



Governing Documents

of

**Orchard River Garden Park
Association, Inc.**



September 11, 2008

Dear Orchard River Homeowners:

It is our pleasure to present you with the amended Governing Documents of Orchard River Garden Park Association, Inc. These documents were approved by majority vote at a Special Meeting called for that purpose on Sunday, June 29, 2008, and election results were reviewed and ratified by the Association's attorney.

You will find enclosed:

1. Amended and Restated Articles of Incorporation of Orchard River Garden Park Association, Inc.,
2. Amended and Restated Declaration of Covenants, Conditions and Restrictions for Orchard River Garden Park Association, Inc., Lots 1 through 138
3. Bylaws of Orchard River Garden Park Association, Inc.

Please remove the old versions of these documents from your files and save these copies in their place. These are the rules we live by – please become familiar with them and ensure that your family, visitors, as well as renters and leasing agents (if applicable) abide by them.

Voter participation was extremely strong in the Special Meeting called for the purpose of refining these documents – 85 of 136 voting units cast ballots. We also received extremely useful feedback during the review process.

The Board would like to extend special thanks to Mary Snow and John Fountain for spearheading this project. They spent close to three years reviewing and refining our governing documents – it was a tremendous effort and the final results are outstanding!

These are living documents, and we welcome your suggestions and input on a continual basis. We also welcome your participation in any of the various committees and projects of Orchard River Garden Park. If you would like to become involved, please contact the Board.

Sincerely,

Gary Olson, ORGPA President

KING & FRISCH, P.C.

ATTORNEYS AT LAW
6226 EAST PIMA STREET--SUITE 150
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December 10, 2008

Orchard River Garden Park Association, Inc.
5701 East Glenn Street, Unit #89
Tucson, Arizona 85712

Re: Recorded documents

Dear ORGPA Board of Directors:

Enclosed, please find the recorded Amended and Restated Declaration of CC & R's and Bylaws. The Articles of Restatement and Amendment have been accepted by the Arizona Corporation Commission and are currently out for publication.

As always, if you have any questions, please feel free to contact me.

Sincerely,

KING & FRISCH, P.C.



MONICA H. KIM

AMENDED AND RESTATED ARTICLES OF INCORPORATION OF

ORCHARD RIVER GARDEN PARK ASSOCIATION, INC

As approved by a vote of the membership on Sunday, June 29, 2008

KNOW ALL BY THESE PRESENTS:

That we, the undersigned, do hereby associate ourselves together for the purpose of establishing a corporation not for profit under the laws of the State of Arizona, and do hereby adopt the following Amended and Restated Articles of Incorporation:

ARTICLE I INCORPORATORS

The names, residences and post office addresses of the Incorporators are as follows:

G. Peter Bidstrup, 1006 South 24th Street, Phoenix, Arizona 85034

Joe E. Woods, 1006 South 24th Street, Phoenix, Arizona 85034

James W. Moyer, 1006 South 24th Street, Phoenix, Arizona 85034

ARTICLE II NAME AND PLACE OF BUSINESS

The name of the corporation is ORCHARD RIVER GARDEN PARK ASSOCIATION, INC. The business address of the Association shall be 5701 East Glenn, Tucson, Arizona, 85712. The location of its principal place of business shall be Tucson, Arizona, County of Pima.

ARTICLE III PURPOSE AND POWER OF THE ASSOCIATION

The general nature of the business to be conducted by this corporation is such that the corporation does not contemplate pecuniary gain or profit to the Members thereof, and the purposes for which it is formed are to provide for maintenance, preservation and control of the common elements, facilities and roads within the property described generally as:

The South half of the Southeast Quarter of the Northwest Quarter of Section 36, Township 13 South, Range 14 East, Gila and Salt River Base and Meridian, Pima County, Arizona. EXCEPT the South 30 feet thereof.

and to promote the health, safety and welfare of the residents within the above described property and any addition thereto, and for this purpose,

(1) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Covenants, Conditions and Restrictions for this Association, such being incorporated herein as though set forth in full.

(2) To establish a general plan for the improvement, development and maintenance of the property known as Orchard River Garden Park, as described generally above,

(3) To make rules and regulations concerning the use, ownership and administration of the property known as Orchard River Garden Park.

(4) To set forth rules and regulations regarding the levying collection, and enforcement of payment by any lawful means, of monthly assessments on the Members of Orchard River Garden Park Association, Inc., pursuant to the terms of the Amended and Restated Declaration of Covenants, Conditions and Restrictions and to the Bylaws of the Association.

(5) To make provision for the maintenance, care and preservation of the property owned in common by the Members of Orchard River Garden Park Association, Inc., and to employ all gardeners, workers, maintenance personnel, janitors and persons in similar occupations for the maintenance and preservation of the property known as Orchard River Garden Park, or to hire or contract with a person or corporation to manage the property and take care of the maintenance, care and preservation of the common property.

(6) To do all things necessary and proper incident or convenient to its power which a private individual might do and perform.

(7) To borrow money to mortgage, pledge, deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred pursuant to the terms of the Amended and Restated Declaration of Covenants, Conditions and Restrictions and the Bylaws of the Association.

(8) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Arizona Non-Profit Corporation Act by law may now or hereafter have or exercise.

ARTICLE IV MEMBERSHIP

Every person or entity, who is a record owner of a fee interest in any Unit which is subject to assessment by the Association, and qualifies in accordance with the Bylaws and the Amended and Restated Declaration of Covenants, Conditions and Restrictions, shall be a Member of the Association. This does not include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of any such Unit shall be the sole qualification for membership. Upon termination of the interest of the Unit Owner, his/her membership shall automatically terminate and shall be transferred and shall inure to the new Unit Owner succeeding him/her in interest. The owner or owners of each unit shall be entitled to one (1) vote per unit as a Member of the Association. The manner of exercising voting rights shall be determined by the Bylaws of the Association.

ARTICLE V DURATION

The duration of the Corporation is perpetual.

**ARTICLE VI
BOARD OF DIRECTORS**

- A. The affairs of this corporation shall be conducted by a Board of Directors of not less than three (3) nor more than ten (10) Directors, who shall be Members of the Association and who shall be subject to any other qualifications set forth in these Amended and Restated Articles of Incorporation and in the Bylaws.
- B. The Officers of the Board of Directors shall consist of a President, Vice-President, Secretary, and Treasurer, and such other Officers as the Board of Directors may determine from time to time.
- C. Directors of the Association shall be elected at the Annual Meeting of the Members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.
- D. The names and addresses of the current Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:
 - Gary Olson, President, 5701 E. Glenn St. #89, Tucson, AZ 85712
 - Judy Orlinsky, Vice President, 5701 E. Glenn St. #129, Tucson, AZ 85712
 - Sally Allison, Secretary, 5701 E. Glenn St. #94, Tucson, AZ 85712
 - Jennifer Shaw, Treasurer, 5701 E. Glenn St. #64, Tucson, AZ 85712
 - Rodney Casebier, 5701 E. Glenn St. #114, Tucson, AZ 85712
 - Nancy Reeder, 5701 E. Glenn St. #86, Tucson, AZ 85712
 - Paula Nailon, 5701 E. Glenn St. #79, Tucson, AZ 85712
 - Miguel Camacho, 5800 E. North Wilshire Drive, Tucson, AZ 85711
 - Louise Hutchinson, 5701 E. Glenn St. #10, Tucson, AZ 85712

**ARTICLE VII
CORPORATE DEBTS**

The private property of the Members of this corporation is to be exempt from corporate debts.

**ARTICLE VIII
STATUTORY AGENT**

James C. Frisch of King & Frisch, P.C. located at 6226 East Pima, Suite #150, Tucson, Arizona 85712 is hereby appointed the lawful agent of this corporation, for and in behalf of this corporation, to accept and acknowledge service and upon whom may be served all necessary process or processes in any action, suit or proceedings that may be brought against this corporation. This corporation may revoke this appointment of agent at any time and shall have power to fill any vacancy in such position.

ARTICLE IX AMENDMENT

Amendment of these Articles of Incorporation may be made only by a vote of the Members at any Annual Meeting or a Special Meeting called for that purpose and after notice, required by law, is given. Any amendment must be approved by two-thirds (2/3) of the votes cast or a majority of the voting power, whichever is less.

ARTICLE X INDEMNIFICATION

Every Director and every Officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney fees, reasonably incurred or imposed upon him/her in connection with any proceeding or any settlement of any proceeding to which he/she may be a party or in which he/she may become involved by reason of his/her being or having been a Director or Officer of the Association, whether or not he/she is a Director or Officer at the time such expenses are incurred, except when the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his/her duty; provided, that in the event of settlement, the indemnification shall apply only when the Board of Directors approves such a settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

END

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: CML
DEPUTY RECORDER
1951 AS1

REZMS
EZ MESSENGER ATTORNEY SERVICE
EZ-KING
PICK UP



DOCKET: 13436
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When recorded return to:
King & Frisch, P.C.
Attn: Monica H. Kim
6226 East Pima St., Suite 150
Tucson, AZ 85712-7004
(520) 790-4061

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.
(Lots 1 through 138)**

11/18/08 2:40:00

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FOR

ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.,
LOTS 1 THROUGH 138

As approved by a vote of the membership on Sunday, June 29, 2008

KNOW ALL BY THESE PRESENTS:

This Amended and Restated Declaration of Covenants, Conditions and Restrictions is made this 29th day of June 2008 by the Members of Orchard River Garden Park Association, Inc., (hereinafter the "Association"), the successor Declarant to Inn Properties, Inc., an Arizona corporation (hereinafter the "Predecessor Declarant"). This Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes the Declaration of Covenants, Conditions and Restrictions recorded in Book ____ at pages ____ through _____. This instrument is applicable to the "Properties" which are defined as follows: Lots 1 through 138 of Orchard River Garden Park and facilities, being a subdivision of Pima County, Arizona, in Book 23 of Maps and Plats at Page 100.

The Association has been properly authorized to make this Restatement, and all amendments included herein, by the Articles of Incorporation, Bylaws, and Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Association. This instrument is executed by the President and Secretary for the Association acting at the proper direction of the Directors and Members, pursuant to the provisions of said Declaration which has been recorded in the Office of the Pima County Recorder, Book __, Pages ____; Book __, Pages ____; Book __, Pages ____.

This Amended and Restated Declaration of Covenants, Conditions and Restrictions constitutes a continuation of the general plan for the improvement, development, ownership, use and sale of all of the lots and Common Areas shown on the plat, as may be amended.

This instrument is applicable specifically to the Properties, and establishes the following covenants, conditions, and restrictions which are binding upon the Properties, and which inure to the benefit of the present and future owners thereof, and which shall be impressed and imposed upon each part of said Properties as a servitude in favor of each and every other part thereof.

~~~~~ ARTICLE I DEFINITIONS

Section 1. "ARTICLES" refers to the Articles of Incorporation of ORCHARD RIVER GARDEN PARK ASSOCIATION, INC., which were filed in the Office of the Arizona Corporation Commission on August 25, 1972, and which may be amended from time to time.

"ASSOCIATION" shall mean and refer to ORCHARD RIVER GARDEN PARK ASSOCIATION, INC., its successors and assigns.

"BOARD" shall mean and refer to the duly elected Board of Directors of the Association.

"BYLAWS" refers to the Bylaws of the Association, as may be amended from time to time by a vote of the Members of the Association.

"COMMON AREAS" shall mean all real property designated in the Plat of Record as Lots 137 and 138.

Each owner shall own an undivided interest of 1/136th of the Common Areas, and which is for the common use and enjoyment of the Members of the Association. The Common Areas shall also include all recreational facilities, community and commercial facilities, if any, swimming pool, carports, roadways, pumps, other public utility lines, parking areas, collector sewer lines, quad walkways, roads, alleys, RV area, turf, and plantings. It shall not include dwelling entryways, enclosed private yards, sheds, and dwelling units.

"DWELLING UNIT" shall mean and refer to any numbered lot of land, 1-136.

"MEMBER" shall mean and refer to every person or entity who holds a membership in the Association as defined in the Bylaws.

"MORTGAGE" shall include not only mortgages but also deeds of trust, and the term **"MORTGAGEE"** shall include a beneficiary under a deed of trust.

"OWNER" shall mean and refer to the owner entitled to possession of each Dwelling Unit which is part of the Properties.

"PROPERTIES" shall mean and refer to that certain real property herein described below, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, Lots 1 through 138 of ORCHARD RIVER GARDEN PARK, a subdivision of Pima County, as recorded in Book 23 at Page 100 in the Office of the Recorder of Pima County, State of Arizona.

"CAPITAL IMPROVEMENTS/RESERVE ACCOUNT" shall mean and refer to a fund to be set aside to cover the major repair or replacement of the common elements and the assets of the corporation. This includes, but is not limited to, capital improvements, emergencies, maintenance, and other expenditures the Board deems necessary.

"ROADWAYS" shall mean and refer to those areas designated as private streets and roads on the ORCHARD RIVER GARDEN PARK PLAT.

"SPECIAL ASSESSMENT" shall mean an Assessment levied against a Unit Owner and his/her lot in accordance with Article V, Section 4.

ARTICLE II MEMBERSHIP

Section 1. Every person or entity who is the Owner entitled to possession of any Dwelling Unit which is subject to this Amended and Restated Declaration of Covenants, Conditions and Restrictions assessment by the Association, shall be a Member of the Association.

Membership shall be appurtenant to and may not be separated from ownership of any Dwelling Unit which is subject to the assessment of the Association. Ownership of such Dwelling Unit

shall be the sole qualification of membership.

ARTICLE III VOTING RIGHTS

Section 1. The Association shall have one class of voting membership. Each Member shall be entitled to one vote for each Dwelling Unit in which he owns or holds an interest required for membership pursuant to the provisions of Article II, Membership. For purposes hereof, there shall be but one vote for each Dwelling Unit whether the same is owned by one person, by husband and wife, or by joint tenants, or any other form of ownership. Such co-owners must agree on the vote so that the designated one vote can be cast.

Section 2. The Association may suspend the voting rights of any Member for any period during which any assessment against his/her Dwelling Unit remains unpaid and delinquent and for a period when the Board determines that Member is in violation of the Amended and Restated Declaration of Covenants, Conditions and Restrictions, the Bylaws and/or the Rules and Regulations of the Association.

Section 3. In the event an Owner has leased or rented his/her Unit, the Owner shall retain the right to vote as a Member of the Association. The right to vote is not transferable or assignable except by a transfer of the Unit ownership.

ARTICLE IV PROPERTY RIGHTS

Section 1. Every Member shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every assessed Dwelling Unit, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of Members;
- (b) The right of the Association to charge reasonable admission and other fees for use of any recreational facility situated upon the Common Areas;
- (c) The right of the Association to suspend the voting rights and right to use the recreational facilities by a Member during any period in which any fee or special assessment against his Dwelling Unit remains unpaid; and for a period to be determined by the Board for any infraction of its published Rules and Regulations.

Section 2. Any Member may delegate, in accordance with the Bylaws, his/her right of enjoyment to the Common Areas and facilities to the members of his/her family, guests, his/her tenants, or contract purchasers who reside on the Property.

Every Member, his/her guests, invitees, and licensees, shall have a right and easement for ingress and egress to his/her Dwelling Unit over the front and/or rear yards of other Members, to the extent that the same is necessary and reasonable. Walkways or pathways provided for ingress and egress to the various Dwelling Units shall represent the easements granted over the property of Members, and shall be subject to reasonable regulations of the Association, including but not limited to the planting of any trees, shrubs or grass thereon.

ARTICLE V MAINTENANCE FEES

Section 1. The Association shall be responsible for the maintenance and upkeep of the Property and improvements in the Common Areas, shall do all things necessary for the general benefit and welfare of the Property Owners in the Common Areas, and shall manage and maintain said common areas in accordance with its Bylaws, its Articles of Incorporation and provisions of this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

Section 2. The Association shall have the power and be required to levy a monthly Association fee on each Dwelling Unit, payable at least one (1) month in advance, in an amount to be determined by the Board each year based upon the approved annual budget of the Association. The total amount needed to fund the annual budget shall be charged equally against all Dwelling Units as regular assessments, subject to any limitations set forth in the Bylaws. The Board shall prepare and approve the annual itemized budget and distribute a copy thereof to each Member, together with written notice of the amount of the regular assessments to be levied against the Owner's Dwelling Unit fifteen (15) days prior to the beginning of the fiscal year. The Association shall not impose a regular monthly Association fee that is more than twenty percent (20%) greater than the immediately preceding fiscal year's fee without the approval of the majority of the Members of the Association.

Payment of the monthly Association fee for a particular month is due on the first (1st) day of that month. A payment for a particular month is deemed late if it is unpaid fifteen (15) or more days after its due date. Any monies paid by a Member for an unpaid penalty shall be applied first to the principal amount unpaid and then to the interest accrued. Notice pursuant to this subsection shall include information pertaining to the manner in which the penalty shall be enforced.

The delinquent fee shall be established by the Board. Delinquent fees and any penalty shall become a lien on the Dwelling Unit. The time period during which an Owner of a Dwelling Unit may make payment without the same being considered late or delinquent shall be published in the Association's monthly newsletter not less than one (1) time per year, or more, at the discretion of the Board. If such legislation is changed, the Association shall publish the new time period during which payment may be received and not considered delinquent or late in the monthly newsletter next following the date of adoption of any such new legislation.

(a) Interest on all sums imposed in accordance with this Article, including the delinquent fee, reasonable costs of collection, reasonable attorney's fees, will be charged against the Owner the prime rate published by the Wall Street Journal, plus ten percent (10%).

This interest will commence on the first (1st) day following the period set by applicable statute in which payment of the monthly Association fee may be made without being considered late or delinquent, and any additional costs of suit and court costs incurred in the process of collecting delinquent assessments or sums, will be levied against the Owner.

Interest shall be paid not later than thirty-one (31) days from the date of assessment thereof. Any such interest which is not paid by 5:00 p.m. on the thirty-first (31st) day following the

imposition of said interest, shall also be assessed a late payment penalty.

All payments received by the Association from a Member for any unpaid fees shall be applied as follows: Principal first (1st), interest second (2nd), collection costs third (3rd), and attorney's fees fourth (4th).

(b) The establishment of a lien against any dwelling unit shall be subject and subordinate to and shall not affect rights of any recorded realty mortgage upon any of the said Dwelling Units which is made in good faith for value and was recorded with the Office of the Pima County Recorder prior to recordation of any lien arising as a result of any unpaid assessment or fine. The establishment of a lien against any Dwelling Unit shall not be subject and subordinate to any subsequently recorded realty mortgage deed of trust or other instruments of any nature which is recorded with the Office of the Pima County Recorder subject to actual recordation of any lien arising as a result of any unpaid assessment or fine.

Should a mortgagee of a mortgage of record, or any assignee of a mortgage, obtain title to any Dwelling Unit as the result of foreclosure proceedings, including any purchase at a Sheriff's sale or resulting from said foreclosure, such acquirer of title, his successor or assigns, shall not be liable for the share of common expenses or fees imposed by the Association and chargeable to such Dwelling Unit which became due prior to acquisition of title so long as said purchaser takes the property without knowledge of the outstanding liability for the share of common expenses or fees assessed by the Association and chargeable to such Dwelling Unit.

Subsequent to acquiring the title to any such Dwelling Unit, the person or entity acquiring title shall pay the share of common expenses or fees chargeable to such Dwelling Unit as they become due and payable to the Association. The Association shall have the authority and power to collect delinquent fees and penalties from the owners at law or otherwise.

In the event of a dispute between a Dwelling Unit Owner, his/her lessees, heirs, assigns or successors and the Association, its Officers, Directors or assigns, whether in an attempt to collect delinquent fees and penalties assessed by the Association or for any other reason whatsoever, the prevailing party shall receive the reasonable attorney's fees and all of the costs and expenses incurred as a result of said dispute, including, but not limited to, outstanding fees and fines, if any, and interest accrued thereon at the rate set forth herein. The assessment of such fees, costs, and expenses, if in favor of the Association, shall also become a lien on the Dwelling Unit in favor of the Association.

Each Owner empowers the Association to enforce any and all liens which may be taken against any Dwelling Unit Owners' Property by foreclosure or any other proceeding at law and/or equity to collect the amount due from each Owner by selling the Unit of any defaulting Owner to the highest bidder to satisfy such outstanding liens, any and all accrued interest thereon at the rate specified herein, and attorney's fees and costs, if any, incurred in prosecuting such claims.

Each Owner hereby expressly grants a consensual lien to the Association with regard to any and all overdue assessments and fines thereon, thereby expressly waiving the benefit of any homestead or exemption laws of this state now or then in effect regarding any lien created pursuant to the provisions hereof.

Section 3. The Owner of each Dwelling Unit shall pay monthly to the Association a sum equal to the following:

The pro-rata share of the actual budgeted costs to the Association, including but not limited to:

- All water used in the Property for private use and the Common Areas.
- Sewer usage fees.
- Outside pest control.
- Pool maintenance and service.
- Planting, landscaping and maintenance of easements and all Common Areas.
- Legal and accounting expenses of the Association.
- Street and carport maintenance.
- Management fee for the Properties' manager, if any.
- Gas and electric expenses of the Common Areas.
- Insurance premiums (described in Article VI - Insurance).
- Painting, repair and maintenance of exterior walls, storage units and fences.
- Adequate funds for the repair, maintenance or replacement of those elements for which the Association is solely responsible.

An Owner cannot exempt himself/herself from this fee by non-use of the Dwelling Unit, but he/she shall be liable for the same as long as he/she shall own the Dwelling Unit.

Should an Owner make a voluntary conveyance of a Dwelling Unit, said conveyance shall be made subject to any and all outstanding liens in favor of the Association taken as a result of unpaid assessments and fines levied thereon plus interest at the rate specified herein. The Association shall have no duty to extinguish any such lien until the same has been paid in full prior to or at the time of the closing of said conveyance.

Section 4. In addition to any Monthly Association Fee, the Board may levy a Special Assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, including equipment, fixtures, and personal property related thereto, or to defray any unanticipated or underestimated expenses normally covered by the Monthly Association Fees, including taxes assessed against the Common Areas, provided however, that any Special Assessments shall not be assessed without the vote or written consent of sixty-seven percent (67%) of the Membership present and voting at a meeting at which a quorum is present in person or by absentee ballot.

Written notice of any meeting called for the purpose of taking such action shall be sent to all Members not less than thirty (30) days in advance of the meeting.

Section 5. No offsets against any assessment shall be permitted for any reason, including, without limitation, to any claim that the Association is not properly discharging its duties.

ARTICLE VI INSURANCE

Section 1. The Association shall secure policies so that a blanket insurance policy is in force at all times covering all Common Areas with liability insurance in the amount of at least Ten Million Dollars (\$10,000,000).

It shall secure all risk insurance coverage in the amount of the replacement cost of the

structures, equipment and improvements both of the Dwelling Units and of the Common Areas which encompass Lots 1 through 138.

It shall secure liability insurance to cover Directors and Officers, acting in good faith, in performance of their duties and activities on behalf of the Association.

All insurance policies purchased by the Association shall be for the benefit of the Association and the Dwelling Unit Owners, their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association. Notwithstanding anything herein to the contrary, the Association shall hold all insurance proceeds collected by it in trust for rebuilding the damaged Common Areas and Dwelling Unit buildings. The Association or its agents shall have exclusive authority to negotiate with the insurance carriers and to adjust losses, make settlements, and give releases to the insurance carrier and to collect monies from the insurance carrier.

The Board shall notify Members of any changes in the terms of insurance coverage in a timely fashion.

Section 2. In the event of damage or destruction to the Property by fire or other casualty, the Board shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as good condition as formerly existing. The Board shall contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. Any and all deductibles required pursuant to the terms of any and all insurance contracts entered into by the Association for the benefit of the Association and its Members will, as such insurance is applicable, be the sole and separate responsibility of the Dwelling Unit Owner in any and all amounts set forth in said contracts of insurance.

As to damage which is only to those parts of a Dwelling Unit for which the responsibility of maintenance and repair is that of the Dwelling Unit Owner, the Dwelling Unit Owner shall be responsible for reconstruction and repair after casualty.

Section 3. All occurrences of damage or destruction shall be reported to the Board of Directors of the Association. The Board will submit the reports to the insurance company for its determination of claim viability.

ARTICLE VII OWNERS' RESPONSIBILITY

Section 1. Each Owner shall be responsible for his own Dwelling Unit utility costs (excluding water), ad valorem taxes (for both the Dwelling Unit and the Owner's undivided interest in the Common Areas), appliance repairs, including but not limited to refrigeration units, evaporative coolers, refrigerators, furnaces, fans, stoves, water heaters, dishwashers, disposals, compactors and all other appliances for repair and upkeep within his/her own Unit, and roof maintenance, repair and/or replacement for his/her Dwelling Unit. If a roof must be repaired or replaced, it shall conform to the architectural style, design, color and material as approved by the Board.

Section 2. When in the opinion of the Board, repair, restoration, painting or replacement of landscaping is required in a Common Area, or an individual Unit, due to willful or negligent acts

of a Dwelling Unit Owner, his/her family, guests, invitees, employees, or renters/lessors the cost of any such repairs or replacements shall be added to and become part of the monthly Association fee to which that Dwelling Unit is subject. In this event, the Board shall give written notice to the Dwelling Unit Owner stating the conditions and violations. Unless the Board receives, in writing, corrective plans proposed by the Dwelling Unit Owner to remedy the conditions within sixty (60) days and unless corrective work is completed in a timely fashion and approved by the Board, the Association shall proceed to remedy the conditions and violations. The costs incurred therefor shall be charged to the Dwelling Unit Owner and deemed to be an assessment to such Owner and his/her Dwelling Unit, and be subject to levy, enforcement and collection by the Association in accordance with the assessment lien procedure.

Section 3. Maintenance and repairs to the house service lines for water and for sewage disposal to the main line on each Owner's property and in each Dwelling Unit are the sole and separate responsibility of the Dwelling Unit Owner. Maintenance and repair of electric and gas service from the meter or common box into each Dwelling Unit are the sole and separate responsibility of the Dwelling Unit Owner. The Dwelling Unit Owner is responsible for maintenance, repair and replacement of any and all exterior glass doors, windows of any nature, and any and all screens of any nature.

Section 4. If any Owner fails to maintain his/her lot and the Dwelling Unit exterior located thereon in a manner satisfactory to the Association, the Association, through its agents and employees, is granted the right, after giving the Owner sixty (60) days' notice to cure the deficiency, to enter onto such lot and correct said deficiency. The cost of the Association's services or the services of any entity or individual whatsoever employed by the Association for this purpose shall be charged against the Owner by invoice, and made a lien on his/her lot if not paid in full upon demand.

ARTICLE VIII ARCHITECTURAL CONTROL

Section 1. Any subsequent additions, alterations or improvements of any nature to fences, the exterior of walls, roof installations or other structures to those originally constructed shall not be commenced, erected or maintained on any parcel until the plans and specifications for the same, showing all construction details, including shape, height, materials, floor plans and location, shall have been submitted to the Board and approved by the Board after consultation with the Architectural Control Committee as to compliance with the Association rules. The Architectural Control Committee will in turn submit their recommendations, approval or disapproval of said plans to the Board. The Board will advise the Dwelling Unit Owner of the decision. A copy of the decision of the Board shall be included in the minutes of the next regularly held Board meeting. Said Board shall have the right to deny approval of any plans or specifications which are not, in its opinion, suitable or desirable for aesthetic or any other reasons.

Section 2. To maintain a uniform appearance to the Dwelling Units constructed on the lots, each Owner shall use only those colors for exterior painting as approved by the Architectural Committee, and use only those roofing materials approved by the Architectural Committee. Each Owner agrees not to alter, remove or paint the exterior walls, fences or gates constructed on each lot without the prior approval of the Architectural Committee and the Board.

Section 3. In the event said Board fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with in all respects.

ARTICLE IX EXTERIOR MAINTENANCE

Section 1. The Association shall provide maintenance, repair or replacement to exterior walls, fences, sheds and Common Area buildings. The Association shall provide maintenance, repair or replacement of hardware and front entry doors and doors from kitchen to patio where they were part of the original construction. The Association shall also provide maintenance and repair to the trees, shrubs and grass in the Common Areas, and to the walkways which are easements for ingress and egress to the various Dwelling Units. The Owner is responsible for maintenance, repair and replacement of any and all exterior glass doors, windows and screens. The Owner is responsible for any and all interior repairs to his/her dwelling unit except as otherwise specified herein.

Section 2. The Association is responsible for maintenance of and repairs to the main supply lines from water meters to the property lines of the Dwelling Units. The Association is also responsible for the repair and maintenance of the collector sewers outside the Dwelling Unit property lines or in the easements within which such sewers are constructed. The Association is responsible for all electrical lines and devices in the common areas.

Section 3. A party wall constitutes each wall which is built as a part of the original construction of the Dwelling Units upon the Property, and is placed on the dividing line between the lots and between the lots and adjacent properties. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions under the laws of the State of Arizona shall apply.

The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. Notwithstanding any other provisions of this Article, to the extent the damage is not covered and paid by insurance, an Owner whose negligent or willful act causes the party wall to be exposed to the elements shall bear the entire cost of repairing the party wall to protect it from exposure or shall bear that percentage of the cost applicable to the apportionment of the percentage of negligence to the Owner by agreement of the Owners involved or by virtue of such a determination pursuant to arbitration as provided for herein.

In the event of any dispute involving a party wall, each party shall choose one mediator, and such mediators shall choose one additional mediator, to comprise a panel of three (3) mediators. The decision shall be made by a simple majority of all mediators, and shall be binding upon the parties.

ARTICLE X USE RESTRICTION

Section 1. Each Dwelling Unit shall be used strictly for residential purposes. No Dwelling Unit may be rented for a hotel or transient purpose, which shall be construed to mean for a period of less than thirty (30) days.

All provisions of the Amended and Restated Declaration of Covenants, Conditions and Restrictions and of the Rules and Regulations of Use Restrictions promulgated pursuant thereto shall govern the conduct of Owners and which provide for sanctions against Owners shall apply to all occupants of any Dwelling Unit.

Section 2. No Dwelling Unit shall be used for any activity which does not fully comply with applicable laws and ordinances, including all zoning, sanitary and health restrictions.

No trade or business may be conducted in or from any Dwelling Unit except that an Owner or occupant residing in a Dwelling Unit may conduct business activities within the Dwelling Unit so long as it is not apparent or detectable by sight, sound or smell from the exterior of the Dwelling Unit; the business activity does not involve door-to-door solicitation of residents of the Properties; any and all such business activities shall be consistent with the residential character of the Properties and shall not constitute a nuisance, hazardous or offensive use or threaten the security or safety of other residents of the Properties.

Homeowners shall report to the Board the names of current renters when a unit that they own is rented.

The Board shall track the number of units that are rented and report to the Membership substantial increases.

Section 3. No Member or Owner shall park or permit to be parked on the streets of the subdivision or in any driveway or carport located therein any camper, boat, travel trailer, luggage trailer or similar vehicle, except for brief stops necessary to load or unload items into or from said vehicle. Lot 138 (RV storage area) of said subdivision has been specifically set aside for the parking of said vehicles, both on a temporary and permanent basis. It shall be considered a violation of these Restrictions to park or leave standing any such vehicle anywhere in any portion of the subdivision other than that specifically delineated herein. The Association has the express authority to have any such vehicle parked in violation of this provision towed from the Common Areas and stored. Said vehicles shall not be released from storage until such time as the owner thereof reimburses the Association for any and all charges incurred due to the towing and storage of such vehicle. No repairing or refurbishing of said vehicles is permitted except in Lot 138, the RV storage area.

The Common Areas shall remain undivided and at all times shall be owned by the Association or its successors, it being agreed that this restriction is necessary to preserve the rights of all the Owners with respect to the operation and management of the Common Areas. The Common Areas may not be mortgaged without the consent of at least fifty-one percent (51%) of the Owners. In the event that ingress or egress to any residence is through the Common Areas, any conveyance or encumbrance of such areas is subject to such Owners' easement.

Section 4. Owners may keep two (2) domestic pets, as long as the pets are kept confined in the single-family residence and fenced yard. Only pets that have not been declared vicious by local authorities are permitted on the premises. Dogs may be walked in the Common Areas if done in conformance with the Pima County or City of Tucson leash ordinances.

Section 5. No signs, posters, billboards or advertisements of any type may be erected or

displayed within the Properties, except for a small, tasteful "For Rent," "For Sale," or "Open House" sign for any Dwelling Unit. Any such sign shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches (18" x 24"), and the industry standard size sign rider, which shall not exceed six by twenty-four inches (6" x 24").

The outdoor display of the American flag by a Member on that Member's property is permitted if the American flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 U.S. C. s. 4-10). The outdoor display of the POW/MIA flag, the Arizona state flag, the Arizona Indian nations flag are also permissible. The Association may adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the POW/MIA flag, the Arizona state flag, the Arizona Indian nations flag and the location and size of flagpoles.

Section 6. Trash, garbage and other waste shall be kept in covered, sanitary containers which at all times must be concealed from public view except during designated rubbish removal days and then for a period not to exceed twelve (12) hours. No trash, ashes or other refuse may be thrown or dumped in the Common Areas, or any roadway, easement or drainage area within the subdivision.

No exterior radio antenna of any type shall be placed, on any portion of the Properties without prior approval of the Board. The Owner is responsible for installation, maintenance, repair and replacement of any and all antennas and/or satellite dishes, installation of which is subject to approval by the Board to ensure architectural conformity. Laundry lines must be confined to the rear patio area of each Dwelling Unit and must be inconspicuous.

No exterior lighting of any sort shall be installed or maintained on a lot where the light source is offensive or a nuisance to the Properties or any adjacent property thereto.

ARTICLE XI EASEMENTS

Section 1. Easements for installation and maintenance of utilities, drainage facilities and sewers are reserved in and along the Common Areas and Roadways and within the Dwelling Units. Within these easements, no building of any nature shall be placed or be permitted to remain which may damage or interfere with the installation and maintenance of said utilities, sewers and drainage facilities.

ARTICLE XII RESOLUTION OF DISPUTES

Section 1. Disputes or controversies between parties in the Association shall be resolved by following the procedures of this Article with the steps outlined below and taken in order, for the purpose of settling the dispute or controversy in a timely and peaceful manner. The disputes or controversies addressed in this Article may be between Unit Owner(s) and the Association, between Resident(s) and the Association, or between Unit Owner(s) and Resident(s). The disputes or controversies must concern violations of this Amended and Restated Declaration of Covenants, Conditions and Restrictions, the Bylaws, the Articles of Incorporation, or any published Rules and Regulations of the Association and must have first been presented to the

Board, in writing, for their study, investigation, and action. Disputes concerning delinquent assessments are exempted from this Article.

Section 2. All claims, demands, disputes, controversies and differences that may arise between the Association and Unit Owner(s) or Resident(s), shall be resolved first by meeting and discussions as set forth by the Bylaws of the Association, between the affected parties. A continuous and concerted effort shall be expended by the parties involved in the dispute or controversy, in order to settle the matter using all available procedures at hand such as, but not limited to: private meetings between the Board and the Unit Owner(s) in dispute, a regular meeting of the Board, a Special Meeting of the Board, by an advisory and study committee selected by the Board whose members are taken from the membership of the Association. None of the above methods may be appropriate to address the issues of all dispute or controversies, but the effort expended should be timely, continuous and concerted, for a period not to exceed sixty (60) days in duration.

Section 3. In the event that the parties cannot resolve the dispute or controversy, then the dispute or controversy shall be submitted for mandatory mediation as set forth below. The resolution from this process is non-binding on the parties involved. Either party shall give written notice of their intent to mediate the dispute to the other party and to the Board, and within thirty (30) days thereafter, appoint a mutually agreed upon skilled mediator, a neutral third party, who will attempt to resolve the controversy. In the event the parties cannot agree on a mediator, each party shall select a mediator and these two (2) mediators shall select a mediator for mediating the dispute within sixty (60) days from the date that written notice of intent to mediate is delivered to the Board. The person appointed by the two (2) mediators shall act as the sole selected mediator for the parties during the required mediation process. The sole selected mediator will establish the mutually agreed dates, times and length of mediation sessions, and the rules that all parties must abide by in full. As soon as practical, the mediator and the parties shall hold the first mediation session to give both parties the opportunity to explore the strengths and weaknesses of each other's case. The mediator shall hear from both parties and shall attempt to reach a mediation agreement between the parties to resolve the dispute or controversy. Each party shall bear its own individual costs for the mediation and in addition fifty (50) percent of the total services and expenses of the selected mediator. Further, any testimony that was introduced at the mediation sessions, including the mediator's notes or the right of the mediator to testify at the court hearing for one (1) or both of the parties in any legal action shall not be used in any future court proceedings.

Section 4. If the mediation process as outlined in Section 3 of this Article fails to resolve the dispute or controversy as solely determined by the selected mediator, then all of the parties involved are free to take the dispute or controversy to litigation in accordance with all applicable laws.

ARTICLE XIII GENERAL PROVISIONS

Section 1. The Association, or any Owner, shall have the right to enforce by any proceeding at law or an inequity all restrictions, conditions, covenants, reservations, liens or charges now or hereafter imposed by the provisions of this Amended and Restated Declaration of Covenants, Conditions and Restrictions.

Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. The covenants and restrictions of this Amended and Restated Declaration of Covenants, Conditions and Restrictions shall run with and bind the land and inure to the benefit of and be enforceable by the Association, by the Owner of any Dwelling Unit subject to this Amended and Restated Declaration of Covenants, Conditions and Restrictions or their respective legal representatives, heirs, successors and assigns for a term of twenty (20) years from the date this Amended and Restated Declaration of Covenants, Conditions and Restrictions is recorded, after which time such covenant shall be automatically extended for successive periods of ten (10) years.

Section 4. Amendment of the Covenants, Conditions and Restrictions contained in this Amended and Restated Declaration may be made by a vote of not less than sixty-seven percent (67%) of the Owners of said Dwelling Units, at an Annual Meeting or Special Meeting called for that purpose.

Any such amendment must be properly recorded and cannot be made retroactive.

Section 5. In the event of any conflict between the Bylaws and this Amended and Restated Declaration of Covenants, Conditions and Restrictions, the Declaration shall control. In the event of any conflict between the Articles of Incorporation and this Amended and Restated Declaration of Covenants, Conditions and Restrictions, the Articles shall control.

END

1-1-1988 0-1-88 1-1-88

IN WITNESS WHEREOF the undersigned, being the Declarant herein, has herein to set its hand and seal this 20TH day of October, 2008. These amended covenants, conditions and restrictions supersede any and all prior covenants, conditions and restrictions regardless of their date or amendments from time to time.

ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.

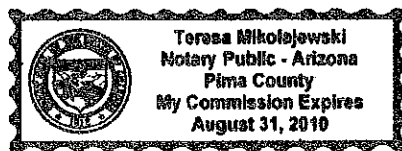
BOARD MEMBERS

By: Gary J. Olson, Pres Gary J. Olson
By: Louise K. Hutchinson, Vice Pres. Louise K. Hutchinson
By: Jennifer W. Shaw - Treas. JENNIFER W. SHAW
By: Miguel Camacho Board Member Miguel Camacho
By: _____
By: _____
By: _____

ATTESTED BY:

Sally Allison secretary Sally Allison
Secretary

Subscribed and Sworn to this 20TH day of October, 2008, by
Gary Olson and Jennifer Shaw.



[Signature]
Notary Public

F. ANN RODRIGUEZ, RECORDER

RECORDED BY: CML

DEPUTY RECORDER

1951 AS1

REZMS

EZ MESSENGER ATTORNEY SERVICE

EZ-KING

PICK UP



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11/18/2008

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King & Frisch, P.C.
Attn: Monica H. Kim
6226 East Pima St., Suite 150
Tucson, AZ 85712-7004
(520) 790-4061

**BYLAWS
OF
ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.**

11-18-2008

BYLAWS
OF
ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.
As approved by a vote of the membership on Sunday, June 29, 2008

ARTICLE I
DEFINITIONS AND APPLICABILITY

Section 1.1 Definitions. Unless the context otherwise specifies or requires, the words and phrases used in these Bylaws shall have the same meaning as defined in Article I of the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Orchard River Garden Park Association, Inc., recorded Docket 10695, at pages 2727 through 2754 in the Office of the Pima County Recorder of Pima County, Arizona (hereinafter "Declaration") as may be amended from time to time. A MEMBER of the Association shall be defined as the Owner(s) of a fee interest of record in the office of the Pima County Recorder of a Unit located in Orchard River Garden Park.

Section 1.2 Applicable Property. The provisions of these Bylaws shall be applicable to the property known as Orchard River, Lot Numbers 1 through 138, all as recorded in Maps and Plats, Book 23 at Page 100 thereof as shown in the records of the Pima County Recorder, and shall include all improvements made or to be made thereon. The mere acquisition, lease or rental of any Dwelling Unit will signify that these Bylaws are accepted, ratified, and will be adhered to by such purchaser, renter, or lessee.

ARTICLE II
PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT

Section 2.1 Use of Common Area. Each Member shall be entitled to the use and enjoyment of the Common Areas as regulated by the Declaration and these Bylaws.

Section 2.2 Delegation of Use. Any Member may grant his/her rights of enjoyment of the Common Areas to the members of his/her immediate family who reside upon the properties or to any of his/her tenants who reside thereon, subject to any limitations as may be set forth in the Declaration and these Bylaws. The rights and privileges of such persons are subject to suspension to the same extent as those of the Member.

Section 2.3 Rules and Regulations. The Board of Directors may adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of any person thereon.

ARTICLE III
ADMINISTRATION

Section 3.1 Responsibility of Board of Directors. The Board, as the representative of the Association, has the responsibility of providing for the maintenance of the Common Areas and other designated facilities, approving the annual budget, establishing and collecting assessments, together with such other responsibilities as set forth in these Bylaws and the Declaration.

Section 3.2 Order of Business. The order of business at all regular annual meetings of the Association shall be as follows:

- A. Roll Call.
- B. Proof of Notice of Meeting or Waiver of Notice.
- C. Reading of the Minutes or Waiver of Notice.
- D. Report of Officers.
- E. Report of Committees.
- F. Election of Directors.
- G. Unfinished Business.
- H. New Business.

Section 3.3 Meeting Rules. The conduct of all Board meetings, Special Meetings, and Annual Meetings shall be governed by Robert's Rules of Order except when they conflict with the Articles, Bylaws, or Declarations.

ARTICLE IV ELECTION AND VACANCY OF DIRECTORS

Section 4.1 Voting on Directors. The Board of Directors shall be elected annually at the annual meeting of the Association. At such election, the Members entitled to vote may cast as many votes as they are entitled to exercise under the provisions of the Declaration. The person(s) receiving the largest number of votes shall be elected to the vacant Directorship or Directorships. Cumulative voting is not permitted.

Section 4.2 Nominating Committee.

A. The Nominating Committee shall be appointed by the Board of Directors, and shall consist of a chairperson and two (2) or more Members of the Association. No current Member of the Board shall be appointed to the Nominating Committee.

B. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of offices to be filled. Such nominations shall be made from among Members of the Association.

Section 4.3 Election of Directors. All elections to the Board of Directors shall be made on a written ballot which shall be prepared in advance and contain:

- A. A description of the Directorship to be filled;
- B. The names of those nominated by the Nominating Committee for such offices; and
- C. A space for a write-in vote for each office; and
- D. Date and time by which Board of Directors must receive ballot, if being submitted as absentee ballot, in order to be counted.

Ballots may be cast in person at the annual meeting or by absentee ballot pursuant to Section 10.2 of these Bylaws. The absentee ballot does not authorize another person to cast votes on behalf of the Member.

Section 4.4 Ballots. The ballots shall be mailed by the Secretary to the Members at the last address reported to the Secretary by each Member at least fifteen (15) days in advance of the annual meeting.

Section 4.5 Composition of Board of Directors. The Board of Directors shall be comprised of not less than three (3) not more than ten (10) Directors, each serving a two (2) year term. All Directors shall be members in good standing of the Association. Not more than five (5) Directors shall be elected at the annual meeting held in even numbered years and not more than five (5) Directors shall be elected at the Annual Meeting in odd-numbered years, to replace vacancies created by completion of terms of office, or resignations.

Section 4.6 Absence from Meetings. In the event any Member of the Board of Directors of the Association is absent from three (3) consecutive meetings of the Board or is not present at the Annual Meeting, the Board may, at its discretion and at the meeting during which a third consecutive absence occurs or at the time set for the Annual Meeting, declare the office of the absent Director to be vacant. Any vacancy shall be filled by a vote by the Board of Directors.

Section 4.7 Death or Resignation. In the event the office of a Member of the Board becomes vacant due to death or resignation, the vacancy on the Board may be filled with a person selected by a majority of the remaining Directors on the Board, even though there may be less than a quorum of the Board of Directors, and a person so elected shall be a Director for a term of office from the date of Board approval continuing until the next election of Directors by the Members.

Section 4.8 Removal of a Director by the Membership.

1. On receipt of a petition that calls for removal of a Member of the Board of Directors, and that is signed by the number of persons who are entitled to cast at least twenty-five percent (25%) of the votes in the Association or one hundred (100) votes in the Association, whichever is less, the Board shall call and provide written notice of a Special Meeting of the Association.

2. The Special Meeting shall be called, noticed in accordance with Section 9.3 and held within thirty (30) days after receipt of the petition.

3. For purposes of a Special Meeting called pursuant to this subsection, a quorum is present if the number of Members to whom at least twenty-five percent (25%) of the votes are allocated are present at the meeting in person or represented by absentee ballot.

ARTICLE V

POWERS, AUTHORITY AND DUTIES OF THE BOARD OF DIRECTORS

Section 5.1 Powers of the Board of Directors. The Board of Directors shall have all the powers of a board of Directors of an Arizona non-profit corporation, subject only to those limitations which are expressly set forth in the Association's Articles of Incorporation, these Bylaws, and the Declaration, and any acts which may be necessary or incidental to the exercise of any of the express powers of the Association. Without in any way limiting the generality of any of the foregoing provisions, the Board has the power and authority at any time to do any of the following:

A. To provide for the care, upkeep and supervision of the Common Areas and facilities as set forth in the Declaration.

B. To establish, assess, and collect fines, penalties and assessments.

C. To designate and dismiss personnel necessary for the maintenance and operation of the Common Areas.

D. To maintain insurance coverage as provided for in Article VI of the Declaration and, if appropriate, use the insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance.

E. To grant and convey to any person, easements, rights-of-way, parcels or strips of land in, over, or under any Common Areas for the purpose of constructing, erecting, operating, or maintaining thereon, therein, and thereunder (1) roads, streets, walks, driveways, and parking areas; (2) temporary overhead or permanent underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, cable television, and other purposes; subject, however, to the provisions in the Declaration; (3) sewers, storm drains and pipes; and (4) any similar public or quasi-public improvements or facilities.

F. To retain and pay for legal and accounting services necessary or proper in the operation of Common Areas and facilities, enforcement of these Bylaws, Rules and Regulations of the Association and the Declaration, or in any way related to any of the other duties or rights of the Board.

G. To maintain and repair any drainage and other easements, parking lots, or entry details, walls or other areas not maintained by governmental entities and as required in the Declaration.

H. To obtain or pay for, as the case may be, any other property or services which the Board of Directors deems necessary.

I. To enter at any reasonable time upon the exterior portion of any Dwelling Unit for the purpose of carrying out its duties and obligations as specified in the Declaration for exterior maintenance and landscaping.

J. To select and employ a property management company to collect and disburse funds of the Association under any such terms and conditions approved by the Board.

K. To require that all Officers and employees of the Association handling or responsible for Association funds shall be bonded. The premiums for such bonds shall be paid by the Association.

L. To call Special Meetings of the Association whenever it deems the same necessary or upon written request of ten percent (10%) of the voting Membership.

M. To appoint all Officers, agents, and employees of the Association, prescribe their duties, fix their compensation, and require of them such securities or fidelity bonds as it may deem expedient. A Director may not be compensated for providing any service to the Association.

N. To have the exclusive authority to designate from which accounts and to make payments out of the Association's funds for the benefit of each Owner; this authority shall include but shall not be limited to the following:

1. Utility services for the Common Areas and facilities.
2. All goods, materials, supplies, labor services, maintenance, repair, alteration, and insurance which the Board of Directors is authorized to obtain and pay for pursuant to these Bylaws and the Declaration.
3. Taxes, insurance coverage and other payments shall be made if required by the laws of the State of Arizona, or any other governmental body or authority having jurisdiction over the property.
4. Professional management services as provided herein, legal, accounting, and other services contracted for by the Board of Directors, if it is deemed necessary by them for the operation and maintenance of the Common Areas, protection of any of the Common Areas or to be in the best interests of the Members
5. Maintenance and repairs of the exterior of all Dwelling Units, exclusive of roofs, exterior glass doors, windows, and screens.
6. All costs of enforcing the provisions of these Bylaws and the Declaration, including attorney's fees and court costs, provided that all costs incurred for the enforcement of the provisions of these Bylaws and the Declaration against any Owner, shall be assessed against the Owner in violation thereof.
7. All premiums for liability insurance for the Common Areas in amounts established by the Board in compliance with the Declaration.
8. No Member of the Board of Directors shall be personally liable to any Member or his/her assigns for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Board, its representatives or employees provided that such Board Member has, upon the basis of such information as may be possessed by him/her, acted in good faith.

O. The power of the Association to enter into contracts or other financial obligations over Ten Thousand Dollars (\$10,000) shall be limited as follows. The Board may enter into contracts in excess of Ten Thousand Dollars (\$10,000) in order to obtain periodic services that are specified in the Annual Operating Budget and are customary or necessary for the maintenance of the Association or its property. The Board may enter into contracts in excess of Ten Thousand Dollars (\$10,000) in order to obtain services to maintain and/or make repairs and replacements to the property, which are a legal obligation of the Association, and may or may not be paid from the Capital Improvements/Reserve Fund. All other contracts in excess of Ten Thousand Dollars (\$10,000) for major physical or architectural improvements or cosmetic changes may be entered into only by the affirmative vote of a majority of the Members of the Association voting on that matter.

Section 5.2 Duties of the Board of Directors.

- A. To prepare the annual operating budget for the Association.
- B. To maintain a record of all actions taken by the Board and present a report thereof at the Annual Meeting of the Association.

- C. To supervise all Officers, agents, and employees of the Association.
- D. To establish annual maintenance assessments based upon an operating budget adopted by the Board and collect such assessments due from the Owners in a timely manner.
- E. To promulgate rules and regulations pertaining to the use and maintenance of the Common Areas as may be deemed proper and which are consistent with these Bylaws and the Declaration.
- F. To enforce the obligations of the Owners and to do everything necessary and proper for the sound management of the Association, including but not limited to bringing or defending lawsuits to enforce the Declaration, these Bylaws, the Articles of Incorporation and the Rules and Regulations of the Association.
- G. If appropriate after notice, to impose fines and penalties on an Owner for violations of the Declaration, these Bylaws, Rules and Regulations and Articles of Incorporation of the Association.
- H. The Board shall maintain an up-to-date roster of the Owners and tenants of Dwelling Units, and shall identify current and past due assessments, penalties and dues. As deemed necessary by the Treasurer, written notice may be sent to any Owner, detailing past-due assessments, penalties and dues.
- I. The Board of Directors shall distribute a newsletter to all Members of the Association at intervals not to exceed sixty (60) days. That newsletter shall contain all significant Board actions taken since the last newsletter, any changes in rules or policies, current account balances, notice of meetings, contact information for Board Members, and other such information as may be necessary and useful to residents and Owners.
- J. The Board of Directors shall mail or deliver to any new unit Owners the documents required pursuant to A.R.S. §33-1260 or as amended.
- K. The Board of Directors shall have a review of the governing documents conducted in even numbered years.

ARTICLE VI DIRECTORS' MEETING

Section 6.1 Regular Meetings. A regular meeting of the Board of Directors shall be held at least four (4) times a year. Additional meetings may be called by the President if desired or necessary to conduct the business of the Association.

Section 6.2 Special Meetings. Special meetings of the Board of Directors shall be held when called by the President, the Vice-President, or two (2) Directors, or upon written request of ten percent (10%) of the voting membership.

Section 6.3 Action Without a Meeting. The Directors have the right to take action without a meeting provided such action is necessary to protect health and safety. A diligent effort must be

taken to contact all Board Members and said action must be approved by the majority of the Directors. Any action so approved has the same affect as though taken at a meeting of the Board of Directors and must be confirmed and read into the minutes of the next regular meeting of the Board of Directors.

Section 6.4 Quorum. A majority of the Board of Directors constitutes a quorum.

Section 6.5 Open Meetings. Notwithstanding any provision in the Declaration, Bylaws or other documents to the contrary, all meetings of the Association and Board of Directors are open to all Members of the Association or any person designated by a Member in writing as the Member's representative and all Members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. Exceptions shall be made only in accordance with A.R.S. §33-1248 or as amended.

ARTICLE VII OFFICERS

Section 7.1 Officers. The Officers of the Association shall be the President, Vice-President, Secretary, and the Treasurer who shall be Members of the Association, and shall be elected from among the Members of the Board of Directors. The Officers of the Board of Directors shall be bonded.

Section 7.2 Election of Officers. The Officers shall be elected annually by a majority vote of the Board of Directors following the Annual Meeting of the Association. Each Officer shall hold office for two (2) years, unless he/she resigns, is removed, or is otherwise disqualified to serve the full term of office.

Section 7.3 President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; and sign all leases, mortgages, deeds, and all other written instruments. The President shall be an ex-officio Member of all standing committées except the Nominating Committee.

Section 7.4 Vice-President. The Vice-President shall perform all the duties of the President in his/her absence.

Section 7.5 Secretary. The Secretary shall record the votes at all meetings of the Members and the Board of Directors, and shall keep the minutes of all proceedings in a book to be kept for that purpose. He/she shall maintain the records of the Association and shall record, in a book kept for that purpose, the names of all the Members of the Association, together with their addresses as provided by such Members. He/she shall maintain a listing of all of the rules and policies of the Association and shall record them in a book kept for that purpose.

Section 7.6 Treasurer. The Treasurer shall receive and deposit in bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution by the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board of Directors. The Treasurer shall keep proper books of account and submit the Association books to the Audit Committee for the purpose of preparing the Annual Financial Statement.

Section 7.7 Signatures on Notes and Bank Accounts. Checks drawn on the Association's bank accounts must be signed by two (2) Directors of the Association, or by one (1) Director of the Association and the bookkeeper, or by one (1) Director of the Association and a representative of the management company, if one has been retained by the Association.

ARTICLE VIII COMMITTEES

Section 8.1 Standing Committees. The standing committees of the Association shall be:

- (a) The Budget Committee;
- (b) The Audit Committee;
- (c) The Architectural Committee;
- (d) The Maintenance Committee; and
- (e) The Landscape Committee.

Unless otherwise provided herein, each committee shall consist of a chair and two (2) or more Members appointed by the Board of Directors within thirty (30) days following each Annual Meeting to serve until their successors are appointed. The Board of Directors shall form such other committees as it deems desirable.

Section 8.2 Audit Committee. The Audit Committee shall make an annual review and audit of the Secretary's minutes and the Treasurer's books of accounts, and shall present a report to the Board of Directors, identifying any deficiencies, discrepancies and recommendations. The report shall be prepared and made available pursuant to A.R.S. §33-1243(J) or as amended.

Section 8.3 Budget Committee. The Budget Committee shall prepare a proposed income and expenditures budget for the succeeding year and present it to the Board of Directors on or before December 1st of each year. The submittal shall include a comparison of the proposed income and expenditures budget and actual, for the current year and for the immediate past two (2) years. The Committee shall also present an annual balance sheet statement to the Membership at the Annual Meeting.

Section 8.4 Architectural Committee. Plans and specifications detailing any proposed changes, remodeling, extensions, and renovations to the exterior of any Dwelling Unit, which would impact the external appearance of the property, shall be submitted to the Board of Directors for review.

A. Upon receipt of the required documents, the Board shall submit them to the Architectural Committee for review and recommendations. The Board shall review the Architectural Committee's recommendations, and advise the Owner of approval or disapproval. A majority vote of the Board will prevail.

B. If a response to the Owner is not forthcoming within thirty (30) days of his/her submittal to the Board, the proposal shall be considered to have been approved.

Section 8.5 Maintenance Committee. The Maintenance Committee shall periodically inspect for needed repairs and improvements and recommend appropriate action to the Board of

Directors. The Maintenance Committee shall inspect repairs and improvements performed and coordinate the proper completion of unsatisfactory work.

Section 8.6 Landscape Committee. The Landscape Committee shall supervise and coordinate the watering and maintenance of the plantings in the common areas performed by contract landscaping firms and volunteers.

ARTICLE IX MEETINGS OF MEMBERS

Section 9.1 Annual Meeting. The Annual Meeting of the Members shall be held in February of each year at a date and time established by the Board.

Section 9.2 Special Meeting. Special meetings of the Members for any purpose may be called at any time by either the President, the Vice-President, or by a majority of the Board of Directors, or upon written request of ten percent (10%) of the Members entitled to vote.

Section 9.3 Notice. Notice of the Annual or Special Meetings of the Association shall be mailed to the Members by the Secretary. Such notice shall include an agenda and ballots for the election of Directors and any other action requiring a vote of the Membership. Notice shall be addressed to the Member at his/her address as it appears on the records of the Association. Notice shall be deemed to have been given if deposited in the United States Mail first class postage prepaid. Notice of Regular Meetings shall be given by publishing the same in the Association's newsletter, by conspicuous posting or any other reasonable method not less than forty-eight (48) hours in advance of the meeting, and shall set forth in general the nature of the business to be transacted at the scheduled Regular Meeting.

Section 9.4 Quorum. For there to be a quorum present at any meeting, twenty-five percent (25%) of the Members entitled to vote, must be represented either in person or by absentee ballot. In the event a quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum shall be one-half (½) of the required quorum at the first meeting. No such subsequent meeting shall be held more than sixty (60) days following the original meeting.

ARTICLE X MEMBER VOTING

Section 10.1 Voting. At all meetings of Members, each Member may vote in person or by written absentee ballot returned to the Secretary by the designated date indicated on the ballot. The unit number must be included on either the ballot or the return envelope. The Owner or Owners of each unit shall be entitled to one (1) vote per unit as a Member of the Association.

Section 10.2 Absentee Ballots. At any action taken at an Annual, Regular or Special Meeting of the Members shall comply with all off the following:

- (1) The absentee ballot shall set forth each proposed action.
- (2) The absentee ballot shall provide an opportunity to vote for or against each action.
- (3) The absentee ballot shall be valid for only one specified election or meeting of the Members and shall expire automatically after the completion of the election or meeting.

- (4) The absentee ballot shall specify the time and date by which the ballot must be delivered to the Board of Directors in order to be counted; said date to be at least seven (7) days after the date that the Board delivers the unvoted absentee ballots to the Members.
- (5) The absentee ballot does not authorize another person to cast votes on behalf of the Member.

ARTICLE XI BOOKS AND PAPERS

Section 11.1 Books and Papers. The books, records, and papers of the Association shall be available for inspection by any Member in good standing at all times during reasonable business hours, upon 24 hours written notice to the Board of Directors. Copies of the Declaration, Articles of Incorporation, and these Bylaws are available at a reasonable cost.

ARTICLE XII AMENDMENTS

Section 12.1 Amendments. These Bylaws may be amended at any regular or special meeting of the Association at which a quorum is present by a vote of the majority of those present, provided that all amendments are consistent with the recorded Declaration and Articles of Incorporation of the Association.

Section 12.2 Conflicts in Documents. In the event of any conflict between the Declaration and these Bylaws, the Declaration shall control. In the event of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control.

ARTICLE XIII FISCAL YEAR

Section 13.1 Fiscal Year. The fiscal year of the Association shall be as determined by the Board of Directors.

END

IN WITNESS WHEREOF, Orchard River Garden Park Association, Inc., a non-profit Arizona corporation, has executed these By-Laws by the signature of its duly authorized officers this 20th day of October, 2008

ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.

BOARD MEMBERS

By: Larry J. Olson, Pres. Gary J. Olson
By: Louise K. Hutchinson Vice Pres. Louise K. Hutchinson
By: Jennifer W. Shaw Treas. JENNIFER W. SHAW
By: Miguel Cemacho Board Member Miguel Cemacho
By: _____
By: _____
By: _____

ATTESTED BY:

By: Sally Allison secretary Sally Allison
Secretary

These Amended By-Laws, supersede those By-Laws dated December 15, 1997, and those By-Laws dated October 8, 1992 and those dated August 25, 1972.

1-10000 2-10000

ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.

5701 East Glenn Street
Tucson, Arizona 85712

TO WHOM IT MAY CONCERN:

The Board of Directors of Orchard River Garden Park Association, Inc. hereby certifies that copies of the attached proposed Amended By-Laws and Declaration of Covenants, Conditions and Restrictions were delivered to all 136 owners of dwelling units at Orchard River Garden Park in May 2008 requesting their approval of the two documents to amend and supersede the Association By-Laws and Declarations of Covenants, Conditions and Restrictions, dated August 1997, recorded in Book 9418, Page 388, of the Pima County Recorder's Office, as amended from time to time.

The Board of Directors further certifies that it received and retains its records, available for inspection, the signatures of the proscribed number (51%) of 136 of owners of dwelling units approving the amending and superseding of the amended documents dated August 1, 1997

BOARD OF DIRECTORS
ORCHARD RIVER GARDEN PARK ASSOCIATION, INC.

By: Larry Johnson, President

Date: November 14, 2008

ATTEST:

Sally Adizon Secretary

Date: 11/14/2008