

WHEN RECORDED RETURN TO:
FOUNTAIN FO THE SUN ASSN.
P. O. BOX 6127
MESA, AZ 85216-6127

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RECORDED IN OFFICIAL RECORDS
OF MARICOPA COUNTY, ARIZONA
MAR 08 '91 8 00
HELEN PURCELL, County Recorder
FEE 24.00 PGS 20 GH

BY-LAWS
OF
FOUNTAIN OF THE SUN ASSOCIATION
(A Non-Profit Corporation)

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ARTICLE I

Eligibility for Membership

SECTION I: Membership in Fountain of the Sun Association (hereinafter "the Association") shall be in accordance with the terms and conditions established in Article VII of the Articles of Incorporation.

SECTION II: Responsibilities of Members: It is the intent of the members and Board of Directors to adhere to the long established policies and procedures that continue to enhance our facilities and provide for the enjoyment, health and safety of our residents. Renters and all occupants shall be expected to cooperate in these objectives.

SECTION III: Age of Occupants. At least one occupant of each dwelling unit must be fifty-five (55) years of age or older; provided, however, that (i) this Section shall not apply to dwelling units occupied by persons who first occupied the dwelling unit prior to September 13, 1988, and (ii) if an occupant who is fifty-five (55) years of age or older dies, the remaining occupants of the dwelling unit may continue to occupy the dwelling unit even though none of such persons are fifty-five (55) years of age or older. No person under eighteen (18) years

of age shall occupy or reside in a dwelling unit for more than ninety (90) days during any twelve (12) month period. The provisions set forth in this Section are for the purpose of establishing the policies and procedures necessary for the Project to qualify for the fifty-five (55) or over housing exemption under the Fair Housing Amendments Act of 1988. The Board of Directors is authorized to adopt such other policies and procedures which may be necessary from time to time in order for the Project to meet all of the requirements for the fifty-five (55) or over housing exemption. The Board of Directors shall periodically conduct such surveys or collect such information as is necessary in order to determine the number of dwelling units in the Project which are occupied by at least one person fifty-five (55) years of age or older. Each member shall, within ten (10) days after being requested to do so by the Board of Directors, furnish to the Association a statement signed by the Member certifying that at least one occupant of the dwelling unit owned by such a Member is fifty-five (55) years of age or older. If requested to do so by the Board of Directors, such Member shall furnish to the Association such documentary evidence as may be requested by the Association to verify the accuracy of the statements set forth in the certification submitted by such Member. In addition, the Board of Directors shall maintain a list of all facilities and services designed to meet the physical or social needs of older persons which are maintained or available in the Project.

SECTION IV: Other Regulations and Objectives: All members and residents are obligated to enforce other regulations in the Declaration of Covenants, Conditions and Restrictions (C.C. & R's) given to each property owner by the seller or Title Company at the time of purchase of property.

ARTICLE II

Meetings of Members

SECTION I Place of Meetings. Every meeting of the members of the Association shall be held at the offices of the Association or at such other place as shall be specified in the notice of said meeting given as hereinafter provided or in a waiver of notice thereof signed by all the members of the Association, provided that each such meeting shall be held within Maricopa County, Arizona.

SECTION II Annual Meetings. The annual meeting of the members of the Association shall be held the second Monday of January of each year commencing in 1990, for the purpose of electing directors, and the transaction of such other business as may properly come before the meeting.

SECTION III Special Meetings. Special meetings of the members for any purpose or purposes, unless otherwise regulated by statute, may be called by resolution of the Board of Directors (hereinafter referred to as "the Board"), or by the President or Secretary upon receipt of a petition signed by one hundred (100)

members. Such petition shall state the purpose or purposes of such proposed meeting.

SECTION IV Notice of Meetings. Notice of every meeting of the members shall be in writing and signed by the President or Vice President or the Secretary of the Association. Such notice shall state the purpose or purposes for which the meeting is called and the time, when, and the place, where, it is to be held, and a copy thereof shall be served, either personally or by mail, upon each member of record entitled to vote at such meeting, not less than ten nor more than thirty days before the meeting. If mailed, it shall be directed to each member at his address as it appears in the records of the Association or to such other address as such member shall have specified in a written request to the Secretary of the Association.

SECTION V Quorum. The presence in person, by proxy, or by absentee ballot of a minimum of thirty percent (30%) of the Association voting members shall constitute a Quorum at each meeting of the members. In the absence of a quorum at any such meeting or any adjournment or adjournments thereof, the meeting may be adjourned from time to time until a quorum shall be present. At any such meeting at which a quorum is present any business may be transacted which might have been transacted at the meeting as originally called. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal from the meeting of members representing sufficient voting power

to leave less than a quorum.

SECTION VI Membership Book. The Secretary of the Association shall maintain a membership book reflecting the names of the members. Upon the transfer of any lot within Fountain of the Sun development, it shall be the obligation of the transferee to present to the Secretary or his delegate, his address along with evidence of such transfer, and upon receipt of such evidence (a photostatic or machine copy of a recorded document indicating such purchase shall be sufficient evidence), the Secretary or his delegate shall enter on the membership book the name or names and address or addresses of the transferee or transferees accordingly. The Board may fix a time not exceeding thirty (30) days preceding the date of any meeting as a record date for the determination of the members entitled to notice of and to vote at any such meeting, and, in such case, only members having submitted such evidence of membership shall be entitled to notice of and to vote at such meeting unless evidence is received pursuant to Section VII herein. In the event no such record date is fixed by the Board, the record date for the determination of members entitled to notice and to vote at any meeting shall be the tenth day preceding the date of such meeting, as of 9:30 o'clock, a.m., of said day.

SECTION VII Voting. For purposes of determining the right to vote at any meeting of the members, the information set forth in the membership book shall be deemed conclusive except that the meeting may receive evidence as to the incorrectness of the

information in the membership book, and the Secretary shall correct such membership book, and the right to vote shall be determined from the membership book as so corrected. Each membership may be voted by the owner thereof, or by his proxy. At all meetings of members, with a quorum being present, all matters shall be decided by a majority of votes cast by members present in person or by proxy or by absentee ballot and entitled to vote thereat, except as otherwise required by the Articles of Incorporation of the Association or these By-Laws. Unless demanded by twenty-five (25) members present in person or represented by proxy at any meeting of the members, or so directed by the chairman of the meeting, the vote on any question need not be by ballot. Upon a demand by such members for a vote by ballot on any question, or at the direction of such chairman that a vote by ballot be taken on any question, such vote shall be taken.

SECTION VIII Proxies. A member may appoint any member of the Association to serve as his proxy for purposes of exercising his right to vote at any meeting of members. Any proxy appointment must be filed with the Secretary before the appointed time of each meeting or upon the calling to order of the meeting.

SECTION XI Conduct of Meetings. Conduct of meetings shall be governed by Roberts Rules of Order, using the most recent edition as the authority.

ARTICLE III

Directors

SECTION I General Powers. The Board shall manage the business and affairs of the Association and may exercise all such authority and powers of the Association and do all such lawful acts and things as are not by law, the Articles of Incorporation or these By-Laws directed or required to be exercised or done by the members. The powers of the Board shall encompass, but not be limited to, all of the rights and duties of the Board as set forth elsewhere in these By-Laws and the Articles of Incorporation, and in any Declaration of Covenants, Conditions and Restrictions applicable to the property described in the Articles of Incorporation, and shall also include the power to promulgate such rules and regulations pertaining to with rights and duties as may be deemed proper and consistent with the foregoing. The Board may delegate such duties as appear in the best interests of the Association and to the extent permitted by law. The Board shall prepare, or cause to be prepared, an operating budget for each fiscal year, based upon the expected annual income and the use of funds from previously established reserves. A budget based on membership assessments which exceed ten percent (10%) increase requires that such increase be approved as specified in Article VI, Section II of these By-Laws.

SECTION II Number, Qualification, and Term of Office. The number of Directors of the Association shall be seven (7). Directors shall be members of the Association. The term of office of each Director shall be from the time of his election and qualification until the second annual meeting of members following his election and until his successor shall have been duly elected and shall have qualified; or until his death, or until he shall resign, or until he shall have been removed in the manner provided in Section IX of this Article III.

SECTION III Election of Directors. At each meeting of the members for the election of Directors, at which a quorum shall be present, the persons receiving the greatest number of votes shall be deemed elected, and shall serve for two (2) years, except when filling an unexpired term of office. Each member shall be entitled to one (1) ballot for each lot owned. Each ballot will entitle the member to a number of votes equal to the number of Directors to be elected. Members may cast no more than one (1) vote per candidate per ballot.

SECTION IV Quorum and Manner of Acting. A majority of the Board shall constitute a quorum for the transaction of business at any meeting. Any act of a majority of the Directors present and qualified to vote on the matter being considered at any meeting at which a quorum shall be present shall be the act of the Board. In the absence of a quorum, a majority of the directors present may adjourn any meeting from time to time until a quorum shall be present. Notice of any adjourned meeting need

not be given, other than by announcement at the meeting at which such adjournment shall be taken.

SECTION V Place of Meeting. The Board may hold its meetings at such place or places as the Board from time to time may determine or as shall be specified or fixed in the respective notices or waivers of notice thereof.

SECTION VI Regular meetings. Regular meetings of the Board shall be held at such times and places as the Board by resolution may determine, and at least four such meetings shall be held during each fiscal year. If any day fixed for a regular meeting shall be a legal holiday at the place where the meeting is to be held, then the meeting which would otherwise be held on that day shall be held at the same hour on the next succeeding business day at said place.

SECTION VII Special Meetings. Special meetings of the Board shall be held whenever called by the President or upon written request of a majority of the Directors.

SECTION VIII Notice of Meetings. Notice of each regular and special meeting of the Board, stating the time, place and purpose thereof, shall be mailed to each Director, addressed to him at his residence or usual place of business, or shall be sent to him at such place by telegraph, or be delivered personally or by telephone, at least one (1) day before the day on which the meeting is to be held, but notice need not be given to any Director if such notice shall be waived by him.

SECTION IX Removal of Directors. Any Director elected by the members may be removed at any time, with cause, a quorum being present, by the affirmative vote of a majority of the votes cast at an annual meeting or a special meeting of the members called for such purpose.

SECTION X Vacancies. Any vacancy in the Board caused by death, resignation, removal, or any other cause, shall be filled by election by the Board of Directors of a person who shall serve until the next annual meeting, at which time the members shall elect a person to serve for any unexpired term.

SECTION XI Compensation. No compensation shall be paid to Directors for their services as Directors. No remuneration shall be paid to a Director for services performed by him for the Association in any other capacity, or by way of reimbursement for expenditures incurred by him in connection with the performance of his duties, unless a resolution authorizing such remuneration or reimbursement shall have been adopted by the Board prior to the services being undertaken or the expenditures incurred.

ARTICLE IV

Officers

SECTION I Number. The executive officers of the Association shall be the President, one or more Vice Presidents, a Secretary, and a Treasurer, as established in Article IX of the Articles of Incorporation.

SECTION II Subordinate Officers. The Board may appoint such subordinate officers or committees as the Board may deem necessary to carry out its responsibilities, each of whom shall hold office for such period, having such authority and performing such duties as the Board may from time to time determine.

SECTION III Removal and Vacancy. Any executive officer may be removed from his office by a resolution adopted by the Board at a meeting thereof called for that purpose. Any vacancy in an office originally filled by the Board shall be filled for the unexpired portion of the term by vote of the remaining members of the Board.

SECTION IV The President. The President shall be the chief executive officer of the Association and shall have general supervision over the business of the Association, subject to the control of the Board. He shall, if present, preside at each meeting of the members of the Board. He shall see that all orders and resolutions of the Board are carried into effect. He may sign, execute and deliver in the name of the Association all deeds, mortgages, bonds, contracts or other instruments

authorized by the Board, except in cases where the signing, execution or delivery thereof shall be expressly delegated by the Board or by these By-Laws to some other officer or agent of the Association or where any thereof shall be required by law otherwise to be signed, executed and delivered. In general, he shall perform all duties incident to the office of President and such other duties as may from time to time be assigned to him by these By-Laws or by the Board of Directors.

SECTION V Vice President. The Vice President shall have the powers and perform such duties as the Board or the President may from time to time prescribe and shall perform such other duties as may be prescribed by these By-Laws. At the request of the President, or in case of his absence or inability to act, the Vice President or, if there shall be more than one Vice President then in office, that one of them who shall be designated for the purpose by the President or by the Board, shall perform the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President.

SECTION VI Treasurer. The Treasurer shall have charge and custody of, and be responsible for, all the funds and securities of the Association and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all moneys and other valuable effects in the name of and to the credit of the Association in such banks or other depositories as may be designated by the Board; he shall

disburse the funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and to the Directors at the regular meetings of the Board whenever they may require it, a statement of all his transactions as Treasurer and an account of the financial condition of the Association; and, in general, he shall perform all the duties incident to the office of Treasurer and such other duties as may from time to time be assigned to him by the Board.

SECTION VII Secretary. The Secretary shall act as secretary of, and keep the minutes of, all meetings of the Board and of the members; he shall cause to be given notice of all meetings of the members and Directors; he shall have charge of the books, records and papers of the Association relating to its organization as a corporation, and shall see that the reports, statements and other documents required by law are properly kept or filed; and he shall in general perform all the duties incident to the office of Secretary. He shall also have such powers and perform such duties as are assigned to him by these By-Laws, and he shall have such other powers and perform such other duties, not inconsistent with these By-Laws, as the Board shall from time to time prescribe.

SECTION VIII Salaries. No salaries or other compensation shall be paid to officers for their services as officers. Reimbursement for expenses incurred shall be in accordance with Article III, Section XI above.

ARTICLE V

Resignations

Any director or other officer may resign his office at any time by giving written notice of his resignation to the President or the Secretary of the Association. Such resignation shall take effect at the time specified therein or, if no time be specified therein, at the time of the receipt thereof, and the acceptance thereof shall not be necessary to make it effective.

ARTICLE VI

Powers, Rights and Duties of the
Association and Members Thereof

SECTION I General. The Association and its members shall have all the powers, rights, duties and obligations set forth in the Articles of Incorporation for the Association, these By-Laws, rules and regulations pursuant thereto, and recorded restrictions including, but not limited to, any Declaration of Covenants, Conditions and Restrictions affecting the property within Fountain of the Sun development and as any of the same may be duly adopted or amended. No transfers of membership in the Association shall be made except as provided in said Articles of Incorporation, By-Laws, rules, regulations and restrictions.

SECTION II Membership Assessments. Charges sufficient to enable the Association to perform in the manner herein specified may be assessed against each member and lot in the Association in the manner provided in the Declaration of Covenants, Conditions

and Restrictions affecting such lot.

Such assessment shall be levied by a vote of the Board, who shall notify each member subject thereto of each assessment by a mailing to the last known address of the member, provided that assessment for capital improvements costing \$2,500 or more and assessment to make up a deficiency in insurance proceeds shall only be levied as provided in Article VI, Section IV hereof. Annual assessments may not be increased in excess of ten percent (10%) per year without prior approval of the members by a majority of the votes cast at a meeting held for that purpose. The assessment shall be due and payable within thirty (30) days after the mailing of such notice. If at the end of that period the assessment is still unpaid, the Association shall notify the record owner of the action it proposes to take and allow such deficit to be cured within ten (10) days.

SECTION III Management Agreements. The Board, on behalf of the Association, shall have the right and power to enter into one or more management agreements with third parties to provide for operation of the common elements, as described in the Declaration of Covenants, Conditions and Restrictions, including, but not limited to, the administration, management, repair and maintenance of such common elements.

SECTION IV Lot Purchases and Common Area Improvements. On behalf of the Association, the Board, upon the affirmative vote of a majority of the votes at a meeting of the members called for that purpose, may: (1) Purchase, lease or sublease any property

(including a residential dwelling unit or any improvements on such property) within Fountain of the Sun; (2) Contract for and assess the members for capital improvements costing more than \$2,500.00. (3) Assess to make up a deficiency in insurance proceeds; (4) Elect not to rebuild any improvement or property destroyed or damaged by any means; (5) Mortgage, encumber or otherwise dispose of all property, real or personal, of the Association in excess of \$1,000. The Board may contract on behalf of the Association, for the construction of such improvements, in amounts which do not require members' approval hereunder, as may be deemed desirable by the Board, and assess the members therefor.

SECTION V Checks, Drafts. All checks, drafts and other orders for the payment of moneys out of the fund of the Association and all notes or other evidences of indebtedness of the Association shall be issued in such manner as shall from time to time be determined by resolution of the Board.

SECTION VI Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select or may be selected by any officer or officers, agent or agents of the Association to whom such power may from time to time be delegated by the Board; and, for the purpose of such deposit, the President, any Vice President, the Treasurer, the Secretary or any other officer or agent or employee of the Association to whom such power may be

delegated by the Board may endorse, assign and deliver checks, drafts and other orders for the payment of moneys which are payable to the order of the Association.

ARTICLE VII

Reserve

Subject to the provisions of the Articles of Incorporation of the Association, and to the extent permitted by law, the Board may determine and fix such sum or sums as the Board from time to time, in its absolute discretion, shall deem proper as a reserve fund to meet contingencies, or for repairing or maintaining any property of the Association, or for such other purposes as the Board shall deem conducive to the best interests of the Association.

ARTICLE VIII

Offices and Books

SECTION I Offices. The principal office of the Association shall be at such place in Maricopa County, Arizona, as the Board may determine.

SECTION II Books. There shall be kept at the office of the Association correct books of all the business and transactions of the Association, a copy of these By-Laws and the membership book of the Association, which shall contain the names of all persons who are members of the Association, showing their respective places of residence, the lot and lots owned and the time when they, respectively, became the owners thereof.

ARTICLE IX

Fiscal Year

The fiscal year of the Association shall be as determined by the Board.

ARTICLE X

Waiver of Notice

Whenever under the provisions of any law of the State of Arizona or of the Articles of Incorporation or these By-Laws or any resolution of the Board, the Association or the Board is authorized to take any action after notice to members or Directors or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if, at any time before or after such action shall be completed, such notice or lapse of time shall be waived in writing by the person or persons entitled to said notice or entitled to participate in the action to be taken or, in the case of a member, by an attorney-in-fact thereunto authorized.

Any meeting of members of the Board at which all members or all Directors, respectively, are present, or with respect to which notice is waived by all absent members or Directors, may be held at any time, for any purpose and at any place, and shall be deemed to have been validly called and held, and all acts done and business conducted at any such meeting shall be deemed valid in all aspects.

ARTICLE XI

Amendments

These By-Laws, or any of them, may be altered, amended, or repealed, or new By-Laws may be made at any annual or special meeting of the members, by two-thirds of the votes cast at the meeting, provided that the proposed action shall be stated in the notice of such meeting and a quorum is present.

ARTICLE XII

Miscellaneous

SECTION I Headings and Titles. Headings and titles in these By-Laws, including those of Articles or Sections, are intended solely for convenience of reference, and the same shall not, nor shall any of them, affect that which is set forth in such Articles or Section, nor any of the terms or provisions of these By-Laws or the meaning thereof.

SECTION II Notices. Any entry in the minutes of a meeting of members of the Board to the effect that notice has been duly given shall be prima facie evidence that due notice of such meeting was given as required by law and these By-Laws. No misuse, inadvertence or excusable neglect in the giving of any notice required by these By-Laws, nor the contents of any thereof, shall affect the validity of any meeting called thereby, or of any proceedings had at any such meeting.

SECTION III Singular and Plural, Masculine and Feminine.

In these By-Laws, the singular includes the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter gender each includes the masculine, feminine or neuter as the context requiries.

Adopted this 9th day of March, 1989, by its Board of Directors.

June Boston
President

Jack W. Haupt
Secretary