

AMENDED
DECLARATION OF ESTABLISHMENT OF CONDITIONS,
RESERVATIONS AND RESTRICTIONS FOR
RANCHO DEL CERRO SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, being the owners of all the following described premises, situate within the County of Pima, State of Arizona, to wit:

Lots 1 through 179 inclusive, excepting lots 5, 16, 17, 18, 28, 45, 48, 57 and 179, Rancho del Cerro Subdivision, according to the plat of record in the office of the County Recorder of Pima County, Arizona, in Book 25 of Maps and Plats at Page 37 thereof,

do hereby rescind and revoke that certain Declaration of Establishment of Conditions, Reservations and Restrictions for Rancho del Cerro subdivision dated the 13th day of September, 1973, recorded on the last day of September, 1973, in Docket 4600, Pages 19-24, as amended by Amendment to Restrictions dated the 12th day of February, 1974, recorded on the 13th day of February, 1974, in Docket Pages 162 & 163, in the records of the Pima County Records, and have established and do hereby establish a general plan for the improvement and development of said premises, and do hereby establish the provisions, conditions, restrictions and covenants upon which and subject to which all lots and portions of said lots shall be improved or sold and conveyed by the owner thereof; each and every one of said provisions, conditions, restrictions and covenants is and all are for the benefit of each owner of land in said subdivision, or any interest therein. And shall inure to and pass with each and every parcel of said subdivision and shall bind the respective successors in interest of the present owner thereof; said provisions, conditions, restrictions and covenants are and each thereof is imposed upon said lots, all of which are to be construed as restrictive covenants running with the title to said lots and with each and every parcel thereof, to wit:

1. Said lots, and each and every one thereof are for single family residential purposes only; no building or structure intended for or adapted to business purposes, and no apartment house, double house, lodging house, rooming house, hospital, sanatorium or doctor's office, or other multiple family dwelling shall be erected, placed, permitted or maintained on said property, or any part thereof.

2. No improvements or structure whatever other than a first class private dwelling house, patio walls, swimming pool and customary out building, garage, servant's quarters, guest house or horse facilities, where permitted, may be erected, placed or maintained on any lot in said property.

3. The native growth of said property shall not be permitted to be destroyed or removed except as approved in writing by the ARCHITECTURAL COMMITTEE as herein provided. In the

event such growth is removed, except as stated above, the ARCHITECTURAL COMMITTEE may require the replanting or replacement of same, the cost thereof to be borne by the lot owner.

4. No elevated tanks of any kind shall be erected, placed or permitted on any part of said property, provided that nothing herein shall prevent the ARCHITECTURAL COMMITTEE, or its assigns, from permitting the placing of tanks and other water system apparatus on said property for the use of the water utility serving said property. Any tanks for use in connections with any residence constructed on said property, including tanks for the storage of fuels, must be buried or walled sufficiently to conceal them from the view from neighboring lots, roads or streets. All clotheslines, garbage cans, equipment, coolers, wood piles or storage piles shall be walled in to conceal them from the view of neighboring lots, roads or streets. Plans for all enclosures of this nature must be approved by the ARCHITECTURAL COMMITTEE prior to construction. All plans for construction of patio walls must be approved by the ARCHITECTURAL COMMITTEE prior to construction. All cinder block walls or concrete block patio walls shall be painted or plastered.

5. (a) All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead. No exposed exterior radio transmission and/or receiving antennas shall be erected, placed on or maintained on any part of said property; ordinary television antennas shall not be included in such restrictions provided they do not extend above the roof of the house more than five feet.

(b) Where facilities for utility service have been installed to or near the property line of a particular lot for the purpose of providing service to that lot, the service connection to service an improvement on that lot shall be made and from the installed facilities only. The gas meter shall be placed near the improvement and concealed by the lot owner from view from streets or neighboring lots.

6. No lot shall be used whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

7. No billboards or advertising signs of any character shall be erected. Placed, permitted or maintained on any lot, or improvement thereon, of this subdivision except as herein expressly permitted. A name and address sign, the design of which shall be furnished to the lot on request by the ARCHITECTURAL COMMITTEE shall be permitted; no other sign of any kind or design shall be allowed.

8. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of said property, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products or minerals of any kind be produced or extracted therefrom.

9. The said first class private dwelling house erected upon any such lot shall be constructed of stucco, masonry, burnt adobe, slump block, clay brick or part redwood and other materials as

shall be approved in writing by the ARCHITECTURAL COMMITTEE, with either a gravel, shake, or mission tile roof; or such other materials-as are approved by the ARCHITECTURAL COMMITTEE. Minimum size of said first class dwelling shall be 1500 square feet, excluding carports and garages. Coolers and refrigeration units shall be maintained in good repair at all times. Rooftop coolers, or other equipment, were installed on residence prior to the date of this Amended Declaration are hereby exempted from this restriction; provided, however, that this restriction shall become applicable to said lots from and after such time as the use of rooftop coolers or other equipment, is discontinued thereon. Rental of any guest house is prohibited; the occupancy thereof being limited to the members of the owner's family, guests or servants. This shall not be construed as preventing the leasing or renting of an entire lot, together with the improvements thereon.

10. No residence placed or erected on said property shall be occupied in any manner while in the course of construction, or at any time prior to its being fully completed as herein required. No garage or other outbuilding shall be placed, erected, or maintained upon any part of said property except for use in connection with a residence already constructed or under construction at the time that such garage or other outbuilding is placed or erected upon the property. Nothing herein shall be construed to prevent the incorporation and construction of a garage as a part of such dwelling house,

11. Except as expressly provided herein, no animal or fowl may be kept on any lot without the written approval of the ARCHITECTURAL COMMITTEE. The decision of the ARCHITECTURAL COMMITTEE is final and binding upon all lot owners. The following number and types of domestic pets shall be allowed without the approval of the ARCHITECTURAL COMMITTEE: 3 dogs, 3 cats, 3 rabbits, 3 caged birds. Subject to Written approval being first obtained from the ARCHITECTURAL COMMITTEE, no more than 2 horses may be kept on each of the following described lots only:

Lots 6, 12, 21, 22, 35, 36, 37, 45, 46, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 63, 65, 67, 68, 69, 70, 71, 75, 95, 96, 97, 98, 99, 101, 102, 103, 138 through 165, inclusive, 167 through 178, inclusive; provided that such horses shall be kept pursuant to rules and regulations promulgated by the ARCHITECTURAL COMMITTEE.

12. No single family private dwelling house placed or erected upon any lot shall be occupied in any manner while in the course of construction, nor at any time prior to it being fully completed, as herein required; nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein and all other conditions and restrictions herein set forth; all construction shall be completed within six (6) months from the start thereof.

13. All plans for the construction of private roads and all building plans for any building, fence, corral, wall or structure to be erected upon any lot, and the proposed location thereof, upon any lot, and any changes after approval thereof, any remodeling, reconstruction, alteration or addition to any building, road, driveway, or other structure, upon any lot in said property shall require the approval in writing of the ARCHITECTURAL COMMITTEE, or its assigns, or its agent or architect. Two complete sets of road or driveway plans, showing the locations, course, and width of same or two complete sets of building plans and specifications for the building, fence, wall coping or other structure, as is applicable, so desired to be erected, constructed or modified shall be

submitted to the ARCHITECTURAL COMMITTEE. No structure of any kind, the plans, elevations and specifications of which have not received the written approval of said ARCHITECTURAL COMMITTEE, his heirs, or assigns, or his agent or architect, and which does not comply fully with such approved plans and specifications, shall be erected, constructed, placed or maintained upon any lot. Approval of such plans and specifications shall be evidenced by written endorsement on said plans and specifications, a copy of which shall be delivered to the owner or owners of the lot upon which said prospective building, road, driveway or other structure is contemplated prior to the beginning of said construction. No changes or deviations in or from said plans and specifications as approved shall be made without the prior written consent of the ARCHITECTURAL COMMITTEE. The ARCHITECTURAL COMMITTEE, his heirs, or assigns, his agent or architect shall not be responsible for any structural defects in said plans and specifications.

14. Nothing herein shall be construed to prevent Pima-Cochise Properties, Inc., its successors or assigns, from erecting, placing or maintaining signs, structures and office buildings as may be deemed necessary by it for the operation of the subdivision.

15. Drainageways shall conform to the requirements of all lawful public authorities, including the County Engineer of Pima County, State of Arizona, to the full extent of the authority given him by law.

16. No commercial vehicles, construction or like equipment or mobile or stationary trailers of any kind shall be permitted on any lot of the subdivision unless first approved by the ARCHITECTURAL COMMITTEE.

17. No lot subject hereof shall be resubdivided.

18. The ARCHITECTURAL COMMITTEE shall consist of 3 members appointed to serve by Pima-Cochise Properties, Inc. The term of said appointment shall be for periods of two years. Rules for ARCHITECTURAL COMMITTEE proceedings shall be promulgated by Pima-Cochise Properties, Inc.

The ARCHITECTURAL COMMITTEE may, with good cause being shown, waive any particular provision of restrictive covenants 3 through 17, 19, and 20 as to a particular lot. The ARCHITECTURAL COMMITTEE may waive a provision only after careful deliberations. The opinions of nearby residents in the subdivision are to be considered in its deliberation. However, the decision of the ARCHITECTURAL COMMITTEE is final and no waiver of a particular provision for a particular lot shall be construed as a waiver for the entire subdivision.

The ARCHITECTURAL COMMITTEE named herein, its successors and assigns, shall have the right to grant and convey all its rights to enforce these deed restrictions to a Community Association, a nonprofit corporation, at such time as in the sole judgment of the said ARCHITECTURAL COMMITTEE the said Community is ready to undertake the obligation of enforcing these deed restrictions. Upon such conveyance and grant, the Community Association shall have and shall succeed to all rights and duties with the same powers as if the Association had been named as ARCHITECTURAL COMMITTEE initially.

19. A dedicated easement and right-of-way in perpetuity is hereby reserved for the benefit of all lots herein for the erection, construction maintenance and operation of systems for the transmission of electrical energy and for telephone lines and telegraph lines, and for the laying and maintenance of pipes, mains and conduits for the furnishing of water, gas, sewer service or for other purposes, together with the right of entry for the purpose of installing, maintaining and reading of gas, electric and water service meters, providing that the placement of all such utilities on each lot shall be only on the approval of the owner.

20. Boat trailers, campers and similar camper trailers not to exceed 20 feet in length may be stored on the residence lot. Under no circumstances may these units be lived in during the period of storage. The length limitation may be waived provided that a storage shelter is incorporated into the house plan and approved by the ARCHITECTURAL COMMITTEE.

All of the aforesaid conditions and restrictions shall continue and remain in full force and effect at all times as against the owner of any lot in said property, however his title thereto may be acquired, until the commencement of the calendar year 2003, on which date the said conditions and restrictions shall terminate and end, and thereafter be of no further legal or equitable effect on said property or any owner thereof: provided, however, that said conditions and restrictions shall be automatically extended for a period of ten years, and thereafter in successive ten year periods, unless on or before the end of one of such extension periods or the base period the owners of a majority of the lots in said subdivision shall by written instrument, duly recorded, declare a termination of the same. Although the conditions, restrictions and covenants may expire as aforesaid, the result of any and all prior actions for breach of said restrictions shall be absolute,

PROVIDED, that as to each lot owner in said property the said provisions, conditions, and restrictions and covenants shall be covenants running with the land and the breach of any and all the continuance of any such breach may be enjoined or remedied by appropriate proceedings by the ARCHITECTURAL COMMITTEE or by any owner of another lot in said property, but by no other person.

PROVIDED, FURTHER, that should another lot owner or the ARCHITECTURAL COMMITTEE employ counsel to enforce any of the foregoing provisions, conditions, restrictions, or covenants, by reason of such breach, all costs incurred in enforcing these restrictions, including a reasonable fee for counsel, shall be paid by the owner of such lot or lots found to be in violation, and the Plaintiff in such action shall have a lien upon such lot or lots to secure payment of all such accounts.

PROVIDED, FURTHER, that the breach of any of the foregoing provisions, conditions, restrictions or covenants or any re-entry by reason of such breach. shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any lot or lots or portions of lots in said property but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any such mortgagee or trustee or owner thereof, whose title thereto or Whose grantor's title is or was acquired by foreclosure, trustee's sale or otherwise.

PROVIDED, FURTHER, that no delay or omission on the part of the ARCHITECTURAL COMMITTEE or owner of other lots in said property in exercising and rights, power or remedy herein provided in the event of any breach of the conditions, restrictions, covenants or reservations herein contained, shall be construed as a waiver thereof or acquiescence therein, and no right of action against the ARCHITECTURAL COMMITTEE for or on account of their failure to bring any action on account of any breach of said provisions, conditions, restrictions or covenants or for imposing restrictions herein which may be unenforceable by the said ARCHITECTURAL COMMITTEE.

PROVIDED, FURTHER, that in the event of any one or more of the conditions and restrictions herein before set forth and contained shall be declared for any reason, by a court of competent jurisdiction, to be null and void, such judgment or decree shall not nullify any of said conditions and restrictions not so declared to be void, but all of the remaining restrictions not so expressly held to be void shall continue unimpaired and in full force and effect, and

PROVIDED, FURTHER, that in the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event said terms shall be reduced to a period of time which shall not violate the rule against perpetuities as set forth in the laws of the State of Arizona.

PROVIDED, FURTHER, that said property shall be subject to any and all rights and privileges which the City of Tucson or the County of Pima, Arizona, may have acquired through dedication or the filing or recording of maps or plats of said property, as authorized by law, and provided further, that no conditions, Restrictions, or privileges or acts performed shall be in conflict with any County Zoning Ordinance or Law.