

AMENDMENT TO DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA, an Arizona corporation, as Trustee, is the owner of all the lots located in BELL ROCK VISTA UNIT FOUR, according to the plat of record in the office of the County Recorder of Yavapai County, Arizona, in Book 14 of Maps, Page 59, and

WHEREAS, on April 14, 1970, Declaration of Restrictions affecting said subdivision were recorded in Book 595, Page 65 to 72 thereof, records of Yavapai County, Arizona; and

WHEREAS, it is now desirable and necessary to amend said Declaration of Restrictions;

NOW, THEREFORE, it is understood and agreed as follows:

- “2. No dwelling shall be erected upon any of the single family lots unless such dwelling contains at least 1000 square feet of enclosed living area floor space. The term “living area floor space” is exclusive of floor space in porches, pergolas, garages, carports and servants quarters. All buildings shall be constructed of brick, cement block or other substantial masonry construction, or insulated frame construction.”

That in all other respects, the covenants, stipulations and restrictions as contained in and set forth in the Declaration of Restrictions for said subdivision, are hereby reaffirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, TRANSAMERICA TITLE INSURANCE COMPANY OF ARIZONA, as Trustee, has caused its corporate name to be signed and its corporate seal to be affixed by the undersigned officer thereunto duly authorized this 20th day of April, 1970.

TRANSAMERICA TITLE INSURANCE COMPANY OF
ARIZONA, as Trustee

By *Merrill E. Lloyd*
Assistant Trust Officer

DECLARATION OF RESTRICTIONS
BELL ROCK VISTA UNIT FOUR
SEDONA, ARIZONA

KNOW ALL MEN BY THESE PRESENTS:

That Transamerica Title Insurance Company of Arizona, an Arizona corporation, as Trustee, being the owner of all the following described premises situated in the County of Yavapai, State of Arizona, to wit:

All of Lots One (1) through Three (3) and 4A, 51B, 52, 53, and 54, Bell Rock Vista Unit Four according to plat of record in the office of the County Recorder of Yavapai County, Arizona, in Book 14 of Maps, Page 59 thereof.

In desiring to establish the nature of the use and enjoyment thereof for the purposes of cooperative management among the grantees thereof, as to the lots thereon and the surrounding premises and areas and other buildings, does hereby declare said property subject to the following expressed terms and conditions and stipulations as in the use and enjoyment thereof.

This declaration hereby establishes the plan for the individual ownership of real property estates, consisting of a lot and the improvements, contained thereon, and the ownership by non-profit association comprised by all the owners of all these units of all the remaining property, both real and personal which is hereinafter defined and referred to as the "common element."

Said restrictions established and imposed the general plan for the improvement and development of said property described herein, and the adoption and establishment of covenants and conditions and restrictions upon said land, and upon any and all units constructed or to be constructed thereon, and upon the use, occupancy and enjoyment thereof. The reconveyance of any of the units or portion thereof shall be subject to the said covenants and conditions and restrictions.

Hereinafter "Association" shall mean and refer to Village of Oakcreek Corporation, its successors and assigns, units or parcels shall mean and refer to that certain real property described above. Members shall mean and refer to every owner who holds membership in the Association. Owner shall mean and refer to the record owner of equitable title of any said lot which is a part of the premises.

1. No building except a single family residential dwelling or storage building and carport for use in connection with such dwelling shall be erected, maintained or permitted on said lots or portions thereof.

2. No dwelling shall be erected upon any of the single family lots unless such dwelling contains at least 1,000 square feet of enclosed living area floor space. The term "living area floor space" is exclusive of floor space in porches, pergolas, garages, carports and servants quarters. All building shall be constructed of brick cement block or other substantial masonry construction, or insulated frame construction.

3. The front line of any building erected upon any lot shall not be closer than Twenty (20) feet to the front lot line; open porches or open carports shall not be closer than Fifteen (15) feet to front lot line; and the side walls of any building shall not be closer than Five (5) feet to the side lot line, and not closer than Ten (10) feet to the side lot line, if such lot line is adjacent to a street, except that any garage or carport detached from the dwelling may be erected to either side of lot if such garage or carport is located entirely within the rear one-half of said lot except no permanent structure shall be erected upon any easement. The carport and storage room attached to the walls of the dwelling may be placed no closer than Five (5) feet to an interior side lot line and not closer than Ten (10) feet to a side lot line adjacent to a street. In the event an owner acquired a portion of any adjoining lot or lots, the foregoing measurement shall be made from such owner's side property lines rather than from the side lot lines indicated on said recorded map or plat.

4. No house trailer, and no temporary or permanent building of any nature detached from the dwelling, shall be built, erected, placed or maintained on any lot; provided, however, that a detached garage or carport, limited in size to three car capacity, or a detached garage or carport with servant's quarters attached, may be erected upon any lot, but such servant's quarters shall be used only by servants who are employed in the dwelling erected upon the same lot where such servant's quarters are located. No garage, carport or servant's quarters shall be commenced or erected on any lot until construction of the dwelling, complying with these restrictions, shall have been commenced by a responsible contractor pursuant to a bona fide building contractor, and all buildings shall be of the same or similar type as that of the dwelling erected or being erected on the lot on which said buildings are located.

5. No hospital, sanitarium, or other place for the care or treatment of the sick, physically or mentally, nor any theater, saloon or other place of entertainment shall be erected or permitted upon any lot, and no business of any kind or character whatsoever shall be conducted from the building located on any lot or from any lot, without prior approval from the architectural committee.

6. No swine, cows, horses or other livestock, and no poultry shall be kept upon said lots.

7. No solid wall, fence or hedge shall be erected or maintained nearer to the front lot line than the walls of the dwelling erected on such lot, and in the case of any lots on which no residence has been erected, no solid wall, fence or hedge shall be constructed or maintained closer than Twenty (20) feet to the front lot line of any lot. No side or rear fence or hedge and no side or rear wall other than the wall of a building constructed on any of said lots, shall be more than Six (6) feet in height.

8. No prefabricated building or structure of any nature whatsoever, permanent or temporary, shall be moved or placed upon or assembled or otherwise maintained on any lot, without prior written authorization of Big Park Development Company's selected architectural committee, provided, however, that a temporary office, tool shed, saw shed, and lumber shed may be maintained upon any lot or lots by any building contractor for the purpose of erecting a building on any lot or lots but such temporary structures shall be removed at completion of construction of such building, and shall not interfere with business being conducted on any other lot.

9. All clothes lines, equipment, service yards, wood piles or storage piles shall be kept screened by adequate planting so as to conceal them from view of neighboring lots, streets, or park areas. All rubbish, trash or garbage shall be removed from the lots and shall not be allowed to accumulate thereon, and shall not be burned except by use of incinerator and only during the hours so specified by the Yavapai County Health Department.

10. Each residential unit shall be a separately designated and legally described freehold estate, consisting of a lot and the improvements thereon, and an undivided interest in the common elements of said tract and/or future tracts which said lot shall be a part.

A. That, in order to promote and maintain efficiency and cooperation for the full enjoyment of any by the grantees of the units on the above property, the Village of Oakcreek Corporation, a non-profit corporation, incorporated or to be incorporated under the laws of the State of Arizona, is established and created as follows:

B. Membership in the association, except for membership of the incorporators and the First Village Board shall be limited to record owners of equitable title of units planned or to be planned on the property described above. An owner of a unit shall automatically, upon becoming the owner, be a member of the association and shall remain a member of the association until such time as his ownership ceases, for any reason, at which time his membership in said association shall automatically cease.

- C. The initial Village Board, which will act as board of directors of the above non-profit corporation, will be effective as of the date of these presents, shall consist of the following three employees of Big Park Development Company, equitable owner and developer of the herein described premises: Irving A. Jennings, Jr., John A. Westman, and Jack Renn, who shall serve until 75% of these and all proposed units of the Village of Oakcreek have been sold, at which time such board shall thereupon cause an election to be held among the owners of such units, who shall elect a new Village Board. Thereafter, annual elections shall be held for the purpose of electing a Village Board, under such rules and regulations as shall be adopted by such Board, by fifty one (51) percent of the owners of such units. The Board members so elected shall serve for a term of one year, without pay. Big Park Development Company shall have the right to substitute or appoint new members to the initial Village Board from time to time in the event one or more of the herein named individuals shall become unable or unwilling to continue to serve in such capacity, or is no longer an employee of said company.
- D. For the purpose of election, each unit shall constitute one voting unit, it being understood that the owners of each unit shall be entitled to one vote among them, regardless of the number of grantees who may own such unit.
- E. A majority vote of the Board Members shall entitle said Board to carry out action on behalf of the owners of the units.

11. The “common elements” shall be defined as including, but not limited to land not otherwise specifically conveyed with individual units, community and commercial facilities, if any, swimming pools, pumps, trees, pavements, streets, pipes, wires, conduits, and other public utility lines. It is understood that in the ultimate development of the Village of Oakcreek there will be “common elements” presently unforeseen and the Association is automatically responsible for said unforeseen “common elements.”

12. No construction, including fences, hedges, walls, and alterations including but not limited to color thereof, shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials, location and approximate cost of same, shall have been submitted to and approved in writing as to conformity and harmony of external design and location with existing structures on the property by an architectural committee

selected by Big Park Development Company. The members of such committee shall not be entitled compensation for services performed pursuant to this paragraph. Such committee has at its discretion, the right to waive these restrictions only as to square feet, and building setbacks where in the sole opinion of the committee the overall developments will be benefited.

- duties:
13. The Village Board shall have the following rights, powers, and duties:
 - A. To levy monthly assessments, payable in advance, against each residential unit. Such assessments not to exceed Two (2) percent of the selling price of the lot, annually.
 - B. To use and expend the assessments collected to maintain care for and preserve the common elements, buildings, grounds, and improvements (other than privately owned buildings).
 - C. To pay taxes and assessments levied and assessed against real property and such equipment and tools, supplies, and other personal property, as are owned by the Association for the common benefit of all unit owners.
 - D. To pay for water, insurance, sewerage and utilities and expenses as shall be designated by the Board.
 - E. To enter into and upon the units when necessary, and at as little inconvenience to the owners of the units concerned as possible, in connection with the duties of the Board outlined herein.
 - F. To repair and replace facilities, machinery and equipment as is necessary and convenient, at the discretion of the Board.
 - G. To provide for the construction of additional recreational and other common facilities, from time to time, as in their discretion appears to be in the best interest of the owners and the project. Any such construction, improvements, or additions shall be authorized by a majority vote of the Village Board at a duly called meeting at which a quorum is present.
 - H. To insure, and keep insured, all common buildings and improvements on the property, and the owners thereof, against loss from fire or other casualty, and to purchase same and such other insurance as the Board may deem advisable. Such insurance may, at the discretion of the Board be taken in the name of the association for the benefit of all the unit owners, or in such other manner as the Board may deem advisable. In the event any of such insurance proceeds are insufficient to repay or replace loss or damage, to levy an additional assessment in proportionate amounts as to each unit to cover such deficiency.
 - I. To collect delinquent assessments by suit or otherwise, and to enjoin or seek damages from the owners of the units for

violation of the covenants herein contained on the part of the owners to be performed, or for the violation of the rules hereinafter referred to.

- J. To protect and defend the property from loss and damage by suit or otherwise.
- K. To employ and dismiss workmen, maids, janitors, gardeners, lawyers, accountants and others necessary to carry out the rights and powers herein granted and to purchase supplies and equipment to enter into contracts and generally to have the powers of a property manager in connection with the matters hereinbefore set forth, except that the Board nor any officer elected thereby, may not encumber or dispose of the interest of any owner except in order to satisfy a judgment against such owner for violation of the owner's covenants imposed by these restrictions.
- L. To make reasonable rules and to amend the same from time to time and such rules and amendments shall be binding upon the owners when the owners of a majority of the units have approved them in writing. A copy of such rules and all amendments shall be delivered to each unit.
- M. To create an assessment fund into which the Board shall place all sums collected by assessments or otherwise the assessment fund is to be used and expended for the purpose herein.
- N. To render the owners periodic statements of receipts and expenditures.
- O. To appoint officers and agents to carry out the business of the Board.
- P. To enter into or renew agreements with persons or firms to manage the common elements and carry out the rights and powers herein granted to the Board.

14. No radio, television or other electronic antenna shall be erected above the surface of the property described herein.

15. An initial assessment separate from monthly assessment is hereby levied against each residential unit covered by these restrictions in a sum equal to six (6) times the monthly assessment rate established by the Village Board for each residential unit. The said initial assessment paid by the record title holder of each residential unit on the above described property to the association when so requested in writing of said association provided, however, neither this initial assessment nor any other assessment thereafter made nor any lien established to assure collection thereof shall apply to the undersigned but shall apply only to purchases of said residential units and their successors. The initial six (6) month assessment is to be held intact by the Association and used only to

satisfy liens created by violation of the above covenants. Any other use of these funds must be approved by majority vote of the property owners.

16. No variety of *Cynodon dactylon* (commonly called Bermuda grass) shall be seeded or planted to said lots.

17. That for the purpose of enforcing these presents, the Association and its successors are hereby granted, a lien against the interest of any grantee of any unit, his heirs, executors, administrators or assigns, to secure the faithful performance of each and every term and condition set forth herein, and in the event of non-performance or default by any such grantee, the lien against the interest of such grantee in said unit may be foreclosed by the Association in the same manner as a realty mortgage and that any redemption thereafter shall nevertheless, be subject to the lien created as to other or future events or non-performance or default; provided, however, it is specifically understood and agreed that any lien herein created or which at any time accrues by virtue of the provisions hereof, and the terms hereof, shall at all times be subordinate and inferior to the lien and the terms and conditions of any bona fide mortgage in which a lending institution is the mortgagee, whether such mortgage be now in existence or be hereafter made and placed against all or any portion of the above described premises and herein created shall be secondary and subordinate to any such bona fide institutional mortgage lien regardless of the time such mortgage lien is placed of record.

18. That none of said units shall not be sold or leased, or underlet, and such sale, lease or under letting shall be void unless the purchaser, tenant or subtenant shall be first approved by the Association. Said Association shall be given notice in writing of any proposed sale, lease or sublease, and shall at once deliver written notice thereof to the owner of each unit located on any portion of the above described premises. Said Association shall have fifteen (15) days after receiving such notice to approve or disapprove the same, and within said fifteen (15) day period shall have the option to purchase, lease, or sublease the same, as the case may be, for and on behalf of the consenting owners propose to sell, lease or sublease, as the case may be. In the event the said Association shall neither approve nor disapprove the proposed sale, lease or sublease, within the said fifteen (15) day period, the same shall be deemed to be approved. The provisions of this paragraph numbered 19 shall not apply to or be enforceable by the Association or any person, partnership, association or corporation (a) with respect to a sale, transfer or conveyance of any parcel of the above described premises to any person, partnership, association or corporation pursuant to a judgment of foreclosure of a deed in lieu of foreclosure of a mortgage of record thereon, by an institutional lender, of (b) where a proposed sale, transfer, conveyance or lease to any person, partnership, association or corporation by an institutional lender which has acquired title to any parcel of the above described premises by virtue of foreclosure by it of a mortgage or record or deed in lieu of foreclosure upon such parcel has been disapproved by said

Association and said Association has failed during said fifteen (15) day period to purchase or lease the same, as the case may be, on the same terms and conditions under which said institutional lender proposes to sell, transfer, convey or lease the same.

19. The right of partition or to seek partition shall not be available to any person, partnership, association or corporation owning any interest of any kind in and to any portion of the above described premises.

That any and all prior restrictions on said property be, and the same are hereby ratified, approved and confirmed.

The foregoing restrictions and covenants run with the land unless the owners of a majority of the units of real property within said parcels of land by vote or other written consent change the said covenants in whole or in part, and if not so changed, shall be binding on all persons owning real property within any of said parcels until January 1, 1997, at which time said covenants shall be automatically extended for successive periods of ten (10) years each. Deed of conveyance of said property or any part thereof may contain the above restrictive covenants made in such restrictive covenants shall be valid and binding upon the respective grantees. Violation of any one or more of such covenants may be restrained by any court of competent jurisdiction and damages awarded against such violator, provided, however, that a violation of these restrictive covenants, or any one or more of them shall not affect the lien of any mortgage now of record, or which hereafter may be placed or recorded, upon said parcels or any part thereof.

Should any of these restrictive covenants be invalidated by law, regulation or court decree, such invalidity of any such restrictive covenants shall in no way effect the validity of the remainder of the restrictive covenants.

IN WITNESS WHEREOF, Transamerica Title Insurance Company, an Arizona corporation, as Trustee has hereunto caused its name to be signed, and the same to be attested by the signature of its duly authorized officer, this 13th day of April, 1970.

TRANSAMERICA TITLE INSURANCE CO.,
an Arizona corporation, as Trustee

By Merrill E. Lloyd
Trust Officer

STATE OF ARIZONA }
County of Maricopa } SS

On this 13th day of April, 1970, before me, the undersigned officer, personally appeared MERRILL E. LLOYD who acknowledged himself to be the Assistant Trust Officer of Transamerica Title Insurance Company, a corporation, and that he as such Trust Officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation as Trustee by himself.

Mary H. Ernst

Notary Public

My commission expires: May 4, 1972