

4657/20  
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MAIL RECORDED INSTRUMENT TO: COUNTRY ESCROW SERVICE #9016-T (3), 4733 E. Broadway, Tucson, Arizona 85711

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS FOR MOUNTAIN VISTA ESTATES

LOTS 1 thru 38

KNOW ALL MEN BY THESE PRESENTS:

That Country Escrow Service, an Arizona corporation, not in its individual corporate capacity, but only as Trustee under its Trust No. 9016-T ("Declarant") being the legal and equitable owner of that certain real property situate in Pima County, Arizona, described as:

Lots 1 thru 38 inclusive, of Mountain Vista Estates, a subdivision of Pima County, Arizona, according to the map or plat thereof, of record in the Office of the County Recorder of Pima County, Arizona, in Book 25 of Maps and Plats at Page 49 thereof,

does hereby establish a general plan for the improvement and development of said real property, and does hereby establish the provisions, conditions, covenants, restrictions and reservations upon which and subject to which all of said real property and the Lots into which it has been subdivided shall be improved or sold and conveyed by the owners thereof; each and every one of said provisions, covenants, conditions, restrictions and reservations is and all are for the benefit of each owner of real property in said subdivision or any interest therein and shall inure to and shall pass with each and every parcel of said subdivision and shall bind the respective successors in interest of Declarant; said provisions, covenants, conditions, restrictions and reservations are and each thereof is imposed upon said Lots, all of which are to be construed as restrictive covenants running with title to said Lots and with each and every parcel thereof, to-wit:

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"Covenants and restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin are deleted unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons."

1. Said Lots, and each and every one thereof shall be used for single-family residential dwelling purposes only; no building other than a single-family residential dwelling, which may include a private garage or carport, shall be erected, maintained or permitted on any Lot or any portion thereof, nor shall any such building be used or occupied except as a single-family dwelling.

2. No dwelling shall be constructed, erected, or placed upon any Lot or any portion thereof unless such dwelling contains not less than one thousand two hundred (1,200) square feet of enclosed living area floor space under roof, exclusive of any carport or garage. All buildings shall be constructed of brick, adobe or other substantial masonry construction, or of insulated frame construction.

3. No building or other structure or improvement of any type whatsoever, whether temporary or permanent in nature, or any addition thereto or alteration thereof, nor any mobile home, fence, wall, corral, stable, barn or any other structure shall be constructed, erected, placed or maintained on any Lot or any portion thereof unless and until plans and specifications showing the nature, kind, shape, height, location and floor plans thereof, and the materials of which the same is to be constructed, together with a statement of the approximate cost thereof have been submitted to and approved in writing by Declarant. In the event Declarant does not approve or disapprove of such plans and specifications in writing within thirty (30) days after receipt of such plans and specifications by Declarant, Declarant shall be deemed to have approved said plans and specifications but only as the same were presented to Declarant. In the event such plans and specifications are altered, modified or amended, any such

alteration, modification or amendment shall be submitted to Declarant for Declarant's approval in accordance with the provisions of the immediately preceding sentence.

4. No dwelling nor any portion thereof shall be constructed, erected, placed or maintained within thirty (30) feet or any Lot line.

5. All buildings and improvements of any type or nature whatsoever which are constructed, erected, placed or maintained on any Lot or any portion thereof shall be in strict compliance with all applicable provisions of the Pima County Zoning Code and the Pima County Building Code, as both of said codes may be in effect from time to time during the effective term hereof.

6. Easements for installation and maintenance of utilities and drainage facilities have been reserved as set forth on the recorded plat hereinabove referred to. Within all of such easements no structure or improvement, planting or other materials shall be constructed, erected, placed, maintained or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage in such drainage channels in said easements or which may obstruct, inhibit or retard the flow of water through drainage channels in such easements. Each owner of a Lot or any portion thereof shall continuously maintain all easement areas of each such Lot or portion thereof and all improvements which may be placed thereon except such improvements which may be placed thereon and be the responsibility of a body politic or a utility company.

7. No store, office or other place of business of any kind or nature whatsoever, and no hospital, sanitarium, or other institution or place for the care or treatment of the physically or mentally ill or handicapped, and no theater, saloon or other place of entertainment, whether public or private, shall be erected, constructed, placed, maintained or permitted upon any Lot or any portion thereof. No business or profession of any kind or nature whatsoever shall be conducted upon or from any Lot, any portion of any Lot or any building or improvement constructed, erected, placed, maintained or located on any Lot or any portion of any Lot.

8. No animals other than a reasonable number of domestic pets and up to four (4) horses or ponies shall be kept on any Lot. Swine, cows or other livestock, pigeons, chickens, ducks, turkeys, goats, bees and animals other than said domestic pets and horses or ponies shall not be kept, allowed or permitted on any portion of any Lot provided, however, that one (1) 4-H steer and/or a reasonable number of other 4-H animals may be kept and maintained on each Lot if the written consent of the Declarant is first had and obtained. All animals other than domestic pets which may be kept or maintained on any Lot or any portion of any Lot shall be kept in appropriate stalls, corrals or other enclosures, none of which shall be closer than fifty (50) feet from any Lot line.

9. No noxious, offensive or illegal activities shall be done, carried on or permitted upon any Lot nor shall anything be done on any Lot which is or which may become a nuisance or which affects the peace and tranquility of any owner or occupant of any Lot.

10. All clotheslines, equipment, garbage, refuse or other containers, wood-piles or storage piles kept or maintained

on any portion of any Lot shall at all times be screened and concealed from view from any other Lot or street by adequate plantings, fences or walls. All rubbish, refuse, trash or garbage shall be periodically removed from each Lot and shall not be allowed or permitted to accumulate thereon.

11. No billboards or advertising signs of any character whatsoever shall be erected, placed, permitted or maintained on any Lot or improvement thereon provided, however, that one (1) name and address sign of a design approved by Declarant shall be permitted on each Lot.

12. No derrick or other structure designed for use boring for oil or natural gas shall be erected, placed, permitted or maintained upon any Lot, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products or minerals of any kind be produced or extracted from or beneath any Lot.

13. The covenants, agreements, conditions, reservations and restrictions created and established herein for the benefit of said subdivision, and each Lot therein, may be waived, abandoned, terminated, amended, modified, altered or changed as to the whole of said subdivision or any portion thereof with the written consent of the owners of not less than sixty-seven percent (67%) of the Lots in the subdivision; and in case only a portion of said premises is intended to be affected, the written consent of the owners of not less than sixty-seven percent (67%) of the Lots in the portion to be affected shall also be secured. No such waiver, abandonment, termination, amendment, modification, alteration or change shall become effective until an instrument containing the required number of signatures shall be executed and recorded in the office of the County Recorder of Pima County, Arizona. Notwithstanding

anything to the contrary contained in this paragraph, so long as Declarant has any interest of any nature whatsoever in the real property, or any portion thereof affected by this instrument, Declarant's written consent to any waiver, abandonment, termination, modification, alteration or change shall be required.

14. All of the aforesaid covenants, agreements, conditions, reservations 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, through and including December 31, 2023, on which date the said covenants, agreements, conditions, reservations 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 covenants, agreements, conditions, reservations and restrictions shall be automatically extended for a period of ten years, and thereafter in successive ten year periods, unless on or before December 31, 2023, or the end of one of such extension periods of 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 covenants, agreements, conditions, restrictions and reservations may expire as aforesaid, any and all remedies for breach thereof committed or suffered prior to said expiration shall be absolute.

PROVIDED, that the provisions, covenants, agreements, conditions, reservations and restrictions hereby established shall be covenants running with the land and a breach of any thereof or the continuance of any such breach may be enjoined or remedied by appropriate proceedings by the Declarant or its assigns or successors in interest (herein collectively called the "owner of the reversionary rights") or by any owner of another Lot in said property, but by no other person.

PROVIDED, FURTHER, that should the owner of the reversionary rights employ counsel to enforce any of the foregoing covenants, agreements, conditions, reservations or restrictions or remedy any breach thereof, all costs incurred in enforcing these restrictions, including but not limited to a reasonable fee for counsel, shall be paid by the owner of such Lot or Lots, and the owner of such reversionary rights shall have a lien upon such Lot or Lots to secure payment of all such amounts.

PROVIDED, FURTHER, that the breach of any of the foregoing provisions, conditions, restrictions or covenants or any remedy sought by reason of such breach, shall not defeat or render invalid the lien of any contract for sale of real estate, 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 vendor, mortgagee or trustee or owner thereof, whose title thereto or whose grantor's title is or was acquired by foreclosure, forfeiture, trustee's sale or otherwise.

PROVIDED, FURTHER, that no delay or omission on the part of the owner of the reversionary rights 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 anyone whomsoever against the owner of the reversionary rights 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 owner of said reversionary rights.

PROVIDED, FURTHER, that in the event any one or more of the covenants, agreements, conditions, reservations and restrictions hereinbefore 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 in any manner whatsoever affect, modify, change, abrogate or nullify any of said covenants, agreements, conditions, reservations 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.

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 shall not violate the rule against perpetuities as set forth in the laws of the State of Arizona.

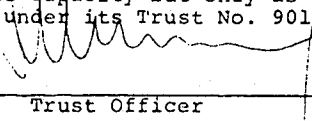


PROVIDED, FURTHER, that said property shall be subject to any and all rights and privileges which the City of Tucson or the County of Pima, Arizona, may have acquired through dedication or the filing or recording of maps or plats of said property, as authorized by law, and provided further, that no conditions,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

PROVIDED, FURTHER, whenever the content of any of the provisions herein shall require it, the singular shall include the plural and the plural shall include the singular. The use of the neuter gender is intended to include the masculine and the feminine; the use of the feminine gender is intended to include the masculine and neuter gender; the use of the masculine gender is intended to include the feminine and neuter gender. The term "person" as used herein shall include individuals, firms, legal entities or corporations.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed this 30<sup>th</sup> day of November, 1973.

COUNTRY ESCROW SERVICE, an Arizona corporation, not in its individual corporate capacity but only as Trustee under its Trust No. 9016-T,

By   
Trust Officer

UNION BANK, a corporation, hereby consents to the establishment, execution and recording of the foregoing Declaration of Covenants, Conditions, Restrictions and Reservations.

DATED this 5 day of December, 1973.

UNION BANK, a corporation

By [Signature]  
Title: Asst. Vice President

STATE OF ARIZONA )  
County of Pima ) ss.

The foregoing instrument was acknowledged before me this 30th day of November, 1973, by MORRIS MAC BENISCH, as Trust Officer of the Country Escrow Service, an Arizona corporation, on behalf of the corporation.

[Signature]  
Notary Public

My Commission Expires:  
7/18/77

STATE OF ARIZONA )  
County of Pima ) ss.

The foregoing instrument was acknowledged before me this 5 day of December, 1973, by Win Helbreck, as Assistant Vice President of Union Bank, a corporation, on behalf of the corporation.

[Signature]  
Notary Public

My Commission Expires:

September 11, 1976  
Commission

INDEXED	CHECKED	FILED

State of Arizona  
County of Pima  
I hereby certify that the within instru-  
ment is filed for record as requested  
at STEWART TITLE & TRUST of Tucson  
Date 11/29/73 AM 8 06  
Book 195-000

Witness my hand and official seal  
Notary Public  
By [Signature]



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