



Cimarron Foothills Homeowners Association



**Cimarron Foothills Homeowners
Association**

Conditions Reservations and Restrictions

Phase 1

DECLARATION OF ESTABLISHMENT OF CONDITIONS



Cimarron Foothills Homeowners Association

RESERVATIONS AND RESTRICTIONS FOR CIMARRON FOOTHILLS ESTATES

KNOW ALL MEN BY THESE PRESENTS:

That STEWART TITLE & TRUST OF TUCSON, an Arizona corporation, as Trustee, under Trust No. 1095, being the owner of all of the following described property, situate within the County of Pima, State of Arizona, to-wit:

Lots 1 to 97, inclusive, Cimarron Foothills Estates, a subdivision of Pima County, Arizona, 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 43 thereof,

does hereby declare and establish a general plan for the improvement and development of said property and does 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 said Stewart Title & Trust of Tucson, as Trustee under Trust No. 1095, as owner thereof, each and everyone 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 any multiple dwelling, rental, business, professional, or so-called home occupation purposes shall be erected, placed, permitted or maintained on said property or any part thereof, and no such activities shall be permitted or conducted on said property or any part thereof; provided, however, that this paragraph shall not be construed as preventing the leasing or renting of an entire lot, together with the improvements thereon, for single-family residential purposes.

2. No improvement or structure whatever, other than a first class private dwelling house, patio walls, swimming pool and customary outbuildings, garage, carport, servants' quarters, or guest house 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 reversionary owner hereinafter named. In the event such growth is removed, except as stated above, the reversionary owner



Cimarron Foothills Homeowners Association

may require the replanting or replacement of same, the cost thereof to be borne by the lot owner.

4. No building, structure, wall hedge, outbuilding or appurtenance of any nature shall be located closer than thirty feet (30') from any lot or property line. This provision may be waived by the reversionary owner when in the sole discretion of the reversionary owner good cause for such waiver is shown.

5. The said first class private dwelling house erected upon any such lot shall have exterior walls constructed of stucco masonry or burnt adobe or clay brick or part redwood and other of such masonry, adobe or brick materials as shall be approved in writing by the reversionary owner. All roofs shall be finished with mission tile, shake, gravel or other such materials. No white or light colored roofs shall be permitted. All enclosures for patios or for concealment purposes shall consist of walls constructed of stucco masonry or burnt adobe or clay brick. All cinder block or concrete block walls for patios or other enclosures shall be finished with stucco, and in no event shall be allowed to remain without such surface treatment. No walls for patios, enclosures, landscaping or other such purposes shall exceed six (6') feet in height. All driveways and roads shall be surfaced with a minimum of two shot bituminous surface treatment to prevent dust, and so maintained. No evaporative cooler shall be placed, installed or maintained on the roof or wall of any building or structure unless concealed from view of adjoining lots and streets. The provisions of this paragraph may be waived by the reversionary owner when in the sole discretion of the reversionary owner good cause for such waiver is shown.

6. All plans for the construction of private roads and driveways and all building plans for any building, fence, wall or structure to be erected upon any lot, and the proposed location thereof on 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 reversionary owner, or its agent or architect. Before beginning the construction of any road, driveway, building, fence, wall or other structure whatsoever, or remodeling, reconstruction or altering such road, driveway building or other structure upon any lot, the person or persons desiring to erect, construct or modify the same shall submit to the reversionary owner, or its agent or architect as directed, two complete sets of road or driveway plans, showing the locations, course, width of same or two complete sets of building plans and specifications for the building, fence, wall or other structure, as is applicable, so desired to be erected, constructed or modified, and no structure of any kind, the plans, elevations and specifications of which have not received the written approval of said reversionary owner, or its 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



Cimarron Foothills Homeowners Association

which said prospective 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 reversionary owner. The reversionary owner, its agent or architect shall not be responsible for any structural or other defects in said plans or specifications or in any building or structure erected according to said plans and specifications.

7. 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 its 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; provided, that the reversionary owner may extend such time when in its opinion conditions warrant same. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, mobile home, house trailer or other temporary structure shall be placed or erected upon any lot unless approved by the reversionary owner. 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.

8. All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead; provided that this requirement may be waived by the reversionary owner, provided, however, that one such waiver shall not constitute a waiver as to other lots or lines. All electrical and other utility services for the improvements on each lot shall be taken from connection points designated by the reversionary owner.

9. No elevated tanks of any kind shall be erected, placed or permitted on any part or said property, provided that nothing herein shall prevent the reversionary owner from erecting, placing or 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 connection 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 air conditioning equipment, coolers, other mechanical equipment, clotheslines, wood piles, or storage piles shall be walled to conceal them from the view of neighboring lots or streets. Gas meters shall be located adjacent to the primary dwelling structure on each lot and shall be walled in or otherwise concealed from view of neighboring lots or streets. Garbage, trash and rubbish containers shall be walled in to conceal them from view and at all times shall remain concealed from view of adjoining lots or streets and shall not at any time be placed along street rights-of-way. Plans for construction of all enclosures and walls covered by this Declaration



Cimarron Foothills Homeowners Association

must be approved by the reversionary owner prior to construction.

10. Boats and boat trailers, camper trucks and trailers, motor homes, recreational vehicles, other similar vehicles and any other trailers and equipment shall not be placed upon any of said property unless stored within an enclosed garage or other enclosed structure approved by the reversionary owner.

11. No exposed or exterior radio transmission and/or receiving antenna shall be erected, placed on or maintained on any part of said property. Ordinary television antennas shall not be included in the meaning of this paragraph. However, such antennas shall not extend above the roof of the house more than five feet unless approved by the reversionary owner.

12. No horses shall be kept or stabled on any of said lots. No animals or poultry of any kind other than domesticated pets belonging to the household of the premises shall be kept or maintained on any part of the real property subject to this Declaration. In no event, however, are more than two dogs and/or cats more than ten weeks old permitted. All dogs shall at all times be kept and maintained within walled or otherwise enclosed areas; provided, however, that dogs may be outside such enclosed areas when accompanied by their owner and retained on a leash. The reversionary owner shall have the right to order the removal from any lot of any animals, birds or fowl which may be objectionable to any of the residents on adjacent property. The owner of said animals, birds or fowl must immediately remove the same from the premises upon receipt of notice from the reversionary owner.

13. No lot shall be used in 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.

14. 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 owner on request by the reversionary owner, shall be permitted; no other sign of any kind or design shall be allowed. The provisions of this paragraph may be waived by the reversionary owner only when in its discretion the same is necessary to promote the sale of property in and development of the sub-division area.

15. 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



Cimarron Foothills Homeowners Association

or extracted therefrom.

16. Bermuda grass, except that of a variety recognized to be pollen free and approved in writing by the reversionary owner, shall not be grown on any lot. All trees and other vegetation planted on any of said property shall be kept trimmed to a height which shall not materially interfere with the principal views from neighboring building sites (over such vegetation) of surrounding landscapes.

17. No unlicensed wheeled vehicles (except bicycles), including but not limited to motorcycles, motorbicycles or mini-bikes shall be placed or permitted upon any part of said property without the consent of the reversionary owner, which consent can be withdrawn at any time. No licensed vehicles shall be permitted on said property if such vehicles are a disturbance to adjacent property owners because of noise or method of operation. The reversionary owner shall have the right to order the removal from any lot of any vehicle which may be objectionable to the residents of adjacent property. The owner of said vehicle must immediately remove the same from the premises upon receipt of notice from the reversionary owner.

18. Each owner of a house shall at his expense install a post light and mail box, with the location, color, size, design, lettering, standards, brackets, name signs as specified by the reversionary owner.

19. Nothing herein shall be construed to prevent the reversionary owner from erecting, placing or maintaining signs, structures and offices and office buildings as may be deemed necessary by him for the operation or development of the subdivision.

20. 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.

21. No lot subject hereof shall be resubdivided except as approved by the reversionary owner.

22. The reversionary owner herein is Cimarron Properties Company, a general partnership, being the sole beneficiary of Stewart Title & Trust of Tucson, Trust No. 1095, or its successors or assigns; provided, however, the term "successors or assigns" of the reversionary owner as used in this Declaration shall not be deemed to mean individual lot owners who have purchased individual lots or an interest therein or whose predecessors in interest have purchased individual lots or an interest therein from the owner, Stewart Title & Trust of Tucson, an Arizona corporation, as Trustee under Trust No. 1095, its successors or assigns. The duly appointed representative and agent of the reversionary owner for all of the purposes of this Declaration is William G. Pickens or such other representative and agent as may be appointed by the reversionary owner.

23. The reversionary owner shall have the right to grant and



Cimarron Foothills Homeowners Association

convey all its rights to enforce this Declaration to the Cimarron Foothills Community Association, a non-profit corporation, at such time as in the sole judgment of the said reversionary owner the said Community Association is ready to undertake the obligation of enforcing this Declaration. Upon such conveyance and grant, the Cimarron Foothills Community Association shall have and shall succeed to all rights and duties with the same powers as if the Association had been named as reversionary owner initially.

24. The reversionary owner and every person or entity who is the owner of the fee or of the equitable title in a lot or living unit, or who has purchased a lot or living unit under a contract pursuant to the provisions of any recorded instrument shall be a member of the Cimarron Foothills Community Association. For the purpose of determining membership, such ownership will be deemed to have vested upon delivery of a duly executed deed or contract to the grantee or vendee. The legal title retained by a vendor selling under a contract shall not qualify such vendor for membership. Foreclosure or forfeiture of a contract or repossession for any reason of a lot or unit sold under contract shall terminate the vendee's membership, whereupon all rights to such membership shall revert to the vendor.

25. After each lot has been sold by the owner, it shall be assessed in the amount of \$100.00 per calendar year to provide for security patrol within the subdivision, and such other uses as are approved by the Cimarron Foothills Community Association. This assessment shall be a lien against the particular lot, accruing as of the first day of each calendar year, provided that as to the assessment for the initial part of a calendar year the assessment shall accrue as of the date of the purchase of the lot. Such assessment shall be paid by the record owner of the lot by depositing the same with Stewart Title & Trust of Tucson, as Trustee for Cimarron Foothills Community Association, or in such other manner as the reversionary owner shall advise the lot owner in writing. The funds collected by reason of such assessments shall be made available to Cimarron Foothills Community Association for the purposes for which such assessments were levied. Payment in advance shall be made on January 1 of each year provided a pro-rated payment for the year in which the lot is purchased from the owner shall be made on the date of the initial purchase of each lot. This lien right is exercisable by the reversionary owner named herein in the event such assessment is unpaid and the reversionary owner shall have the right to foreclose such lien in the same manner as mechanics' and materialmen's liens are foreclosed as provided in Arizona Revised Statutes, Title 33, Chapter 7, Article 6, as the same may be amended from time to time or in any other manner permitted by law. The lien thus created shall be subordinate to mortgages, deeds of trust and contracts for the sale of real estate on said lot which are made in good faith for value. The amount of the annual assessment shall not be raised above \$100.00 per year without the consent of the owners of fifty-one percent (51%) of the lots in the subdivision. Lot owners with delinquent assessments shall not be entitled to vote.

26. 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



Cimarron Foothills Homeowners Association

of electrical energy and for telephone lines and telegraph lines, and for the laying and maintenance of pipes, mains and conducts 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 location of such easement and right of way and the placement of all such utilities on each lot shall be only on the approval of the reversionary owner.



Cimarron Foothills Homeowners Association

27. Anything in this Declaration to the contrary notwithstanding, the owner, or its successors or assigns, shall have the right from time to time to amend or make any changes in this Declaration which the owner, or its successors or assigns may deem beneficial to the owners or a majority of all of the then owners' interests in the lots in said subdivision. Any such amendment shall be made by an instrument executed by the owner with like formalities as this Declaration specifically stating the portions of this Declaration being amended. This right shall continue as long as the owner owns any of the lots which constitutes the property to which this Declaration applies; provided that when all of the real property described in those certain deeds recorded in the office of the County Recorder of Pima County, Arizona on June 8, 1971, in Docket Book 4012 at Page 783 thereof and on June 6, 1972, in Docket Book 4266 at Page 722 thereof, has been subdivided (except that portion thereof, if any, subjected to a townhouse development and/or a horizontal property regime or is used for common or recreational areas) and ninety percent (90%) of said lots have been sold, then the right of the owner, its successors or assigns, to amend this Declaration shall terminate. Cimarron Foothills Community Association shall then succeed to all of the rights of the owner to amend this Declaration and thereafter this Declaration may be amended upon the affirmative vote for such an amendment of the owners of seventy-five percent (75%) of all of the lots constituting the subject property. Any amendment so made shall specifically state (a) the portions of this Declaration being amended, (b) the amendment thereto, and (c) that all owners of lots in the subject property have been given not less than ten (10) days written notice of the proposed amendments before the vote thereon. Any amendment by last said procedure shall be executed with the same formalities as this Declaration and shall be executed by the owners of not less than seventy-five percent (75%) of all lots constituting the subject property. The term "successors or assigns" of the owner as used in this Declaration shall not be deemed to mean individual lot owners who have purchased individual lots or an interest therein or whose predecessors in interest have purchased individual lots or an interest therein from Stewart Title ~ Trust of Tucson, an Arizona corporation, as Trustee under Trust No. 1095, its successors or assigns.



Cimarron Foothills Homeowners Association

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 or 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, whichever is applicable, the owners of a majority of the lots constituting the property to which this Declaration applies shall by written instrument duly recorded declare a termination of the same. Although the conditions, restrictions and covenants may expire as aforesaid, any and all reversions for breach of said conditions or restrictions committed or suffered prior to said expiration shall be absolute.

PROVIDED, that a breach of any of the provisions, conditions, restrictions, and covenants hereby established shall cause the real property upon which said breach occurs to revert to the reversionary owner, its Successors or assigns and the reversionary owner, its successors and assigns shall have the right of immediate re-entry upon such real property in the event of any such breach, and as to each lot owner in said property the said provisions, conditions, restrictions and covenants shall be covenants running with the land and the breach of any thereof or the continuance of any such breach may be enjoined or remedied by appropriate proceedings by the reversionary owner, its successors or assigns or by any owner of another lot in said property, but by no other person.

PROVIDED, FURTHER, that should the reversionary owner, its successors or assigns employ counsel to enforce any of the foregoing provisions, conditions, restrictions, or covenants, or re-entry by reason of such breach, all costs incurred in enforcing this Declaration, including a reasonable fee for counsel, shall be paid by the owner or owners of such lot or lots breaching any of the provisions of this Declaration, and the reversionary owner, its successors or assigns 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 or 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



Cimarron Foothills Homeowners Association

reversionary owner, its successors or assigns, or the owners of other lots in said property in exercising any 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 shall accrue nor shall any action be brought or maintained by any one whatsoever against the reversionary owner, its successors or assigns, for or on account of its 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 reversionary owner.

PROVIDED, FURTHER, that in the event any one or more of the conditions, restrictions, covenants and reservations hereinbefore set forth 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 term shall be reduced to a period of time which will not render the provisions hereof void and 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.

Docket No. 4597
Page 448

**AMENDMENT TO DECLARATION
OF ESTABLISHMENT OF CONDITIONS, RESERVATIONS AND
RESTRICTIONS
FOR CIMARRON FOOTHILLS ESTATES**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS:

A. The undersigned, STEWART TITLE & TRUST OF TUCSON, an Arizona corporation, as Trustee, under Trust No. 1095, as the then



Cimarron Foothills Homeowners Association

owner of all of the following described property, situate within the
County of Pima, State of Arizona, to-wit:



Cimarron Foothills Homeowners Association

Lots 1 to 97, inclusive, Cimarron Foothills Estates, a subdivision of Pima County, Arizona, according to the map of record in the office of the County Recorder of Pima County, Arizona, in Book 25 of Maps and Plats at Page 43 thereof,

did cause to be recorded in the office of the County Recorder of Pima County, Arizona, a Declaration of Establishment of Conditions, Reservations and Restrictions, hereinafter referred to as "said Declaration", pertaining to said real property, said Declaration being dated September 12, 1973, and recorded in said office on September 13, 1973 in Docket 4597 at Page 448,

B. Paragraph 27 of said Declaration provides in part as follows:

"Anything in this Declaration to the contrary notwithstanding, the owner, or its successors or assigns shall have the right from time to time to amend or make any changes in this Declaration which the owner, or its successors or assigns may deem beneficial to the owners of a majority of all of the then owners' interests in the lots in said subdivision. Any such amendment shall be made by an instrument executed by the owner with like formalities as this Declaration specifically stating the portions of this Declaration being amended. This right shall continue as long as the owner owns any of the lots which constitutes the property to which this Declaration applies; provided that when all of the real property described in those certain deeds recorded in the office of the County Recorder of Pima County, Arizona on June 8, 1971, in Docket Book 4012 at Page 783 thereof and on June 6, 1972, in Docket Book 4266 at Page 722 thereof has been subdivided (except that portion thereof, if any subjected to a townhouse development and/or a horizontal property regime or is used for common recreational areas) and ninety percent (90%) of said lots have been sold then the right of the owner its successors or assigns to amend this Declaration shall terminate. The term 'successors or assigns' of the owner as used in this Declaration shall not be deemed to mean individual lot owners who have purchased individual lots or an interest therein or whose predecessors in interest have purchased individual lots or an interest therein from Stewart Title & Trust of Tucson, an Arizona corporation, as Trustee under Trust No. 1095, its successors or assigns."

C. It is the desire of said owner to amend said Declaration as herein provided, and it is deemed by said owner that the amendments of said Declaration as herein provided are beneficial to the owners of a majority of all of the present owners' interests in the lots of said subdivision.

D. Said owner is presently the owner of several of the lots which constitute the property to which said Declaration applies and all of the property described in those certain deeds recorded in the office of the County Recorder of Pima County, Arizona, on June 8, 1971, in Docket Book 4012 at Page 783 thereof and on June 6, 1972, in Docket Book 4266 at Page 722 thereof has not been subdivided (exclusive of that portion thereof, if any, subjected to a townhouse development and/or a horizontal property regime or is used for common recreational areas).



Cimarron Foothills Homeowners Association

NOW, THEREFORE, said Declaration is hereby amended as follows:

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Paragraph 3 of said Declaration is hereby deleted and the following is substituted in its place and stead:

3a. The native growth of said property, including but not limited to cacti, mesquite and palo verde trees, shall not be, nor permitted to be, destroyed or removed from any of the lots in said property by any of the lot owners, except such native growth as it may be necessary to remove for the construction and maintenance of roads, driveways, detached single-family dwellings and necessary garages and other outbuildings related to said residence and walled-in service yards and patios, unless written permission is first obtained from the reversionary owner. In the event such growth is removed or destroyed without such approval, reversionary owner may require the replanting or replacement of same, the cost thereof to be borne by the lot owner.

3b. All areas of cut and/or fill which result from grading or related site work on any lot subject to this Declaration shall be landscaped or improved by the lot owner, as herein set forth. The site plan to be submitted by a lot owner in connection with the proposed construction of a residence or other structure, prior to such construction, shall show in detail the areas of cut and/or fill on such lot and shall specify the degree of slopes and planned landscaping treatments or other required improvements for these areas. No lot shall have a cut or fill which covers a vertical distance of more than twelve (12) feet.

All areas of cut and/or fill having a slope not steeper than two to one shall be covered with not less than six (6) inches of topsoil equal or better in quality to the surrounding topsoil. These areas shall then be replanted with vegetation which upon maturity shall have a density of at least that existing in the natural landscape of surrounding areas. All areas of cut and/or fill having a slope steeper than two to one and not steeper than one to one shall be resurfaced with native stones ('rip-rap') that blend in with or compliment the natural setting and may be replanted in locations terraced for that purpose. All areas of cut and/or fill having a slope steeper than one to one shall be retained by masonry retaining walls constructed and colored to blend in with or compliment the natural setting.

A two to one slope is herein defined as a slope for which the horizontal distance is twice the corresponding change in vertical elevation. A one to one slope is herein defined as a slope [or which the horizontal distance is equal to the corresponding change in vertical elevation.

Masonry retaining walls shall be burnt adobe, clay brick, slump block or native stone, or may be stucco finish over concrete block, cinder block or poured concrete, as approved by the



Cimarron Foothills Homeowners Association

reversionary owner, it being understood that such masonry retaining wall shall be constructed of such materials as shall be satisfactory from an engineering standpoint to serve as a retaining wall giving due consideration to the height and other physical aspects of such retaining wall.

All landscaping of areas of cut and/or fill, including the planting and establishment of vegetation, the resurfacing of areas with stone, and the construction of retaining walls, shall be completed within one year following the completion of construction of the residence upon the lot and shall be continuously maintained thereafter by the lot owner.

II

A new paragraph, designated 21a is hereby added to said Declaration after paragraph 21 as follows:

"21a. The reversionary owner or its duly appointed agent for such purpose shall have the right to grant variances as to any of the provisions of this Declaration or to waive any such provision as such reversionary owner in its sole discretion shall determine upon good cause shown to such reversionary owner, and neither the reversionary owner nor such duly appointed agent shall have any liability to any lot owner or otherwise in granting such variance or waiver. Any such variance or waiver so granted shall be in writing and shall be made prior to the time that the subject matter set forth in the written variance or waiver is acted upon or implemented unless otherwise expressly stated in such written variance or waiver. Any such variance or waiver so granted as to any particular subject matter shall not constitute a similar or dissimilar variance or waiver as to any other matter affecting the same lot or any other lot, it being deemed that any such variance or waiver so granted shall be limited solely to the variance or waiver set forth in writing by the reversionary owner or such duly appointed agent.

III

As herein expressly amended said Declaration shall remain in full force and effect as therein provided.

Docket No. 5247
Page 375



Cimarron Foothills Homeowners Association

**SECOND AMENDMENT
TO
DECLARATION OF ESTABLISHMENT OF
CONDITIONS, RESERVATIONS AND RESTRICTIONS
FOR
CIMARRON FOOTHILLS ESTATES, LOTS 1 TO 97, INCLUSIVE**

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, STEWART TITLE & TRUST OF TUCSON, an Arizona corporation as Trustee under Trust No. 1095 (hereinafter referred to as the "Declarant") as the then owner of all of the following described property situate within the County of Pima, State of Arizona, to-wit:

Lots 1 to 97, inclusive, CIMARRON FOOTHILLS ESTATES, a subdivision of Pima County, Arizona, according to the map of record in the office of the County Recorder of Pima County, Arizona, in Book 25 of Maps and Plats at page 43 thereof,

did cause to be recorded in the office of the County Recorder of Pima County, Arizona, a Declaration of Establishment of Conditions, Reservations and Restrictions recorded in said office on September 13, 1973, in Docket 4597 at page 448 (hereinafter referred to as "said Declaration") and a First Amendment to said Declaration recorded in said office on April 13, 1976, in Docket 5247 at page 375;

That it is the desire of the Declarant to further amend said Declaration, as previously amended, in the manner hereinafter set forth; that the amendments hereinafter set forth are made pursuant to the provisions of paragraph 27 of said Declaration and, in accordance with such paragraph 27, the undersigned, as the "owner" under said Declaration, has not sold 90% or more of the lots into which the real property described in those certain deeds recorded in said office on June 8, 1971, in Docket 4012 at page 783, and June 6, 1972, in Docket 4266 at page 722, has been subdivided, that, pursuant to such paragraph 27 of said Declaration, the undersigned hereby deems that the amendments hereinafter set forth are beneficial to the owners of a majority of all of the present owners' interests in the lots in the subdivision to which said Declaration applies;

NOW, THEREFORE, anything in said Declaration, as previously amended, to the contrary notwithstanding, said Declaration, as previously amended, is hereby further amended as follows:

1. Paragraph 1 of said Declaration as hereby amended by adding at the end of the last sentence thereof two new sentences as follows:

"Each private dwelling house erected, placed or maintained on any lot within said property shall have attached or adjacent thereto a garage or carport of sufficient size for parking therein at least two full sized American automobiles. No



Cimarron Foothills Homeowners Association

evaporative cooler, air conditioning equipment, heating equipment, cooling or heating ducts or other equipment shall be placed, installed or maintained on the roof or wall of any building or structure erected, placed or maintained on any lot within said property without the prior written consent of the reversionary owner, and all such cooling and heating equipment located upon any such lot shall be concealed from view."

2. Paragraph 6 of said Declaration is hereby amended by adding at the end of the last sentence thereof, a new paragraph as follows:

"The reversionary owner or approving agent shall have the right to disapprove any building plans, specifications and plot plans submitted pursuant to this paragraph 6 if the reversionary owner or approving agent determines that the building, fence, wall or other structure which is the subject matter thereof, or remodeling, reconstruction, alteration or addition to any existing building, fence, wall or other structure will, by reason of the proposed location thereof on the lot and/or the proposed height thereof, obstruct or interfere with the views, either day or night, from other lots located within the subdivision; provided, however, that the foregoing shall not be the exclusive basis upon which the reversionary owner or approving agent may disapprove of any such building plans, specifications and plot plans, and the reversionary owner or approving agent shall have the right to disapprove of any such building plans, specifications and plot plans which are not otherwise in compliance with the provisions of this Declaration or which are not otherwise in harmony with the general building standards and guidelines adopted by the reversionary owner or approving agent from time to time.

No single family dwelling, garage, building or other structure constructed or placed upon any lot shall exceed fourteen feet in height, unless first approved in writing by the reversionary owner or approving agent. The preceding sentence shall not alter, modify or diminish the provision set forth above to the effect that the reversionary owner or approving agent shall have the right to disapprove of any building or other structure proposed to be built if the same will obstruct or interfere with the views from other lots within the subdivision."

3. Paragraph 25 of said Declaration is amended by deleting the last two sentences thereof and substituting the following therefor:

"The amount of the annual assessment shall not be raised above \$100.00 per year, except upon a majority vote therefore by the members of the Cimarron Foothills Community Association who are present in person or by proxy at a duly constituted and convened meeting of the members of such Association (which members will include owners of lots in other phases of Cimarron Foothills Estates). Lot owners with delinquent assessments shall not be entitled to vote at any meeting of the members of Cimarron Foothills Community Association."



Cimarron Foothills Homeowners Association

4. Paragraph 27 of said Declaration is deleted in its entirety and the following is substituted therefor:

"27. This Declaration may be amended only upon the consent thereto by not less than 75% of the then members of the Cimarron Foothills Community Association (which members will include owners of lots in other phases of Cimarron Foothills Estates). Any such amendment shall specifically state: (a) the portions of this Declaration being amended, and (b) the amendment or amendments thereto. Any such amendment shall be executed with the same formalities as this Declaration; provided, however, that it shall not be necessary that a meeting of the members of the Cimarron Foothills Community Association be held and a formal vote taken at such meeting in order for this Declaration to be amended pursuant to the foregoing, so long as any such amendment is executed by not less than 75%, of the then members of the Cimarron Foothills Community Association."

5. Except as herein amended, the provisions of said Declaration, as previously amended, shall remain in full force and effect in accordance with the terms thereof.

Docket No. 6722
Page 143