

THE MESA HOMEOWNERS' ASSOCIATION, INC

AMENDED AND RESTATED ARTICLES OF INCORPORATION
FEBRUARY 16, 2016

BYLAWS
DECEMBER 12, 2016

CONDITIONS, COVENANTS AND RESTRICTIONS
JANUARY 1, 2010

MAP: BY LOT NUMBER (AS OF FEBRUARY 2016)
MAP: BY ADDRESS (AS OF FEBRUARY 2016)

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
THE MESA HOMEOWNERS' ASSOCIATION, INC.**

ARTICLE I: BACKGROUND

The original Articles of Incorporation for The Mesa Homeowners' Association, Inc. were filed March 13, 1991. Authority to amend and restate these Articles arises from Article XVI of the Articles which reads, in part, "These Articles of Incorporation may be amended by the affirmative vote of not less than two-thirds (2/3) of the members of the Association", and from Arizona Revised Statutes Section 10-1107, as may be amended from time to time. Much has changed since The Mesa Homeowners' Association, Inc. came into existence. Amending and restating these Articles is necessary to modernize, streamline and bring all of the Association's Project Documents into alignment. These Articles apply to all numbered Lots on the Plat of The Mesa.

ARTICLE II: NAME

The name of the corporation is The Mesa Homeowners' Association, Inc. (also called Association).

ARTICLE III: DEFINED TERMS

Capitalized terms used in these Articles without definition shall have the meanings specified for such terms in the Bylaws of the Association and the Declaration of Covenants, Conditions and Restrictions (CC&R's) of the Association recorded in the official records of Santa Cruz County, Arizona, 2009-11079 dated December 10, 2009 or in the Bylaws approved by the Members on December 12, 2015. The Bylaws and CC&Rs may have been or may be amended from time to time. In addition, the following term is defined:

3.01: "Project Documents" were defined in the 2010 CC&R's as the "2010 CC&R's, the Articles of Incorporation and Bylaws of the Association, and the Association Rules". However, since the 2010 CC&R's do not apply to Lot 32, the Project Documents for that Lot should substitute its unique set of CC&R's for the 2010 CC&R's.

ARTICLE IV: PRINCIPAL OFFICE

The address of the Association shall be 17 Copper Court, Patagonia, Arizona, 85624. The principal business office shall be at a place designated by the Board from time to time. Because there is no mail delivery to street addresses, the mailing address of the Association is MHOA, P. O. Box 1093, Patagonia, Arizona, 85624.

ARTICLE V: STATUTORY AGENT

James V. McMahon, whose address is 792 N. 3rd Avenue, Patagonia, Arizona, 85624, and who has been a bona fide resident of the State of Arizona, is hereby appointed and designated as the statutory agent for the corporation. Because there is no mail delivery to street addresses, Mr. McMahon's mailing address is P. O. Box 955, Patagonia, Arizona, 85624.

ARTICLE VI: PURPOSE OF THE ASSOCIATION

The primary purpose of the Association is to serve as the governing body for the Owners of Lots, holding title to land owned by the Association, and to fulfill such obligations and exercise such rights as are given by Arizona law and the Association's Project Documents as they may hereafter be amended.

ARTICLE VII: CHARACTER OF BUSINESS

The character of the business which the Association intends to conduct in Arizona is to provide for the management, maintenance and care of the areas of Association responsibility and to exercise and perform such other powers and duties as are imposed on or granted to the Association by the Association's Project Documents and Arizona law.

ARTICLE VIII: MEMBERSHIP AND VOTING RIGHTS

The Members of the Association shall be the Owners of Lots. Each Owner shall have such rights, privileges and votes in the Association as are set forth in the Association's Project Documents.

ARTICLE IX: BOARD OF DIRECTORS

The number of Directors shall be fixed from time to time by resolution of the Board of Directors but shall in no event consist of less than three (3) or more than seven (7) persons. The Board may increase or decrease the number of Directors on the Board but must always specify an odd number. The names and addresses of the current Directors of the Association, who shall serve until their successors are elected and qualify, are as follows:

Chris Strohm)	
Richard Holthausen)	The Mesa Homeowners' Association, Inc.
John Hughes)	P. O. Box 1093, Patagonia, Arizona, 85624
David Kiefner)	
Donald McIntosh)	

ARTICLE X: LIMITATION ON LIABILITY OF DIRECTORS

The personal liability of a Director of the Association to the Association or its Members for monetary damages or breach of his or her fiduciary duties as a Director is hereby eliminated to the extent permitted by the Arizona Nonprofit Corporation Act, as it may be amended from time to time. Any repeal or modification of this Article X shall be prospective only and shall not adversely affect the personal liability of a Director or prior Director for any act or omission occurring prior to the effective date of such repeal or modification.

ARTICLE XI: INDEMNIFICATION

The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that he or she is or was a Member, Director, officer, employee or agent of the Association, against expenses, including attorneys' fees, and judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted, or failed to act, in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action proceeding, had no reasonable cause to believe his or her conduct was unlawful. Any indemnification of the Members, Directors, officers, employees or agents of the Association shall be governed by and made in accordance with the provisions of the Arizona law pertaining to nonprofit corporations. Any repeal or modification of this Article XI shall be prospective only and shall not adversely affect, defeat or limit the right of any person to indemnification for any act, or failure to act, occurring prior to the effective date of such repeal or modification.

ARTICLE XII: AMENDMENTS

These Articles may be amended by Members holding not less than two-thirds (2/3) of the Eligible Votes, as that term is defined in the Bylaws, in the Association. The Articles may also be amended by the Directors when the purpose is to either comply with changing Arizona law or to maintain consistency with another Association Project Document that is amended by the Members in accordance with the appropriate procedure.

ARTICLE XIII: DISSOLUTION

The Association may be dissolved with the assent of not less than two-thirds (2/3) of the Eligible Votes of the membership. Upon dissolution of the Association, the assets, both real and personal, of the Association shall be distributed pursuant to a plan of distribution adopted with a majority of the Eligible Votes. The preferred option for distribution of the assets shall be dedication to an appropriate public agency to be used

for purposes similar to those for which the Association was created. In the event that such dedication is refused, the assets shall be granted, conveyed or assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purpose.

ARTICLE XIV: DURATION

The corporation shall exist perpetually.

ARTICLE XV: CONFLICTING PROVISIONS

In the event of any conflict between these Articles of Incorporation and the CC&R's, the provisions of the CC&R's shall control. In the event of any conflict between these Articles of Incorporation and the Bylaws, the Articles shall control.

ARTICLE XVI: AMENDED AND RESTATED ARTICLES

These Amended and Restated Articles of Incorporation supersede and replace all prior Articles of Incorporation and any amendments thereto (the "Prior Articles") in their entirety.

These Amended and Restated Articles of Incorporation were duly adopted by act of the Members of the Association. Dated this 12th day of December, 2015.

THE MESA HOMEOWNERS' ASSOCIATION, INC. an Arizona nonprofit corporation

Acknowledgement of consent to appoint as statutory agent:

I, James W. McMahon, agree to be the statutory agent for The Mesa Homeowners' Association, Inc. as appointed herein, and agree to serve in that capacity until my successor is appointed.

**THE MESA HOMEOWNERS'
ASSOCIATION, INC.**

BYLAWS

Effective 12/12/2015

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THE MESA HOMEOWNERS' ASSOCIATION, INC.

BYLAWS

INTRODUCTION

These revised Bylaws are made effective as of December 12, 2015 by vote of the membership in accordance with the provisions of the previous Bylaws which were approved by Members of the Association on March 14, 2014. These Bylaws apply to all numbered Lots shown on the Plat of The Mesa.

ARTICLE I: GENERAL PROVISIONS

Section 1.01: Defined Terms

Capitalized words and phrases that are defined in Article II of the Revised Declaration of Covenants, Conditions and Restrictions for Lots 1-31 and 33-46 The Mesa Homeowners' Association, Inc. shall have the same meanings when used in these Bylaws. In addition, the following terms are defined:

1.01.01: "Eligible Votes" means the total number of votes entitled to be cast by Members as of the date of any lawful action of the Association including, but not limited to, action by written ballot or written consent.

1.01.02: "Good Standing" means a Member is entitled to vote based on Section 2.03 of these Bylaws.

1.01.03: "Project Documents" were defined in the 2010 CC&R's as the "2010 CC&R's, the Articles of Incorporation and Bylaws of the Association, and the Association Rules". However, since the 2010 CC&R's do not apply to Lot 32, the Project Documents for that Lot should substitute its unique set of CC&R's for the 2010 CC&R's.

Section 1.02: Principal Office

The mailing address of the Association shall be P.O. Box 1093, Patagonia, Arizona, 85624. The principal business office shall be at a place designated by the Board from time to time.

Section 1.03: Purpose of the Association

The primary purpose of the Association is to serve as the governing body for the Owners of Lots and to fulfill such obligations and exercise such rights as are given by Arizona law and the Association's Project Documents as they may hereafter be amended.

Section 1.04: Conflicting Provisions

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the CC&R's and these Bylaws, the CC&R's shall control.

Section 1.05: Amendment

These Bylaws may be amended by the affirmative vote of Members holding more than fifty percent (50%) of the Eligible Votes, or by the Board of Directors when the sole intent of those changes is to comply with changing Arizona law. These Bylaws may also be amended by the Directors when the intent is to maintain consistency with another Project Document that is amended by the Members in accordance with the appropriate procedure. However, these Bylaws may not be amended insofar as such amendment would be inconsistent with the CC&R's or the Articles of Incorporation.

ARTICLE II: MEMBERSHIP

Section 2.01: Qualifications

Membership in the Association is limited to Owners of Lots as set forth in the Articles of Incorporation and the CC&R's.

Section 2.02: Voting Rights

Subject to the provisions of Section 2.03, the Owner of a Lot shall be entitled to one (1) vote per each Lot owned on each matter submitted to a vote of the Members. If a Lot is owned by two (2) or more persons, only a single vote may be attributed to that Lot. Fractional votes shall not be allowed.

Section 2.03: Good Standing

If a Member otherwise entitled to vote is delinquent in the payment of Annual Dues, Special Assessments, fines, penalties, interest, late charges or other monies owed to the Association as specified in the Association's Project Documents, such Member's right to vote shall be suspended until the delinquency is paid in full. Delinquency is determined as set forth in the CC&R's and the Rules and Regulations or as otherwise specified by the Board. If a Member is not in compliance with other provisions of the Association's Project Documents the Board may, in its sole discretion, certify that such Member is not in Good Standing and does not have the right to vote until the lack of compliance is corrected.

Section 2.04: Transfer of Membership

Membership in the Association is inextricably and irrevocably connected with ownership of a Lot and may not be transferred independently of such ownership.

ARTICLE III: MEETINGS OF THE MEMBERS OF THE ASSOCIATION

Section 3.01: Annual Meeting

An annual meeting of the Members of the Association shall be held each year at a date and time determined by the Board for the purpose of electing or announcing the results of the election of Directors and transacting such other business as may properly come before the meeting.

Section 3.02: Special Meetings

Special meetings of the Members may be called by the President, the Board of Directors, or by a written request signed by Members having at least one-fourth (1/4) of the total Eligible Votes of the Association.

Section 3.03: Notice of Meetings

Written notice stating the place, day and hour of the annual meeting of Members or a special meeting of Members shall be hand delivered or delivered by first-class U.S. Mail to all Members not less than ten (10) nor more than fifty (50) days before the date of such meeting.

Section 3.04: Place of Meeting

Meetings of the Members shall be held in Santa Cruz County, Arizona at a suitable place designated by the Board.

Section 3.05: Voting Process

At all meetings of Members, each Member may vote in person or by absentee ballot or by any other approved means of delivery. Absentee ballots shall set forth each proposed action, shall provide an opportunity to vote for or against each proposed action, and be valid for only one specified election or meeting of the Members and expire automatically at the completion of the election or meeting.

Section 3.06: Quorum

The quorum for a meeting or an action of the Association shall be the presence of Lot Owners entitled to cast at least eighteen (18) of the Eligible Votes of the Association, except where a different quorum is specified in the Association's Project Documents or Arizona law. Members shall be considered present for the purposes of establishing a quorum when attending in person; voting by absentee ballot or any other approved means of delivery; or as otherwise authorized by Arizona law. Actions of the Association require approval by a majority of the votes that constitute the quorum except where a different number of votes is specified for particular actions in the Association's Project Documents or Arizona law. All actions of the Association require that the provisions of Article III, Section 3.05 have been satisfied.

Section 3.07: Actions Taken Without a Meeting

Any action that the Association may take at any annual or special meeting of the Members may be taken without a meeting if the Association delivers by hand or by U.S. Mail a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall a) indicate the number of responses needed to meet the quorum requirements; b) state the percentage of approvals necessary to approve each matter; and c) specify the time by which a ballot must be delivered to the Association in order to be counted. The required time of delivery shall not be less than three (3) days after the date that the

Association provides the ballot. Delivery may be by any approved means as specified in Section 3.05. Approval by written ballot pursuant to this Section is valid only if both the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes which would be required to approve the matter at a meeting.

ARTICLE IV: BOARD OF DIRECTORS

Section 4.01: Powers and Duties

The affairs of the Association shall be managed by its Board of Directors. The Board shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things that are not required, by the Association's Project Documents or Arizona law, to be exercised or done by the Members.

Section 4.02: Number and Term of Office

The number of Directors shall be fixed from time to time by resolution of the Board of Directors but shall in no event consist of less than three (3) or more than seven (7) persons. The Board may increase or decrease the number of Directors on the Board but must always specify an odd number. The term of office shall be two (2) years beginning with the Members elected in 2017. After the initial two (2) years, a Board member can serve additional one (1) year terms. Except as otherwise provided herein, the Directors shall be elected at the annual meeting of the Members, and each Director elected shall hold office until his or her successor is elected and shall qualify.

Section 4.03: Election

The Directors shall be elected by the Members at the annual meeting of the Members. Prior to the annual meeting, a Board member will contact the membership regarding their interest to serve on the Board to fill any vacant positions. In each election of Directors, the number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be deemed elected.

Section 4.04: Removal

Pursuant to Arizona Revised Statute 33-1813, any Member of the Board of Directors may be removed with or without cause. Removal requires approval by a majority of the Eligible Votes represented at a meeting of Members called pursuant to Statute 33-1813 and at which a quorum is present as defined in Statute 33-1813. Any Director whose removal is proposed to the Members shall be given an opportunity to be heard at the meeting considering his or her removal. In addition, any Director who ceases to be a Member of the Association or who ceases to be in Good Standing shall be automatically removed from office.

Section 4.05: Resignation

Any Director may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.06: Vacancy

Any vacancy occurring in the Board outside the normal election cycle 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. Any Director so chosen shall hold office until the next annual election and until their successor is duly elected and shall qualify, unless sooner displaced. Any newly created directorship shall be deemed a vacancy.

Section 4.07: Compensation

No Director shall receive compensation for performance of duties required of a Board member. However, any Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties as approved by the Board. In addition, a Board member may be compensated for work performed under a contract approved by the Board as long as that work is in addition to duties required of a Board member. Issuance of such a contract must be made pursuant to Arizona Revised Statute 33-1811 regarding conflict of interest.

Section 4.08: Regular Meetings

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. At least two such meetings (including an organization meeting within ten (10) days of election of Directors by the Members at the annual meeting) shall be held during each fiscal year. With the exception of the organizational meeting, notice of regular meetings of the Board of Directors shall be given to each Director at least ten (10) days prior to the date set for the meeting.

Section 4.09: Special Meetings

Special meetings of the Board of Directors may be called by the President on at least three (3) days' notice to each Director, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice, upon the written request of a majority of the Directors.

Section 4.10: Notice to The Membership of Board Meetings

Notice of meetings of the Board shall be given to the Members of the Association not less than forty-eight (48) hours prior to the meeting and by a reasonable means as determined by the Board. However, notice of Board meetings is not required if emergency circumstances require action by the Board before notice can be given.

Section 4.11: Open Meetings

All meetings of the Board shall be open to all Members except for portions of a meeting where issues specified in Arizona Revised Statute 33-1804 are being discussed.

Section 4.12: Teleconferencing

Meetings of the Board of Directors may be held by conference telephone or other similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation at such meeting shall constitute presence in person at the meeting.

Section 4.13: Quorum

A majority of the Board of Directors shall constitute a quorum for the transaction of business.

Section 4.14: Manner of Action

The action of a majority of the Directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless a greater number is required by Association's Project Documents or Arizona law.

Section 4.15: Committees

The Board may appoint committees consisting of Directors and/or other Association Members to perform such tasks as the Board deems necessary or desirable. Any such committees shall be advisory only and shall not have the power to exercise any authority of the Board.

ARTICLE V: OFFICERS AND THEIR DUTIES**Section 5.01: Enumeration of Officers**

The principal officers of the Association shall be a President, Vice-President, Secretary and Treasurer. All officers shall be elected by the Board and must be members of the Board. The Board may elect such other officers as the Board deems desirable, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine. The same individual may simultaneously hold more than one office in the Association.

Section 5.02: Election of Officers and Terms

The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members. Each officer shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve. Officers may serve an unlimited number of consecutive terms.

Section 5.03: Removal of Officers

Upon an affirmative vote of a majority of the Directors then serving, any officer may be removed, either with or without cause, at any time. Any officer who ceases to be in Good Standing shall be automatically removed from office.

Section 5.04: Resignation of Officers

Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.05: Vacancy

A vacancy in any office, for any reason whatsoever, may be filled by a vote of a majority of the Directors then in office. The officer elected to such vacancy shall serve for the unexpired portion of the term.

Section 5.06: President

The President shall be the chief executive officer of the Association; shall preside at all meetings of the Members and of the Board of Directors; and shall have all of the general powers and duties which are normally vested in the office of the President of an association.

Section 5.07: Vice-President

The Vice-President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

Section 5.08: Secretary

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

Section 5.09: Treasurer

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds for appropriate Association purposes as set forth in the Association's Project Documents; keep proper books of account; prepare an annual statement of income and expenditures; and in general perform all the duties incident to the office of Treasurer.

ARTICLE VI: INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 6.01: Indemnification

The Association shall indemnify its officers and Directors as provided in the Articles of Incorporation.

ARTICLE VII: MISCELLANEOUS

Section 7.01: Records

The Association shall maintain in written form or in another form capable of conversion into written form within a reasonable time the following records:

7.01.01: Current and previously-approved versions of the Association's Project Documents.

7.01.02: Accounting records for the past three (3) years at a minimum or longer if required by Internal Revenue Service regulations

7.01.03: Permanent minutes of all meetings of its Members and Board of Directors and records of all actions taken by the Members or Board of Directors without a meeting

7.01.04: All written communications to Members generally within the past three (3) years, including the financial statements furnished for the past three (3) years under Arizona Revised Statute 10-1162

7.01.05: A record of Members in a form that permits preparation of a list of the names and addresses of all Members in alphabetical order showing the number of votes each Member is entitled to cast

7.01.06: A list of the names and addresses of the current Directors and officers

7.01.07: The most recent annual report delivered to the Arizona Commission under Arizona Revised Statute 10-1162

Section 7.02: Access to Records

The Association shall make the financial and other records of the Association reasonably available for examination and copying by a Member and his or her authorized agents. The Association may charge a reasonable fee for the time and costs of copying Association records. Association records may be withheld from disclosure to the extent that the portion withheld relates to any of the following: a) personnel matters or health records; b) communication between an attorney for the Association and the Association; c) pending or contemplated litigation; d) pending or contemplated matters relating to enforcement of the Association's Project Documents; or e) meeting minutes or other records of a session of a meeting of the Board of Directors that is not required to be open to all Members pursuant to Arizona law.

Section 7.03: Execution of Corporate Documents

With the prior authorization of the Board of Directors, all notes, checks and contracts or other obligations shall be executed on behalf of the Association by such officer or officers of the Association as the Board shall designate, or in absence of such designation, by the President.

I the undersigned duly elected secretary of The Mesa Homeowners' Association, Inc., an Arizona corporation, do hereby certify that the foregoing Bylaws were adopted as the Bylaws of said corporation on the 12th day of December, 2015, and that the same do now constitute the Bylaws of said corporation.

Dated: 12/12/2015

John Hughes

**THE MESA HOMEOWNERS
ASSOCIATION**

**CONDITIONS, COVENANTS AND
RESTRICTIONS**

**Revised Declaration of Covenants, Conditions
and Restrictions for Lots 1-31 and 33-46**

Effective January 1, 2010

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***REVISED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR LOTS 1-31 AND 33-46
THE MESA HOMEOWNERS ASSOCIATION, INC.***

INTRODUCTION

This Revised Declaration of Covenants, Conditions and Restrictions ("2010 CC&Rs") for The Mesa Homeowners Association, Inc. ("Association"), is made effective as of January 1, 2010 by vote of the membership in accordance with the provisions of the previous Declaration (Santa Cruz County, Docket 557, pages 586-608, May 29, 1991) for amendment of that Declaration. This Declaration supersedes and replaces in its entirety the previous Declaration of covenants, conditions, and restrictions for The Mesa.

All the numbered lots shown on the Plat of The Mesa (with the exception of Lot 32 which is addressed in a separate Declaration) and all portions thereof, shall be held, sold, leased, rented, used, occupied, improved and conveyed subject to the following easements, covenants, conditions, and restrictions.

ARTICLE I: BACKGROUND

Section 1.01: On May 29, 1991, Declaration of Restrictions for The Mesa Lots 1-31 and Lots 33-46, dated May 24, 1991, was recorded in Docket 557, Pages 586 through 608, Santa Cruz County Recorder ("1991 CC&Rs").

Section 1.02: Section 11 of the 1991 CC&Rs provided that on January 1, 2010, the CC&Rs may be, "...changed in whole or in part by vote of those persons who are then the Owners of a majority of the numbered Lots in the Development." Lot 32, covered by a separate Declaration, was exempted from this process.

Section 1.03: A majority of the numbered Lots in the Development (with the exception of Lot 32) have voted in favor of the 2010 CC&Rs that follow. A record of that vote, as certified by the officers of the Association signing these CC&Rs, is maintained in the Association records.

Section 1.04: With the recording of the CC&Rs that follow, the 1991 CC&Rs are null and void and of no further force and effect, and these 2010 CC&Rs supersede and replace in its entirety the 1991 CC&Rs.

Section 1.05: Nothing contained in the 2010 CC&Rs shall apply to any dwelling, building, structure or other improvement previously approved according to the 1991

CC&Rs as long as those improvements still comply with the 1991 CC&Rs. This is to say that all dwellings, buildings, structures or improvements previously approved according to the 1991 CC&Rs and still complying with those CC&Rs which may not conform to the 2010 CC&Rs are nevertheless deemed approved and are "grandfathered" into the Development. From January 1, 2010 on, all proposed dwellings, buildings or other improvements and other activities must comply with the 2010 CC&Rs.

ARTICLE II. DEFINITIONS

Section 2.01: "Annual Dues" means the assessment levied against each Lot and the Owner thereof pursuant to Section 5.04 of these CC&Rs;

Section 2.02: "Areas of Association Responsibility" are The Mesa streets and their easements (Santa Cruz County, Docket 496, pages 37-53, March 21, 1989), The Mesa gate and attached walls;

Section 2.03: "Assessment" means Annual Dues or a Special Assessment;

Section 2.04: "Association" means The Mesa Homeowners Association, Inc.;

Section 2.05: "Association Rules" means the restrictions, limitations, rules and regulations adopted by the Association pursuant to Section 4.06 of these CC&Rs;

Section 2.06: "Board" means the Board of Directors of The Mesa Homeowners Association, Inc.;

Section 2.07: "Bylaws" means the bylaws of the Association;

Section 2.08: "CC&Rs" shall mean the covenants, conditions and restrictions set forth in this Declaration;

Section 2.09: "Committee" shall mean the Architectural Review Committee as established in Section 7.04 of this Declaration;

Section 2.10: "Development" shall mean the entirety of The Mesa as set forth in the Plat. This is also referred to as **The Mesa**;

Section 2.11: "Fiscal Year" shall mean the 12-month period used for levying Assessments and is determined by the Board;

Section 2.12: "Lot" means each parcel of real property designated as a lot on the Plat and, where the context indicates, improvements situated on the Lot;

Section 2.13: "Member" means any person who is a Member of the Association;

Section 2.14: "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation;

Section 2.15: "Plat" means the plat of the Association recorded in Book 4, Page 50, Sheet 2 of 2, record of Santa Cruz County, Arizona and all amendments, supplements and corrections thereto including those recorded in individual deeds;

Section 2.16: "Project Documents" means these 2010 CC&Rs, the Articles of Incorporation and Bylaws of the Association, and the Association Rules;

Section 2.17 "Special Assessment" means an assessment levied pursuant to Section 5.03 of these CC&Rs.

ARTICLE III: CHARACTER OF THE MESA

The Mesa occupies approximately two hundred (200) acres in the foothills of the Patagonia Mountains above the town of Patagonia. Views from The Mesa stretch from Red Mountain in the south to Mt. Wrightson at the top of the Santa Ritas in the north. The topography of The Mesa is gently rolling but dissected by several major washes. Vegetation on the uplands consists of grasses, shrubs and mesquite, while oak and juniper dominate the arroyos.

While The Mesa falls outside the official town limits of Patagonia, residents consider themselves to be part of the Patagonia community. Patagonia's diversity, cultural heritage, and artistic community are an important backdrop to the development of The Mesa and residents are dependent on Patagonia for schools, emergency services, and other services and amenities provided by this town of approximately one thousand (1,000) residents.

Development on The Mesa is low density with individual Lots four (4) acres in size or larger. Architecture of the homes blends with the surrounding landscape with southwestern influences predominating but interesting variation from house to house. Many houses on The Mesa make good use of outdoor living spaces that benefit from Patagonia's near-perfect climate. Protection of views is an important consideration in the location and design of homes on The Mesa.

Designing for sustainability is important for any development in this fragile environment and respect for the water supply is especially critical. The Mesa supports water conservation through the use of native vegetation for landscaping and by encouraging measures like water harvesting. Other sustainable building practices observed in The Mesa are the use of energy-efficient construction techniques and solar design.

Residents of The Mesa enjoy the privacy provided by their location while also benefiting from the sense of community that their neighborhood and the town of Patagonia provide. Residents particularly value the natural quiet of The Mesa, dark nighttime skies that allow for world-class star gazing, excellent wildlife habitat, and unobstructed views of the mountains and skies that stretch to the horizon. Protective covenants for The Mesa are designed to preserve these values.

ARTICLE IV: ASSOCIATION, ORGANIZATION, MEMBERSHIP

Section 4.01: Formation of Association

The Association is a nonprofit Arizona corporation charged with the duties and invested with the powers prescribed by law and set forth in the Project Documents. The principle purpose of the Association is administering the affairs in common of the

Owners of the subject Development and of holding certain portions of the aforesaid Development and improvements thereto for the use and benefit of all such Owners.

Section 4.02: Relationship of CC&Rs to other Project Documents

In the event of any conflict or inconsistency between these CC&Rs and the Articles of Incorporation, Bylaws and Association Rules, these CC&Rs shall control.

Section 4.03: Board of Directors

The affairs of the Association are conducted by the Board which is responsible for compliance with the Project Documents.

Section 4.04: Membership

Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot, including Lot 32, shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

Section 4.05: Effect of becoming an Owner

The Owners of any Lot subject to these CC&Rs, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, shall accept such deed and execute such contract subject to each and every restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of the Board with respect to these CC&Rs, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with the Board and to and with the Owners and subsequent Owners of each of the Lots affected by these CC&Rs to keep, observe, comply with and perform such CC&Rs and agreements.

Section 4.06: The Association Rules

The Association may, from time to time, and subject to the provisions of these CC&Rs, adopt, amend and repeal rules and regulations pertaining to all aspects of the Association's rights, activities and duties; the management, operation and use of the Areas of Association Responsibility; or any other subject within the jurisdiction of the Association. Except as limited herein, the Association Rules may be adopted, amended and repealed by a majority of the members of the Board with a committee of Members acting in an advisory role. In the event of any conflict or inconsistency between the provisions of these CC&Rs and the Association Rules, the provisions of these CC&Rs shall prevail.

ARTICLE V: ASSESSMENTS, FEES, CHARGES, PENALTIES, AND LIENS

Section 5.01: Personal obligation for assessments, fees, charges, and penalties

Each Owner, by becoming the Owner of a Lot, is deemed to covenant and agree, to pay Assessments, fees, charges, fines and penalties to the Association in accordance with these CC&Rs and the Association Rules. All Assessments, fees, charges, fines and penalties shall be established and collected as provided in these CC&Rs.

Section 5.02: Creation of liens

The Association has the right to create liens (Arizona Revised Statute Section 33-1807 as amended from time to time) to collect Assessments, fees, charges, fines and penalties, together with interest, late charges and all costs, including but not limited to reasonable attorneys' fees, incurred by the Association in collecting or attempting to collect delinquent Assessments, fees, charges, fines or penalties, whether or not suit is filed. A lien shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment, fee, charge, fine or penalty is levied or made.

Section 5.03: Power of the Association to levy Annual Dues and Assessments and duty of an Owner to pay

The Association, through the Board, shall have the power to levy Annual Dues and Special Assessments and to determine the date said Annual Dues and Assessments are to be paid and to collect delinquent dues and Assessments by action of law, or otherwise, from the Lot Owner. Payment of Annual Dues and Special Assessments shall become delinquent fifteen (15) days after the due date. The duty of an Owner to pay these Annual Dues and Assessments is absolute and is not affected by any claim the Owner may have, or believes he has, against any other person including The Mesa Homeowners Association or the Board. Moreover, sale of the property shall not relieve the Lot Owner from the duty to pay the pro-rata share of Annual Dues or other Assessments for any portion of a year in which he owns the premises and he shall remain jointly and severally liable for said past Annual Dues and/or Assessments as with the new Lot Owner.

Section 5.04: Annual Dues

The Association shall not impose Annual Dues that are more than five (5%) greater than the immediately preceding Fiscal Year's dues without the approval of Members representing a majority of the eligible votes of the Association.

Section 5.05: Special Assessments

The Association through the Board may levy, in any Fiscal Year, a Special Assessment applicable to that Fiscal Year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair, or replacement of a capital

improvement including but not limited to roadways, bridges, drainage structures, and entrance gates. Any Special Assessment must be approved by Members representing a majority of the eligible votes of the Association.

Section 5.06: Late fees

The Board may establish a late fee and interest to be charged to any Owner who has not paid any Assessment, fee, charge, fine or penalty, or an installment thereof, within fifteen (15) days after such payment was due.

Section 5.07: Costs of enforcement

Any costs incurred by the Association in enforcing this Declaration or the other Project Documents shall be the obligation of the Owner of the Lot against which enforcement is sought. Such costs shall include, but not be limited to, reasonable attorneys' fees, whether or not suit is filed. The obligation to pay the costs of enforcement shall be secured by a lien established pursuant to Section 5.02.

ARTICLE VI: MAINTENANCE

Section 6.01: Owner's responsibility for maintenance

The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

- Prevent the growth of noxious weeds as defined by the State of Arizona,
- Remove all debris or rubbish,
- Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development or presents a fire hazard,
- Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

Section 6.02: Maintenance of ditches and swales

It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purpose of this Section. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Board.

Section 6.03: Board's right to perform maintenance

In the event that the Owner of any Lot in the Development shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of these CC&Rs, the Board shall have the right, but not the obligation, by and through its agents

and employees or contractors, to enter upon said Lot and repair, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these CC&Rs. The Board will make a reasonable attempt to contact the Owner to resolve the situation prior to taking any such action. The expenses incurred by the Association shall be collected from the Owner. Neither the Board nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 6.04: Association's responsibility for road and gate maintenance

The Mesa streets and their easements (Santa Cruz County, Docket 496, pages 37-53, March 21, 1989) are private and will be maintained by the Association. This does not include individual or shared driveways that are constructed for access to Lots. Maintenance of those driveways is the responsibility of the Owner(s). The Mesa gates and attached walls are also owned by and will be maintained by the Association.

ARTICLE VII: ARCHITECTURAL CONTROL

Section 7.01: Powers and responsibilities of the Board related to architectural control

No dwelling, building structure or improvements of any type that are addressed in the CC&Rs shall be located or constructed or altered on any Lot in the Development without the prior written approval of the Board. Such approval shall be obtained only after written application has been made to the Board by the Owner of the Lot requesting authorization.

The approval required of the Board pursuant to this Section is in addition to, and not in lieu of, any approvals or permits which may be required under any Federal, State or local law, statute, ordinance, rule or regulation.

Section 7.02: Power of disapproval

The Board may refuse to grant permission to construct or make the requested improvement, when:

- The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these CC&Rs.
- The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures.
- The proposed improvement, or any part thereof, would, in the opinion of the Board, be contrary to the interests, welfare or rights of all or any part of other Owners.

In the case of disapproval, the applicant may request reconsideration by the Board.

Section 7.03: Power to grant variances

The Board may allow reasonable variances or adjustments of these CC&Rs, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these CC&Rs and no variance or adjustment shall be granted which is materially detrimental or injurious to other Lots in the Development. Variances will be denied when the variance request is submitted after non-compliant construction has begun. The decision of the Board will be confirmed in writing.

Section 7.04: Architectural Review Committee and relationship to Board

The Architectural Review Committee is a standing committee appointed by the Board with the function of advising the Board on architectural control matters. The Committee will be reauthorized annually by the Board and will have no fewer than two (2) and no more than four (4) Members. Members of the Committee are appointed by the Board to a one (1) year term but may serve for more than one (1) term.

The Committee acts in an advisory role to the Board. The Board retains the authority and responsibility to approve or disapprove improvements and to enforce other requirements of these CC&Rs.

Section 7.05: Application for architectural review

To obtain approval before making major construction improvements or adding any structures, the Owner of a Lot must make written application to the Board. Such written application shall be in the manner and form prescribed by the Board and the Committee as appropriate for the type of improvement proposed. For major construction projects this shall include two (2) complete sets of exterior plans and specifications. Such plans shall include plot plans and grading plans showing the location of all improvements proposed to be constructed on the Lot, each properly dimensioned and clearly designated. Such plans and specifications shall set forth the proposed elevations of all structures, the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Board may require. All plans and drawings required to be submitted to the Board shall be drawn to such scale as the Board may require.

The Board shall have the right to charge a fee for reviewing requests for approval pursuant to this Section, which fee shall be payable at the time the application for approval is submitted to the Board.

Section 7.06: Board's duty to act

The Board shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One (1) copy of submitted material shall be retained by the Board for its permanent files. All notifications to applicants shall be in writing, and, in the event such notification is one of disapproval, it shall specify the reason or reasons.

If the Board is unable to act within thirty (30) days it must, on or before the thirty (30)-day deadline, provide the applicant with a report of the progress made to date in the approval process and a timeframe for completing the review.

Section 7.07: Liability of Board, Committee and Association

Neither the Board, the Committee, nor the Association nor any agent thereof shall be responsible in any way for any defects in the plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

Section 7.08: Inspection

The Board and its designated representatives including the Committee may inspect work being performed with its permission to assure compliance with these CC&Rs including the approved plans and specifications and applicable regulations.

Section 7.09: Changes to approved plans

Any change, deletion or addition to the plans and specifications approved by the Board must be submitted to and approved by the Board in writing where the changes are to elements addressed in these CC&Rs and could potentially have affected the Board's initial approval. Failure to submit such changes, deletions or additions to previously approved plans may void the original approval.

ARTICLE VIII: USE RESTRICTIONS

Section 8.01: General use requirements for Lots in the Development

Every numbered Lot in the Development is a residential Lot and shall be used exclusively for single family residential purposes. No structure shall be erected or permitted to remain upon any of said residential Lots except one single family dwelling house and such outbuildings as a guest house or similar structure usually accessory to a single family dwelling house. A guest house is to be used solely for occasional temporary occupancy by guests of a resident Owner then occupying the property and cannot be used for extended or permanent occupancy, except for a caretaker(s).

In no event shall any outbuilding, garage or any temporary structure, other than the guest house as provided above and in Section 8.02, ever be used as a residence or dwelling.

Section 8.02: Use of accessory outbuilding during period of home construction

A guest house constructed on a Lot may be used as a dwelling while the primary residence is being constructed as long as occupancy of the guest house is authorized by Santa Cruz County, and the total construction period for the guest house and primary residence is eighteen (18) months or less.

Section 8.03: Occupancy or residential use of partially completed dwelling house prohibited

No dwelling house constructed on any of the residential Lots shall be occupied until Santa Cruz County authorizes occupancy.

Section 8.04: Prohibition of used structures

All structures constructed on any numbered Lot in the Development shall be constructed with substantially all new materials on site, and no used or new structures shall be relocated or placed on any Lot. No modular homes, manufactured homes, or trailer houses will be allowed.

Section 8.05: Temporary structures

No temporary house, trailer (except a temporary construction trailer), tent, garage or other outbuilding shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot except under conditions specified in Section 8.27.

Section 8.06: Diligence in construction

Construction of any building on any residential Lot in the Development shall be completed within eighteen (18) months after the beginning of such construction. In the event that a building has been partially or totally destroyed by fire or otherwise, cleanup must occur within three (3) months from the time of such destruction or damage. Reconstruction must be completed within two (2) years.

Section 8.07: Building site designation

The Board will approve the proposed building site for each Lot in the Development and the primary residence and any outbuildings will be permitted only in the approved areas. The building envelope identified for each Lot (a map displaying the building envelopes is maintained in the Association records) will be the default location for the building site. The Board may approve an alternative site. Before approving an alternative building site, the Board must seek input from Owners of all other Lots that may be affected by the choice of the building site. In all cases the selection of the building site must comply with the setback requirements and should take into consideration such factors as the effect of proposed buildings on the views from other Lots and the amount of soil disturbance that will be necessary for construction.

Section 8.08: Residential set-back requirements

Unless otherwise provided in these CC&Rs or on the recorded Plat, set-backs for a dwelling house and other above grade structures constructed on any residential Lot in the Development shall be as follows.

- **Definitions** "Side Line" means a Lot boundary line that extends from the road on which a Lot abuts to the rear line of said Lot. "Rear Line" means the Lot boundary line that is farthest from, and substantially parallel to, the road on

which the Lot abuts, except that on corner Lots, it may be determined from either abutting road.

- Front Yards. The front building set back lines shall be fifty (50) feet.
- Cul-de-Sacs. If the particular Lot abuts on a cul-de-sac, the front building set back line shall be as shown on the plat of that Lot.
- Side Yards. The side yard set back lines shall not be less than twenty five (25) feet from the Side Line of the Lot on either side.
- Rear Yards. The rear set back line shall be at least fifty (50) feet from the Rear Line, but in the case of irregularly shaped Lots, the Committee may determine that the location of the rear set back line shall be otherwise.

Section 8.09: Exterior materials

Permitted exterior finish materials of every building constructed on any Lot in the Development include adobe, stucco, brick, native stone or other quality earth-tone materials approved by the Board. Exterior materials must not be tar paper, roll brick siding, wood, Masonite siding or any other similar material. Pitched roofs must be tile or non-reflective, architectural metal and shall not exceed 6x12 pitch.

Section 8.10: Exterior colors

The basic look for colors should be subdued to blend with the colors of the natural surroundings. Garages and outbuildings must have the same exterior color and roof color as the primary residence. Accent colors may be used. All color schemes must be approved by the Board. Variation in color from house to house is encouraged. A monochromatic Development is discouraged.

Section 8.11: Minimum house size

The minimum residential living space of the primary residence shall not be less than 1,200 square feet not including porches, patios, garages, carports, accessory buildings or basements.

Section 8.12: Garages

Every house must have a garage providing space for at least two (2) vehicles but not more than four (4) vehicles. The garage must be either directly attached to the house or attached through a covered structure no more than twelve (12) feet in length.

Section 8.13: Maximum combined size of structures

The maximum combined size of structures on a Lot shall not exceed 8,000 square feet under roof. This includes the residential living space, garages, other covered structures such as porches, patios and entry structures, and guest house and other outbuildings.

Section 8.14: Building height limitation

The height of any building cannot exceed twenty (20) feet. Building height is defined as the vertical distance from the highest point within the approved finished grade of the building site to the highest point of the structure.

Section 8.15: Exterior lighting

All exterior lighting must be focused to the ground and shall be so placed and/or shielded so as not to disturb the occupants of neighboring residences and surrounding property. All exterior lighting must furthermore be shielded in such a manner that restricts light from shining into or reflecting into the night sky. Lighting within patio areas should be so placed as not to disturb the occupants of neighboring residences and surrounding property. Holiday lighting is permitted within the appropriate season.

Section 8.16: Fences and walls

The finish and color of all walls must match the residence. Gates, porticos, and other wall inserts may be constructed of other material approved by the Board. Within the building site, courtyard walls shall be extensions of the building design and height of walls shall not exceed eight (8) feet. Gates and entryways can exceed this height restriction. Outside the building site walls will only be permitted if they serve a specific function such as stabilizing soil, controlling erosion, or screening solar applications. These walls shall be no higher than needed to serve the intended function. Walls must comply with set-back requirements except where retaining walls are needed to control erosion and/or water damage in which case the wall cannot be closer than five (5) feet to the road right-of-way.

Lot perimeter fences or walls will not be allowed except that Owners of Lots on the periphery of The Mesa may maintain existing perimeter fences on the boundaries between Mesa property and other, non-Mesa property. Such fences will be maintained only to the minimum standard needed for their original function.

Section 8.17: Utility service

All utility services and lines shall be installed underground.

Section 8.18: Solar installations

Solar installations are allowed in compliance with Arizona Revised Statute Section 33-1816 as may be amended from time to time. To the degree practical the visual impact of such installations shall be limited by techniques such as incorporating them into roof design, placing them on the ground in a location with low visual impact, and/or screening. However, the effectiveness and efficiency of the solar application shall not be adversely affected by requirements to limit visual impact.

Section 8.19: Water harvesting

Above ground tanks used for water harvesting shall be approved by the Board as long as their visual impact is limited by use of a color that matches the house and/or by practices such as appropriate choice of material (for example wrapping with stucco) or screening them inside walls.

Section 8.20: Pools and spas

Full-sized swimming pools are not permitted. Spas and small exercise pools of the "endless pool" variety are permitted (unless prohibited by specific well-sharing agreements). They should be screened so they are not visible from adjacent Lots and kept covered when not in use to avoid excessive evaporation. Also, in the interest of water conservation, there must be a plan to collect, through water harvesting, an amount of water equivalent to that used by the pool or spa and/or to reuse the water from the pool or spa when the water is replaced.

Section 8.21: Vegetation

The native vegetation on any Lot shall not be destroyed or removed by any Owner except as necessary for: a) the construction of roads, driveways, buildings, utilities, enclosed yards and patios; b) maintenance of the property in a fire-resistant condition; c) preventing the growth of noxious weeds as described in Section 6.01; d) preventing the growth of other native species considered to be aggressive invaders as defined by the Board; and e) maintenance of enclosed yards and patios. In the event such vegetation is removed, except as stated above, the Board shall require its replacement at the Owner's expense. Transplanting of protected plants shall be in accordance with any and all State and Federal laws.

Section 8.22: Home businesses

Business activities that are conducted within the residence and not visible from outside may be permitted. No business signs or structure, significant increase in traffic, or pollution (i.e., noise, visual, or chemical) resulting from business activities are permitted. Examples of business activities that may be permitted include but are not limited to photography, internet-based commerce, accounting, and consulting.

Section 8.23: Renting

The Owner of a house in the Development may rent the house provided that the house rented is the primary residence on the Lot, and the Board is informed of the name of the renter and the beginning and termination dates of the lease. The Owner shall be responsible for insuring that the renters comply with the CC&Rs and the Association Rules, copies of which must be provided to the renters by the Owner.

Section 8.24: Animals

No livestock (such as sheep, poultry, pigs, goats, cattle, horses, etc.) may be kept by residents on any Lot. Dogs, cats and other common household pets shall be allowed as

long as they are kept confined on the Lot so as not to become a nuisance. Dogs must be kept within the house or garage at night. Outside the Lot, dogs must be on a leash.

Section 8.25: Annoyances and nuisances including noise

No noxious or offensive activities shall be permitted on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. No loud or pervasive noises will be permitted. Such noises may include but not be limited to outdoor speakers, all-terrain vehicles and other poorly muffled vehicles, windmills, and aircraft.

Section 8.26: Signs

No signs or advertisements shall be displayed or placed on any Lot or structures in the Development except for a small house or Lot number sign which may include the Owner's name and "For Sale" and "For Rent" signs. "For Sale" and "For Rent" signs shall be no larger than five (5) square feet.

Section 8.27: Vehicle parking

All vehicles must be parked on the driveway or in a garage. No commercial trucks shall be parked for overnight or longer on any street in the Development, or parked on a Lot where visible from another Lot or street. No campers, motor homes, trailers, boats or similar vehicles or unregistered or inoperable vehicles shall be parked on any street in the Development or parked where visible from another Lot or street except that a camper, motor home, or travel trailer belonging to a guest of the Lot Owner may be parked on the driveway for a period of no more than seven (7) days.

Section 8.28: Garbage, trash and other refuse

No owner of a Lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out of doors of such refuse on his Lot except as may be permitted in Section 8.29 below.

Section 8.29: Fuel storage tanks and trash receptacles

Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be enclosed and vermin proof and shall be so placed and kept as not to be visible from any other Lot or any street within the Development at any time, except at the times when refuse collections are being made.

Section 8.30: Sanitary waste

No outside toilets shall be permitted on any Lot in the Development except during a period of construction. All sanitary waste shall be disposed of in accordance with the

requirements of the Santa Cruz County Health Department. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by the Board in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees shall become a charge or lien (Section 5.02) upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. Neither the Board nor any officer, agent, employee or contractor therefore shall be liable for any damage that may result from enforcement of any provisions of this paragraph.

ARTICLE IX: EASEMENTS

Section 9.01: Easements for utilities and drainage facilities

Easements for the installation and maintenance of utilities and drainage facilities are as shown on the Plat. Within these easements, no building or structure shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of said utilities, sewer and drainage facilities. The easement area of each Lot shall be maintained continuously by the Owner of the Lot.

Section 9.02: Easement for drainage and pedestrian and nature trail

All property within the one hundred (100) year floodplain as shown on the Plat is dedicated as a private drainage easement. In addition, all property within the one hundred (100) year floodplain of Lots one (1) through six (6), ten (10) through sixteen (16), nineteen (19), thirty (30) and thirty-two (32) is dedicated as a Pedestrian and Nature Trail Easement for the use of The Mesa Lot Owners (Docket 587, page 847, June 29, 1992, Santa Cruz County). No structures or other activities will be allowed within these areas that impede appropriate drainage or pedestrian access.

Section 9.03: El Paso Natural Gas Company easement

All tracts of ground in the Development shall be subject to easements held by the El Paso Natural Gas Company and Southern Utilities, Inc., and such other restrictions and limitations as recorded in the office of the Recorder of Santa Cruz County, Arizona, and also to all governmental zoning authority and regulation affecting the Development, all of which are incorporated herein by reference. No deep rooted trees or shrubs are to be planted and no road, building, excavation, cuts, fill, grading, obstruction, structure or utilities are to be constructed within or across the right of way of Southern Utilities Company without their written consent.

ARTICLE X: USE OF CONTIGUOUS LOTS AND LOT ADJUSTMENTS

Section 10.01: Use of contiguous Lots

Whenever two (2) or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two (2) or more of said Lots as a site for a single dwelling house, he shall apply in writing to the Board for permission to so use said Lots. If permission for such a use shall be granted, and subject to Santa Cruz County approval, the Lots constituting the site for such single dwelling house shall be treated as a single Lot for the purpose of applying these CC&Rs to said Lots, so long as the Lots remain with one single dwelling house. The Board may also establish other conditions for the use of such combined Lots. Additionally, the Lots that have been combined will still be considered as separate Lots for the purpose of voting rights, Annual Dues and Special Assessments.

Section 10.02: Adjustment of Lot boundaries

No Lot shall be subdivided except that the Board may permit adjustments of Lot lines subject to Santa Cruz County approval.

ARTICLE XI: DURATION

Section 11.01: Duration of CC&Rs

The foregoing CC&Rs are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2020, at which time said CC&Rs shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by the Members of the Association. Any such change made at the time of renewal must be approved by Members representing a majority of the eligible votes of Lots subject to these CC&Rs.

Section 11.02: Amendment of CC&Rs

The CC&Rs of this Declaration may be amended at any time by the Members of the Association if such amendment is approved in writing by Members representing at least two-thirds of the eligible votes of Lots subject to these CC&Rs. Any such amendment shall be signed by the President or Vice President of the Association certifying that the amendment has been approved as required by this Section and shall become effective on the date it is recorded with the County Recorder of Santa Cruz County, Arizona.

ARTICLE XII: GENERAL PROVISIONS

Section 12.01: Titles

The bolded titles preceding the various articles and sections of the CC&Rs are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the CC&Rs. Wherever and whenever applicable, the

singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Section 12.02: Remedies

The Association, or any other Owner, shall have the right to enforce, by any proceeding at law, or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by provisions of this Declaration. Delay or failure by the Association or by any Owner to enforce any provision herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of any litigation or arbitration by or against the Association, the prevailing party in such litigation or arbitration shall be entitled to recover from the non-prevailing party all attorneys' fees, costs and expert witness fees incurred by the prevailing party.

Section 12.03: Severability

Every one of the CC&Rs is hereby declared to be independent of, and severable from, the rest of the CC&Rs and of and from every one of the CC&Rs, and of and from every combination of the CC&Rs. Therefore, if any of the CC&Rs shall be held to be invalid or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the CC&Rs.

Section 12.04: Relationship to County and State laws and regulations

It is not intended by this Declaration to interfere with, abrogate, or annul any County of Santa Cruz or State of Arizona ordinance, law, rule, or regulation adopted or issued to regulate the use of buildings or premises within the Development. In the event this Declaration conflicts with any County of Santa Cruz or State of Arizona regulation, the more restrictive requirement shall govern. Any violation of any State, municipal, or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Development is hereby declared to be a violation of these CC&Rs and subject to any or all of the enforcement procedures set forth herein.

IN WITNESS WHEREOF, we, officers of The Mesa Homeowners Association, Inc., an Arizona non-profit corporation, certify that this Revised Declaration of Covenants, Conditions and Restrictions for The Mesa Homeowners Association, Inc. was approved by Owners of a majority of Lots numbered 1-31 and 33-46 and we have executed this Revised Declaration of Covenants, Conditions and Restrictions as of the date subscribed, but to become effective January 1, 2010.

The Mesa Homeowners Association, Inc.

Richard Holthausen

Richard Holthausen
President, The Mesa Homeowners Association

Don McIntosh

Don McIntosh
Vice President, The Mesa Homeowners Association

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 24 day of December, 2009, by Richard Holthausen President and Don McIntosh Vice President, both officers of The Mesa Homeowners Association, Inc., for and on behalf of the Association.

3/25/11
Commission Expiration Date

Don T. [Signature]
Notary Public

The Mesa

by lot #

Feb. 2016

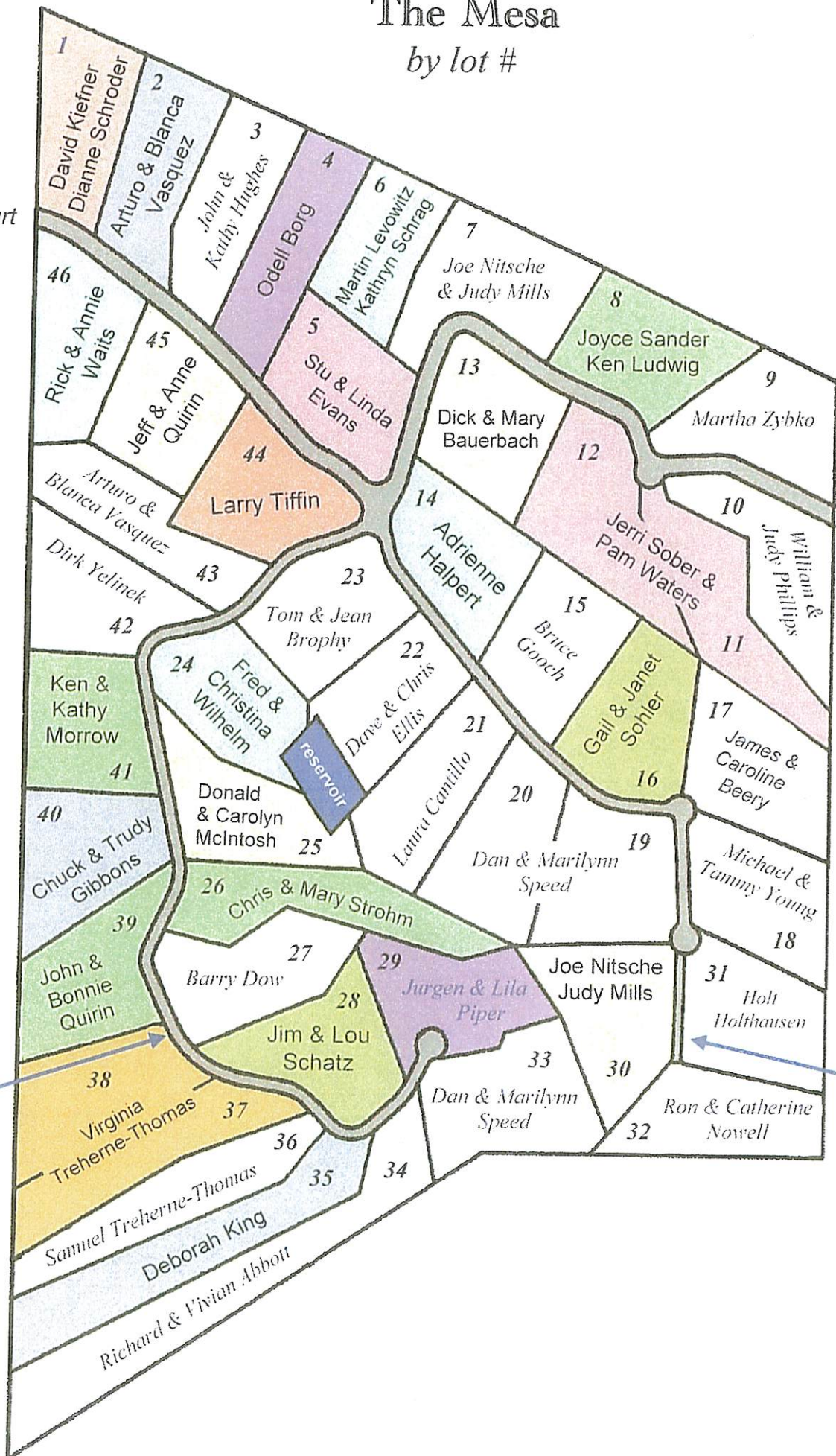
Red Mtn Court



Trailwood Court

Copper Court

Mesa Trail



by street

Red Mtn Court



Trailwood
Court

Copper Court

Mesa Trail