3/4) ton or less capacity



with camper shells not exceeding seven feet in height measured from ground level and mini-motor homes and/or passenger vans not exceeding seven feet in height and eighteen feet in length, which are used on a regular and recurring basis for basic transportation. None of the vehicles described above, or any other vehicle, may be used as a living area or otherwise occupied while located on the Properties.

- (8) Motor Vehicles. No automobile, motorcycle, motorbike, or other motor vehicle shall be constructed, reconstructed, or repaired upon any Lot, Common Area or street within the Properties, and no inoperable vehicle may be stored or parked on any Lot so as to be “Visible From Neighboring Property;” provided, however, that the provisions of this subsection shall not apply to emergency vehicle repairs. The provisions of this subsection shall not apply to motor vehicles and equipment owned or operated by the Association and parked in designated maintenance areas.
- (9) Parking. It is the intent of the Association to restrict on-street parking as much as possible. Vehicles of all Occupants of Dwelling Units and of their guests are to be kept in garages, and residential driveways, and other designated parking areas wherever and whenever such facilities are sufficient to accommodate the number of vehicles on a Lot provided, however, this subsection shall not be construed to permit the parking in the above described areas of any vehicle whose parking within the Properties is otherwise prohibited or the parking of any inoperable vehicle.
- (10) Diseases and Insects. Owners shall not permit anything or condition to exist upon any Lot which is likely to induce, breed, or harbor infectious plant diseases or noxious insects.
- (11) Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk, street, pedestrian pathway, or other area from ground level to a height of eight feet without prior approval in accordance with Article XI.
- (12) Swimming Pools. In addition to any requirements set forth by the Board or in the Design Guidelines, no swimming pool, spa, pond, or other man-made body of water may be constructed, installed, or maintained on any Lot in violation of any applicable local government pool ordinances, including, but not limited to, protective enclosure criteria. This shall include compliance with any requirements as to the construction and maintenance of walls or fences.

Approved 6.2.10  
Revised 5.1.2013