

## Amended and Restated Declaration of Restrictions

Recorded May 16, 1963  
Docket 4578, Page 545  
as amended February 28, 1973  
Docket 10022, Pages 332-416  
Amended October 28, 1977  
Docket 12512, Pages 911-915  
Amended June 18, 1987  
#87 386593 & 87 386594  
Amended February 21, 1992  
#92-0087101  
Amended February 23, 1999  
#99-0168638  
Amended February 23, 1999  
#99-0168639  
Amended March 14, 2002  
#02-0264971  
Amended December 23, 2003  
#03-1723516  
Amended December 30, 2003

#03-1742361  
Amended and Restated December 18, 2006  
#06-01644740  
Amended and Restated February 20, 2008  
#2008-0172809  
Amended and Restated July, 8, 2008  
#2008-0933460  
Amended and Restated February 14, 2015  
#20150391455  
Amended May 14, 2024  
#2024-0304659

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### Casita Colony Recreation Association

Villa Monterey Unit 3 / 7702 E. Highland Ave.  
Scottsdale, AZ 85251

This Amended Declaration of Restrictions is made as of 14th day of May, 2024, by the Casita Colony Recreation Association, Inc., (The “Corporation”), Villa Monterey Unit Three.

### RECITALS

Whereas, the original Declaration of Restrictions was recorded at Docket 4578, page 545 on May 16, 1963; and Amended on February 28, 1973 and recorded at Docket 10022, pages 332-416; and Amended October 28, 1977 at Docket 12512, pages 911-915, and Amended February 14, 1978, and Amended June 18, 1987, Docket 87-386593 and Docket 87-3865943, page 69; and Amended February 21, 1992 at Docket 92-0087101; and Amended February 23, 1998, at Docket 99-0168639, Amended and Restated December 18, 2006 at Docket 06-1644740; Amended and Restated February 20, 2008 at Docket 2008-0172809; Amended and Restated July 8, 2008 Docket 2008-093346; Amended and Restated February 14, 2015 Docket 20150391455; Amended May 14, 2024 Docket 2024-0304659.

Now therefore, the Association hereby records this Amended Declaration of Restrictions. This instrument is being recorded to supersede any previous Declaration of Restrictions and all Amendments to these Restrictions.

## **DECLARATION OF RESTRICTIONS**

1. Said premises are hereby restricted to dwellings solely for residential use and, as an adult community, and at least one resident of each dwelling shall be fifty-five (55) years of age or older, and in no case shall there be a resident under the age of eighteen (18) years of age. No business or political activities of any kind whatsoever shall be conducted upon the premises owned by the Casita Colony Recreation Association; and business activity shall not be conducted upon the premises owned by any Association member to include yard/garage sales. This does not preclude an “estate sale” when starting or closing out ownership.
2. No livestock or poultry shall be kept on the premises other than a reasonable number\_of household pets.
3. No advertising signs, billboards, unsightly objects or nuisance shall be erected, placed, or permitted on any of said lots (except for one “For Sale” sign per parcel at the time of sale), nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the holder of any parcel in the subdivision. The one exception to the above is the right of a resident to place a political sign/flag during a general election period. The sign/flag can be placed 60 days before the election and removed 15 days after the general election. No owner of a lot shall park or otherwise keep a, camper or recreational vehicle on a lot or on a street adjoining any lot. No owner of a lot shall park or keep a boat or trailer or inoperable vehicle on a lot or on a street adjoining a lot.
4. All clothes lines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring lots and streets. All rubbish, trash or garbage shall be removed from the premises and shall not be allowed to accumulate thereon.
5. No fences, hedges or walls shall be erected upon said premises, except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by Casita Colony Recreation Association in the manner set forth in Paragraph #7 hereof.
6. Residential dwelling units have been constructed on the subdivided property and the ownership of individual units is evidenced by a deed to the lot upon which each such unit is situated. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of commonly used areas, including a recreation area, shall be taken through Casita Colony Recreation Association, a corporation organized under the laws of the State of Arizona.

- (a) One (1) share of capital stock of Casita Colony Recreation Association shall be issued to the owner of record of each lot. The term Owner of Record shall include a purchaser having the right to possession under a recorded agreement of sale. In the event any such lot is owned by two or more persons, a single share of stock shall be issued in the names of all and a single vote shall be cast for such share by all such owners voting collectively or by one or more of them who shall have been designated by the others as having the power to vote said share.
- (b) Casita Colony Recreation Association shall hold title to Tract B of 3-A of said subdivision and such other areas as may be acquired by it and be set aside and maintained for the use, enjoyment or convenience of the owners of lots in the subdivision.
- (c) Casita Colony Recreation Association shall maintain and otherwise manage the landscaping and any swimming pool or other recreational facilities located upon commonly owned lands in said subdivision and shall pay all real estate taxes which may be assessed against and levied upon said lands. Such Association shall be responsible for the maintenance of and real estate taxes imposed upon, Tract B of 3-A of said subdivision s shown in Book 97 of Maps, page 44
- (d) The Owner of Record of each lot in said subdivisions shall pay to Casita Colony Recreation Association, within thirty (30) days of receipt of invoice, as the regular assessment a sum equal to the aggregate of the following:
  - i. The pro rata share of applicable taxes;
  - ii. The pro rata share of estimated expenses to be incurred during the next fiscal year for operating the recreational facilities, for carrying on the recreational activities, for repair, maintenance and improvements of the Association's properties and equipment, and for other expenses of the Association; and
  - iii. The pro rata share of a reserve for the foregoing purposes; provided, however, that the aggregate of items (d) (i), (ii), (iii) above shall be in such amount as shall be fixed by a vote of sixty percent (60%) of the Board of Directors of the Association attending a regular or special meeting of the Board, provided that such meeting meets the quorum requirements outlined in the association's by-laws, and further provided that notice of such meeting was given or waived as provided in the association's by-laws, each year prior to the annual meeting of the members of the

Association, not to exceed ten per cent (10%) greater than the immediately preceding fiscal year's assessment, per lot unless a higher figure shall have been approved by a vote of fifty-one percent (51%) of the voting shareholders attending or voting by absentee ballot at an annual or special meeting of the voting shareholders, provided that such meeting meets the quorum requirements outlined in the association's bylaws, and further provided that written notice of such increase shall have been given to all shareholders at least thirty days prior to the date when such increase is to be voted on. The higher amount so established may either be for the fiscal year only or for such year and subsequent years until again changed, as may be provided by the approving action. Provided, further, that no special assessments in excess of \$10,000.00 in the aggregate and no capital improvements shall be undertaken, the cost of which would be in excess of \$10,000.00, without prior approval by fifty-one (51) percent of the voting shareholders attending or voting by absentee ballot at such annual or special meeting of the voting shareholders, provided that such meeting meets the quorum requirements outlined in the association's bylaws, and further provided that written notice of such special assessment and/or capital expenditure shall have been given to all shareholders at least thirty (30) days prior to the date when such special assessment and/or capital expenditure is to be voted on. Invoices for regular or special assessments may be submitted monthly or at such other regular intervals as may be fixed by the Board of Directors.

- (e) In the event the owner of any lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of Casita Colony Recreation Association, the Association, through its agents and employees, shall have the right to enter upon such lot and to repair, maintain, rehabilitate and restore the premises and the exterior of any improvements situated thereon, and the cost thereof shall be charged against the owner of said lot by invoice in the manner set forth in paragraph 7 (d) hereof and made a lien on said lot and foreclosed as therein set forth.
- (f) The Board of Directors of Casita Colony Recreation Association shall have the power to approve or disapprove any and all changes in occupancy or ownership of lots in the subdivision and the sale, transfer and conveyance, together with an application on a form prescribed by the Board and completed by the proposed transferee. The Board shall have twenty-one (21) days after receiving such notice to approve or disapprove the same and if disapproved within said 21 day period the Association

shall have the option to purchase said lot on the same terms of sale as those upon which the owner of said lot proposes to sell. Casita Colony Recreation Association may assign the option to the Owner of Record of any lot in said subdivision, but not otherwise. In the event the Board shall neither approve nor disapprove the proposed transfer within the said 21-day period, the same shall be deemed to be approved. In the event the Board shall disapprove such proposed transfer but shall fail to exercise the option to purchase, within the 21 day period; the proposed transfer shall be valid only upon compliance with the provisions of paragraph (g) (iii) below.

- (g) No sale, transfer or conveyance shall be considered valid until there shall be filed in the Office of the County Recorder of Maricopa County and incorporated in the instrument of sale, transfer or conveyance by reference to one of the following:
  - i. A certificate of approval by the Board of such sale, transfer or conveyance; or
  - ii. An affidavit of the owner that notice has been given to the Board in accordance with paragraph (f) above and that the Board has failed to approve or disapprove such sale, transfer or conveyance within 21 days from the receipt of such notice; or
  - iii. A certificate of approval of such sale, transfer or conveyance executed by the owners of record of one-half of the lots in said subdivision.
  
- (h) The capital stock of Casita Colony Recreation Association held by any owner of a lot in said subdivision shall not be transferred, pledged or alienated in any way except upon the sale of such lot and then only to the purchaser of such lot. Any attempt to make a prohibited transfer is void and will not be reflected upon books of the corporation. In the event the owner of any lot should fail or refuse to transfer the share registered in his name to the purchaser of such lot, Casita Colony Recreation Association shall have the right to record the transfer upon the books of the corporation and issue a new certificate to the purchaser and thereupon the old certificate outstanding in the name of the seller shall be null and void as though the same had been surrendered.
  
- (i) No building, fence, wall or other structure shall be commenced, erected or maintained, until the plans and specifications, showing the nature, kind, shape, height, materials, floor plans, locations and approximate cost of such a structure shall have been submitted to and approved by the Board of Directors of Casita Colony Recreation Association, and a copy thereof,

as finally approved, logged permanently with said Board. The Board shall have the right to refuse to approve any such plans or specifications or grading plans, which are not suitable or desirable, in its opinion, for aesthetic, or any other reasons, and in so passing upon such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. All subsequent additions, changes or alterations to the exterior of any building or in any fence, wall or other structure shall be subject to the prior approval of the Board.

- (j) No lot in the Subdivision may be occupied by a lessee, sublease, tenant or subtenant, and **no Lot in the Subdivision may be otherwise occupied by any person except an owner of the Lot, members of the owner's household, or guests of the owner,** except as provided below. In the case of undue hardship resulting from extraordinary circumstances, the Board of Directors of Casita Colony Recreation Association, upon application, may grant an exemption from the prohibition against leasing for such period and upon such terms as the Board of Directors may determine.
  
- (k) No ownership of a lot in the subdivision may be sold or transferred without a working post-top-light on the property. The post-top-light design and location on the property shall be in compliance with the generally accepted standards of the post-top-lights that have been installed by Villa Monterey Unit III homeowners prior to January 1, 1999. All lots that are located adjacent to and have a US Mail address on Miller Road are exempted from the requirement for a post-top-light.

- 7. The rights and duties of the owner of lots within this subdivision with respect to party walls shall be governed by the following:
  - (a) Each wall which is constructed as a part of the original construction on the subdivided property and any part of which is placed on the dividing line between separate lots in said subdivision shall constitute a party wall and with respect to such wall each of the adjoining owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, general rules of law regarding party walls shall be applied thereto.
    - i. In the event any such party wall is damaged or destroyed through the act of one adjoining owner or any of his agents or guests, or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other

adjoining owner of the full use and enjoyment of such wall, then the first of such owners shall forthwith proceed to rebuild or repair the same to as good condition as formerly without cost to the adjoining owner.

- ii. In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining owners, his agent, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event both such adjoining owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense.
  - iii. In addition to meeting the other requirements of these covenants and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to, or rebuild his residence in any manner which requires the extension or other alteration of any party wall shall obtain the written consent of the adjoining owner. Prior to submitting the planned construction to the Board of Directors for approval in accordance with paragraph 7.(i).
  - iv. In the event of a dispute between owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such owners addressed to the Casita Colony Recreation Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the owners and the third by the two so chosen, or if they cannot agree within five days then by any judge of the Maricopa County Superior Court. A determination of the matter signed by any two shall be binding upon all parties and persons.
  - v. These covenants shall be binding upon the heirs and assignees of the owners but no person shall be liable for any act or omission respecting any party wall except such as took place while an owner.
8. The Board of Directors shall have the power to impose monetary penalties upon the owner(s) of lots for violations of the Declaration of Restrictions for Casita Colony Recreation Association (“Declaration”), Bylaws and Rules of the Association. This power shall apply to violations by the owners(s), and

the owner(s) shall be liable for any violation committed by a family member, guest, or other occupant of the owner's lot.

- a. The amount of monetary penalties shall be determined based on the nature of the offense, the attitude of the offending owner(s) and the number of violations, and the amount so established by the Board of Directors shall range from \$10.00 to a maximum of \$500.00 for each violation.
  - b. The owner(s) in question shall be given an opportunity to be heard by the Board or its enforcement committee appointed by the Board prior to the assessing of any monetary penalties, and written notice of said hearing shall be given at least 21 days in advance of the hearing by regular mail or by hand delivery at the last known address of the owner(s).
  - c. Once it has been determined that the owner(s) is guilty of a continuing violation, the Board may impose reasonable daily monetary penalties for each subsequent day of the violation, and such continuing penalties shall remain in effect until the owner(s) notifies the Board that the violation has ceased and the Board has confirmed that this, in fact, is the case. Any penalties assessed against the owner(s) may be enforced against the Lot of the owner(s) in the same manner established in the Declaration in regard to delinquent maintenance assessments, and said owner(s) shall be liable in this manner for all violations committed by the family member, guest or any other occupant of the owner(s).
10. The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing or occupying any lot or lots in said subdivisions after the date on which this instrument has been recorded. These covenants, restrictions, reservations and conditions may be enforced by the owner of any said lot in said subdivision, Casita Colony Recreation Association, or any one or more of said individuals, provided however, that any breach of said covenants, restrictions, reservations and conditions, or any right of re-entry by reason thereof, shall not defeat or affect the lien of any mortgage or deed of trust made in good faith and for value upon said land, but except as hereinafter provided each and all of said covenants, restrictions, reservations and conditions shall be binding upon and effective against any owner of said premises whose title thereto is acquired by foreclosure, trustee's sale or otherwise and provided, also that the breach of any said covenants, restrictions, reservations and conditions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such deed or trust or mortgage. All instruments of conveyance of any interest in all or any part of said subdivision shall contain reference to this instrument and shall be subject to the covenants, restrictions, reservations and conditions herein as fully as though the terms and conditions of this instrument were therein set forth in full; provided however, that the terms and conditions of this instrument shall be binding upon all persons



affected by its terms, whether express reference is made to this instrument or not.

11. Notwithstanding any provisions of this declaration of restrictive covenants to the contrary:
  - a. The provisions of paragraph 6 (f), (g) and (h) shall not apply to or be enforced by any person with respect to:
    - i. A sale, transfer or conveyance of any parcel in said subdivision to any person pursuant to a judgment of foreclosure of a mortgage of record by an institutional lender upon such lot, or
    - ii. A sale, transfer or conveyance of any parcel in said subdivision to any person by an institutional lender which has acquired title through or by virtue of foreclosure by it of a mortgage of record upon such parcel.
  - b. No deed, mortgage or encumbrance of any kind whatsoever upon Tract B of Unit Three-A or upon any of the improvements thereon shall be valid unless there shall be endorsed upon the instrument of transfer or encumbrance a written approval by all of the owners or holders of record of institutional mortgages upon any of the other lots in this subdivision. An institutional mortgage shall be understood to mean a mortgage given to secure a debt due to a regularly organized bank, insurance company, savings and loan association, or other corporation or association regularly engaged in the making of mortgage loans.
12. Invalidation of any one of these covenants, restrictions, reservations or conditions by judgment or court order shall in no way affect the validity of any of the other provisions and the same shall remain in full force and effect.
13. These covenants, restrictions, reservations and conditions shall remain in full force and effect for a period of ten (10) years, from May 16, 1963; and as amended for a period of five (5) years from February 28, 1973; or for a period of five (5) years each from the date of any subsequent amendment. Thereafter, they shall be deemed to have been renewed for successive terms of five (5) years each unless revoked or amended. These CC&Rs may be amended at any annual or special meeting of the voting shareholders by a vote of fifty-one percent (51%) of the voting shareholders attending or voting by absentee ballot at such annual or special meeting, provided that such meeting meets the quorum requirements as outlined in the association's bylaws and further provided that written notice shall have been given to all voting shareholders at least thirty days prior to the date when such amendment is to

be voted on, notifying said shareholders that at such meeting a proposal to amend the CC&Rs is to be voted on and such notice shall also set forth the language of the proposed amendment.

All amendments shall be recorded in the Office of the Recorder of Maricopa County, Arizona.

**CCRA Recording Officer:**

Signature: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_