

JUL 28 1997 2pm  
95 H 2

H  
#307953VW

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
DEER RIDGE ESTATES HOMEOWNERS ASSOCIATION

This Declaration is made on this 23<sup>RD</sup> day of MAY, 1997, by Pioneer Title Agency, Inc., an Arizona Corporation, as Trustee under Trust No. 307953 (hereinafter referred to as "Declarant").

WITNESSETH:

1. Declarant is the Owner of the following described Property:

Lots 1 through 20 & Common Area "A" shown on the Plat of Deer Ridge Estates Subdivision located within a portion of 3 Canyons Ranch, Cochise County, Arizona as recorded in Book 14 of Maps and Plats, at Pages 4, 4a, 4b and 4c in the records of the Cochise County, Arizona Recorder.

2. The Deer Ridge Estates Subdivision is subject to the provisions of the Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for 3 Canyons Ranch (the "3 Canyons CC&Rs"), as recorded October 5, 1995 under Fee #951024838 in the records of the Cochise County, Arizona Recorder.

NOW THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions as stated below, all of which are for the purpose of setting forth the general scheme for development of the property, protecting the value and desirability of the Property, and this Declaration shall run with the land and shall be binding upon all persons having or acquiring any right, title or interest in the Property, or any portions thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I  
Definitions

Section 1. "Association" shall mean and refer to the Deer Ridge Estates Homeowners Association, an Arizona nonprofit corporation, its successors and assigns.

Section 2. "Common Area" shall mean and refer to the 11.69 acre area designated on the Plat as Common Area "A".

Section 3. "Common Elements" shall mean any improvement, including landscaping, located on, in, above or under a Common Area or Common Element Easement.

Section 4. "Common Element Easement" shall mean those easements as shown on said plat as "Private Ingress/Egress Easement". Said easements shall be maintained by the Homeowners Association.



FEE # 970718993  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE        HOUR  
7/28/97    2

1

REQUEST OF  
PIONEER TITLE AGENCY  
CHRISTINE RHODES-RECORDER  
FEE :        19.00        PAGES : 15

970718993

**Section 5.** "Declarant" shall mean Pioneer Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 307953, or its successor designated in a recorded writing.

**Section 6.** "Developer" shall mean Richard A. Pomroy & Rita C. Doyle, husband and wife, as Community Property with Right of Survivorship, Beneficiaries under Trust No. 307953, or any successor designated in writing by Declarant.

**Section 7.** "Development Period" shall terminate upon conveyance of the last Lot or Unit by Declarant to an Owner or such earlier date as Declarant shall state by written notice to the Association.

**Section 8.** "Lot" and "Unit" shall be synonymous and shall mean and refer to Lots numbered 1 through 20 inclusive, as shown on the recorded subdivision Plat, and any improvements thereon, including but not limited to a residence, driveway, patios, pools, approved sports courts and related walls.

**Section 9.** "Master Association" shall mean the 3 Canyons Ranch Master Homeowners Association.

**Section 10.** "Member" shall mean and refer to every person or entity who holds membership in the Association by virtue of being a record Owner of fee simple title to any portion of the Property.

**Section 11.** "Mortgage" shall mean any mortgage, deed of trust or other security instrument by which a dwelling Unit or any part thereof is encumbered, and the term "First Mortgagee" means the holder of any mortgage under which the interest of any Owner of a Unit is encumbered and which mortgage has first and paramount priority, subject only to the lien of general or ad valorem taxes and assessments.

**Section 12.** "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to Lots 1 through 20, inclusive, excluding those having an interest merely as security for the performance of an obligation.

**Section 13.** "Plat" shall mean the plat of Deer Ridge Estates, Lots 1 through 20 & Common Area "A", recorded in the office of the Cochise County, Arizona Recorder in Book 14 at Pages 4, 4a, 4b and 4c of Maps and Plats.

**Section 14.** "Property" or "Properties" shall mean and refer to that certain real property hereinabove described as:

Lots 1 through 20 & Common Area "A", as shown on the Plat of Deer Ridge Estates, a subdivision of Cochise County, Arizona as recorded in Book 14 of Maps and Plats, at Pages 4, 4a, 4b and 4c in the records of the Cochise County, Arizona Recorder.

**Section 15.** "Roadways" and "Streets" shall mean those private streets designated as streets of the Property as shown on the Plat and any improvement plans associated therewith.

**Section 16.** "3 Canyons CC&R's" shall mean the Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations

and Easements for 3 Canyons Ranch as recorded on October 5, 1995 at Fee # 951024838, and as may be amended from time to time, in the records of Cochise County, Arizona.

## ARTICLE II

### Deer Ridge Estates Homeowners Association

#### Section 1. Association

Declarant has or will establish the Deer Ridge Estates Homeowners Association as an Arizona non-profit corporation. The purpose of the Association will be to: (a) administer and enforce the provisions of these Covenants, Conditions and Restrictions, (b) own and maintain the Common Area, (c) maintain all private roads within the platted subdivision as well as those private roads external to the subdivision, not the responsibility of others, which are necessary for access.

The affairs of the Association will be conducted by the Developer or by the Deer Ridge Estates Homeowners Association, pursuant to the terms of this Declaration.

#### Section 2. Common Area Ownership and Maintenance

The Association shall be responsible for the ownership, maintenance and repair of the Common Area and any Common Elements associated therewith, as well as for the payment of ad valorem taxes related to the Common Area.

#### Section 3. Road Maintenance

The Association shall be responsible for the maintenance, repair and replacement of all roads within the subdivision, including all associated wash crossings, culverts, shoulders, private drainage easements, ditches, entry gates, etc. The Association shall also be responsible for the maintenance of the primary access road, Deer Ridge Trail, from its intersection with 3 Canyons Boulevard on the North to its entry at the northern boundary of the subdivision. In addition, the Association shall be responsible for the maintenance of the emergency access road, Bloomfield Road, to the East.

With regard to both access roads, the Association is specifically authorized and encouraged to seek the participation of other neighboring landowners within 3 Canyons Ranch, especially those with joint use of Deer Ridge Trail to the North and Bloomfield Road to the East, to help defray, in whole or in part, the expenses of road maintenance.

#### Section 4. Right of Inspection

Members of the Association shall have the right at reasonable times, by appointment, to inspect the books and records of the Association.

#### Section 5. Right of Notice

Each First Mortgagee shall, upon written request to the Association, be entitled to a written notification from the Association of any financial violation of these CC&Rs by the Owner of a Unit encumbered by the Mortgage in favor of such Mortgagee.

#### Section 6. Management and Service Contracts

Any agreement with the Association for professional management of the subdivision or any other contract providing for services of the Developer shall not exceed a period of three (3) years.

**Section 7. Insurance**

The Association may obtain personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting on behalf of the Association. Additionally, the Association may obtain insurance against such risks as it shall deem appropriate, including personal liability, accident, casualty or property damage insurance.

**Section 8. Liability**

No Member of the Board of Directors of the Association, no officer and no manager or employee of the Association shall be personally liable to any Member or Lot Owner or to any other person, or the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, Board of Directors or any Director. The limitations set forth in this section shall not apply to any person who has failed to act in good faith and/or has engaged in willful or intentional misconduct.

**ARTICLE III  
Membership and Voting**

**Section 1. Membership**

Every Owner of a Lot numbered 1 through 20 shall be a Member of the Association and such Membership shall be appurtenant to and inseparable from Ownership of any Lot.

**Section 2. Voting Rights**

The Association shall have two (2) classes of voting Membership:

**Class A:** Class A Members shall be all Owners of Lots with the exception of the Class B Member until termination of the Class B Membership and each Class A Member shall be entitled to one (1) vote for each Lot in which he holds the interest required for Membership. When more than one (1) person holds the interest required for Membership, all such persons shall be Members, but the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Until termination of the subdivision Development Period, Class A Members shall be entitled to vote only on the annual budget. Upon said termination full voting rights shall accrue to all Class A Members.

**Class B:** The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds a fee interest. The Class B Membership shall cease and be converted to Class A Membership on the occurrence of the first of the following events:

- a. Within ninety (90) days after the number of Class A votes exceeds the number of Class B votes, inclusive of all existing Memberships,
- b. Upon written notice of termination from Developer,
- c. Ten years from the date of recording of this Declaration.

**ARTICLE IV  
Property Rights**

**Section 1. Private Residential Use**

The Property shall be used solely for single family residential purposes, provided however, that Declarant and Developer shall have the right to erect and maintain such sales and construction models, signs, office areas and related facilities as they may deem appropriate for sales on the Property.

**Section 2. Sign Easement**

Any areas on the Property owned by Declarant may be designated by Declarant as a "sign easement" and shall be used for the purposes of erecting and maintaining such signs as Declarant shall determine and a valid easement for such purposes is hereby declared to exist for the benefit of Declarant and Developer during the Development Period.

**ARTICLE V**

**Covenant for Assessments**

**Section 1. Creation of the Lien and Personal Obligation of Assessments**

The owner of each Lot, by acceptance of a Deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, and (b) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, reasonable late fees as determined by the Board, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, late fees, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessments fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them. The Association shall have the right to record a lien against the Lot and/or Owner(s) for all delinquent costs.

**Section 2. Purpose of the Assessment**

The assessments levied by the Association shall be used exclusively to perform obligations of the Association or items reasonably related thereto. These obligations include, but are not necessarily limited to: (a) maintenance of subdivision roads, the Common Area and any Common Elements, (b) maintenance of private primary and emergency access roads serving the subdivision, excepting 3 Canyons Boulevard the maintenance of which is the responsibility of the 3 Canyons Master Association, (c) improvements and landscaping, if any, on Common Areas, Common Elements or easement Property serving the Association, (d) payment of property taxes assessed against the 11.69 acre Common Area (Common Area "A") and (e) payment of assessments due on behalf of subdivision Lots and Units to the 3 Canyons Master Association.

**Section 3. Computation of Assessment**

The Board shall, at least sixty (60) days before the beginning of each fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Membership, prepare a budget covering the estimated costs of operating the Association during the coming year and a reserve fund for deferred expenditures or deferred maintenance as the Board shall determine. The estimate of maintenance for roads and the Common Area shall be based on a reasonable analysis of comparative circumstances and/or experience during past years. Each Owner's assessment for property taxes to be paid on the Common Area shall be based on an equal, prorated share of the Common Area, i.e. each Owner's portion will be one-twentieth (1/20th) of the total annual property tax amount assessed for the Common Area.

A copy of the budget showing the amount of the assessment to be levied against Lots for the following year shall be delivered to each Owner at the annual meeting. The budget and any assessments shall become effective unless disapproved at the meeting by a vote of at least a majority of total Association votes. In the event the Membership disapproves the proposed budget or, if the Board fails, for any reason, to determine the budget for the

succeeding year, then, and until such time as the budget shall have been determined as provided herein, the budget in effect for the then current year increased by ten percent (10%) shall continue for the succeeding year.

Notwithstanding anything to the contrary stated herein, the provisions of this Declaration regarding payment of assessments shall not apply to any unoccupied Lot owned by the Declarant. As used herein, "unoccupied" shall mean a Lot which is not occupied as a residence. In consideration of the foregoing, the Declarant agrees that if, during its Class B Membership, the total assessments levied are insufficient to meet the operating expenses of the Association, Declarant shall pay the deficiency. After Declarant's Class B Membership ceases, the Declarant shall not be required to pay a deficiency nor shall unoccupied Lots owned by Declarant be subject to an assessment.

#### Section 4. Annual Assessment

Annual assessments will from time to time, be specifically determined and authorized by the Board of Directors, in accordance with Section 3, above. The Association is specifically authorized and encouraged to seek public and private funds to help defray, in whole or in part, the expenses for which assessments would be necessary. In particular, road maintenance agreements with neighboring landowners bordering Deer Ridge Trail on the North and Bloomfield Road on the East, will be utilized to defray the costs of maintaining private subdivision access roads which are used by others. To the extent received, such funds shall be used to reduce the assessments otherwise required by the annual budget.

#### Section 5. Special Assessments

In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, and/or non-periodic repair or replacement of a capital improvement, or other necessary expense incidental to the purposes of the Association as determined by the Board, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of all members who are voting in person or by proxy at a meeting duly called for this purpose.

#### Section 6. Notice and Quorum for Any Action Authorized under Section 5

Written notice for any such meeting shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of the membership shall constitute a quorum. If the required quorum is not present, a second meeting may be called subject to the same notice requirement. The required quorum at the subsequent meeting shall be thirty percent (30%) of all votes of the membership. The subsequent meeting shall not be held within sixty (60) days of the preceding meeting.

#### Section 7. One-Time Membership Fee

At the close of escrow of each initial purchase of a lot from the Declarant or the Developer, and for all subsequent resales of each lot, the buyer shall pay to the Association a one-time membership fee in the amount of one hundred dollars (\$100.00). This fee will be used to establish an operating fund and reserve account for the benefit of the Association. The one-time membership fee shall be payable in addition to the annual assessment amount as prescribed elsewhere in this declaration. Neither the Declarant nor the Developer will be required to pay the one-time membership fee.

**Section 8. Uniform Rate of Assessments**

Except as otherwise stated in this Article, both annual and special assessments must be fixed at a uniform rate for all Lots subject to assessment and may be collected on a monthly basis or prepaid on a semi-annual basis.

**Section 9. Date of Commencement of Monthly Assessment**

The assessments provided for herein shall commence as to each Lot on the first day of the month following the conveyance of a Lot.

**Section 10. Effect of Nonpayment of Assessments/Remedies of the Association**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum, as well as other reasonable late fees as determined by the Board. The Association may bring an action at law against the Owner personally obligated to pay any assessment or may foreclose the lien against the Owner's property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of or abandonment of his or her Lot.

**Section 11. Subordination of the Lien to Mortgages**

The lien of the assessments provided for herein, whether recorded or unrecorded, shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. 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 may hereafter be placed of record upon Lots or any part thereof.

**ARTICLE VI**

**Architectural Control**

**Section 1. Architectural Review Committee (ARC)**

Except for improvements and dwelling Units constructed by Declarant or Developer, no dwelling Unit, building, fence, wall or other exterior structure or improvement of any kind, including landscaping, shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition to or change or alteration of any improvement be made upon a Lot until the plans and specifications showing the nature, kind, shape, style, height, materials, color, and location of the same shall have been submitted to and approved in writing by the Architectural Review Committee. The Developer, or agent designated by the Developer, shall act as the initial Architectural Review Committee. The Architectural Review Committee may, at its sole discretion, hire the services of experts of its choice who need not be members of the Association. After (i) termination of the Development Period or (ii) resignation of the Developer as the Architectural Review Committee, the Board of Directors of the Association shall act as the Architectural Review Committee or may appoint an Architectural Review Committee composed of three or more representatives. The Architectural Review Committee shall have the exclusive right, exercisable in its sole discretion, to promulgate written guidelines, rules, regulations and restrictions concerning any construction, change or alteration to be made on or concerning any improvement, including landscaping, on Lots. The Architectural Review Committee shall have the right to amend such guidelines so promulgated, or waive any guidelines, provided that in no event shall any waiver be effective unless in writing and signed on behalf of the Architectural Review Committee by a person duly authorized to sign such waiver. Further, no such

waiver shall be deemed a waiver of the right to enforce these covenants and restrictions or the right to enforce any such rules, regulations or restrictions promulgated by the Architectural Review Committee in the future as to others.

**Section 2. Approval Process**

Any Owner or potential purchaser of a Lot may, prior to submitting any plans to the Architectural Review Committee for approval, request in writing of the Committee a copy of any current published rules or guidelines. Plans submitted to the Architectural Review Committee shall be submitted in duplicate. Application for approval of plans shall be accompanied by the payment of a fee if designated in published guidelines, for the purpose of defraying expenses of the Architectural Review Committee in connection with the review. In the event the Board or its designated Architectural Review Committee fails to approve or disapprove such plans within thirty (30) days after the plans have been submitted, it shall be presumed that the Board approves said plans and improvements may commence accordingly. Approval of plans and specifications for any Lot shall be in the sole discretion of the Architectural Review Committee.

**Section 3. Occupancy**

No dwelling Unit shall be occupied until construction has been completed pursuant to plans approved by the Architectural Review Committee and a certificate of occupancy has been issued by Cochise County. Owners shall have a maximum of twelve (12) months from the date of approval of plans by the Architectural Review Committee for completion of these improvements in accordance with the approved plans.

**Section 4. Completion of Construction**

All construction shall be completed within eight (8) months from the date of issuance of a building permit for an improvement on a Lot.

**Section 5. Nonconforming Architectural Improvements**

In the event that the architectural improvements do not, upon the proposed completion date set forth in the construction schedule, conform to the plans submitted to and approved by the Architectural Review Committee, the Architectural Review Committee shall give written notice to the Owner of the property upon which such architectural improvements have been made. Such notice shall specify the nature of the non-conformity of the improvements and shall grant the Owner a hearing before the Architectural Review Committee.

If Owner has not, within sixty (60) days of the mailing or delivery of the written notice, corrected the nonconformity of the architectural improvements, then the Architectural Review Committee shall have the right and an easement to direct its agents, employees or contractors to enter upon said Owner's property for the purpose of making any or all of such improvements, alterations or repairs as are necessary to bring the Owner's architectural improvements into conformity with the plans submitted to and approved by the Architectural Review Committee.

All costs incurred by the Association or the Architectural Review Committee in the course of the Architectural Review Committee's efforts to bring nonconforming architectural improvements into conformity with the approved plans, including costs of labor, materials and all associated administrative costs reasonably incurred by the Association or the Architectural Review Committee in connection therewith, shall be added to and become part of the Assessment to which such Owner's Lot is subject and shall become a lien on such Owner's Lot and the improvements thereon, and shall be enforceable and collected as provided for herein.



- See addendum  
9/11/98

**Section 6. Building Size and Specifications**

Each Lot and dwelling Unit to be constructed thereon shall be subject to restrictions as to size, height, location and placement of structures and fencing as set forth in the 3 Canyons CC&R's. Without limiting the provisions of the 3 Canyons CC&R's, applicable restrictions of this Association, enforceable by the Architectural Review Committee, which may be more restrictive than the 3 Canyons CC&R's, are as follows:

- a. Primary dwelling Units must have a minimum of 2,000 sq ft of living area, not including garages, patio areas or outbuildings.
- b. Only single-family, site-built, detached dwelling Units shall be permitted. Under no conditions shall mobile homes or manufactured homes be placed or constructed on the property.
- c. The maximum building height (from grade), using Cochise County's definition of building heights, shall be 26 feet.
- d. All buildings shall be limited to a maximum of one (1) story.
- e. Building setbacks, front, side and rear, shall be a minimum of one hundred (100) feet.
- f. Fencing and wall setbacks shall be in accordance with Cochise County building guidelines.
- g. Walls and fences shall be limited to a maximum height of six (6) feet. Fences constructed of corrugated metal, chain link, barbed wire or single wire are not permitted.

Notwithstanding the setback requirements prescribed herein, the Architectural Review Committee retains the authority to prescribe setback requirements as it may deem appropriate for a particular Lot and dwelling Unit, taking into consideration the particular characteristics of the configuration thereof.

**Section 7. Fees**

The Architectural Review Committee is authorized to require a fee equal to the actual cost of review for the expense associated with obtaining expert advice as necessary in connection with said review.

**Section 8. Color and Building Materials**

Without limiting the foregoing, no color changes or any changes in the original building structure, composition or products shall be permitted without the approval of the Architectural Review Committee. All exterior surfaces, when maintained, shall be painted with paint of the same finish, color and hue as the original paint utilized in painting the same, unless the use of another paint is authorized by the Architectural Review Committee, in accordance with the provisions hereof.

**Section 9. Liability**

The Architectural Review Committee and agents and experts employed by same shall not be liable in damages to anyone or to any Owner or Owners of Property subject to this Declaration by reason of mistaken judgment, negligence or nonfeasance of itself, its agents or employees arising out of or in connection with the approval or disapproval, or failure to approve such plans. Anyone submitting plans to the Architectural Review Committee and any person acquiring Ownership in any portion of the Property waives his claim for any such damages.

## **ARTICLE VII**

### **Maintenance**

#### **Section 1. Landscaping**

The general scheme of landscaping shall be native growth as provided in guidelines provided by the Architectural Review Committee. The guidelines provide a list of approved and prohibited plants.

The Association shall be responsible for the maintenance of any landscaping on Common Areas or Common Elements. Lot Owners shall provide and maintain all landscaping on their individual Lots. Native growth of the Property, including grasslands, cactus, mesquite and oak trees, shall not be destroyed or removed from any portion of the property except as provided in Article VIII and as may be necessary for permitted and approved improvements. Natural growth removed or destroyed without the approval of the Architectural Review Committee or where not necessary for the construction of approved improvements may require the replacement of same. Costs for replacement shall be added as an additional assessment to be paid by the responsible Owner, due and payable with the next assessment payment or as otherwise determined by the Architectural Review Committee.

Each Owner shall keep all shrubs, trees, hedges, grass and plantings of every kind located on his Lot neatly trimmed and presentable. All such areas shall be kept free of trash and other unsightly material. Paved and concrete areas, including driveways, walkways and parking areas shall be maintained in good condition and repair.

The Association has the right at any time to enter upon and maintain landscaping and natural growth on any Lot when the Board of Directors determines that such maintenance is required to maintain the Lot in a clean and attractive condition and that the Owner of such Lot has failed to perform such maintenance after written notice and demand from the Association. The costs of such action may be added to the assessment obligation upon determination by the Board of Directors.

#### **Section 2. Exterior Maintenance**

All maintenance and repair of dwelling Units and other improvements upon any Lot (to include any erosion protection installed by Developer on any Lot) shall be the responsibility of the Owner of such Lot, and shall be performed so as to maintain the improvements on each Lot in a manner which reflects a well maintained and attractive neighborhood. If any dwelling Unit or other improvement is destroyed or otherwise damaged by any cause, the Owner shall complete rebuilding or repair within six (6) months from the date of the damage. If any Owner fails to comply with the terms of this Section, the Association may, at its option, enter upon the Lot and perform such maintenance as it shall deem appropriate, and the actual cost of such maintenance shall be added to the Owner's current assessment.

#### **Section 3. Private Roads and Drainage Maintenance**

Maintenance and repair of private roads and private drainage facilities as installed originally by the Developer shall be the responsibility of the Association.

## **ARTICLE VIII**

### **Use Restrictions**

#### **Section 1. General Plan**

It is the intention of the Declarant to establish and impose a general plan for the improvement, development, use and occupancy of the Property, all thereof to enhance the

value, desirability and attractiveness of the Property and to serve to promote the sale thereof. The use of any Lot shall be subject to restrictions as set forth in the 3 Canyons C&R's, as further described, modified and/or clarified by the terms of this Article.

**Section 2. Single Family Use**

All Lots are hereby restricted to single family residential use and customary accessory improvements, including (1) patio and patio walls, (2) swimming pool, (3) recreation court, (4) one guest house no greater than 1,200 sq ft of heated and cooled living space located within 50 feet of the main residence, (5) one storage shed no greater than 600 feet located within 50 feet of the main residence and (6) one barn/stable no greater than 1,000 sq ft, and such other related improvements as the Architectural Review Committee may deem appropriate.

Garages must be built of the same material as the residence and attached as a part thereof. All other buildings, to include guest houses and stables, will be constructed so as to complement the architectural design, color scheme, and exterior character of the residence.

All buildings or structures erected upon said premises shall be of new construction, no buildings or other structures shall be moved from other locations onto said premises and no subsequent buildings or structures other than single family residential Units shall be built on any Lot where the Developer programmed for or constructed a dwelling Unit. No structures of temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding or storage shed, shall be placed on any portion of the premises at any time as a residence or for any other purpose, either temporarily or permanently, except with the prior written consent of the Architectural Review Committee. No structure of a temporary nature, to include mobile homes or prefabricated residences, shall be placed on the premises or used for living purposes during construction.

*see  
adment ment  
9-11-98*  
*- see  
adment ment  
9-11-98*

**Section 3. Rights of Declarant**

Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant, Developer or any builder designated by Developer and taking title to a Lot for the purpose of resale, to maintain such signs, construction equipment and sales facilities on the Property as may be reasonably required, in the sole opinion of the Developer, for the sale of Lots or homes, including without limitation, a business office, storage area, construction yard, signs, model homes and sales offices. Developer and Declarant shall have the right to assign these rights to any successor or assign.

**Section 4. Animals and Livestock**

No animals, livestock, poultry or poisonous reptiles of any kind shall be raised, bred or kept on any Lot, with the following exceptions:

a. Dogs, cats or other domestic household pets in reasonable numbers as determined by the Board of Directors of the Association

b. A maximum of three (3) horses - see adment ment 9-11-98

In no event shall domestic pets or horses be allowed to create an unreasonable annoyance or nuisance to others. Under no conditions will animals be kept, bred or maintained for any commercial purposes.

**Section 5. No Hazardous Activity**

No activities shall be conducted on any Lot which are or might be unsafe or hazardous to any person or property. Without limiting the general application of the foregoing, no firearms shall be discharged and no open fires shall be lighted or permitted except in a contained barbecue unit or firepit.

**Section 6. No Noxious or Offensive Activities**

No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done or placed on any Lot which is or may become a nuisance or cause disturbance to others.

**Section 7. No Annoying Light, Sounds or Odors**

No light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare. No sound shall be emitted on any Lot which is unreasonably loud or annoying. No odor shall be emitted on any Lot which is noxious or offensive to others. No exterior speakers, horns, whistles, firecrackers, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, placed or used on any Lot so as to create a nuisance.

**Section 8. Rubbish, Trash and Debris**

No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot. All rubbish, trash or garbage shall be regularly removed. In no event shall trash or trash containers be maintained so as to be visible from the street or from any other Lot except to make such available for pick up. No incinerators shall be kept on any Lot or parcel.

**Section 9. Signage**

No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on a Lot (except as stated in Section 3, above), nor shall the property be used in any way or for any purpose which may endanger the health or safety or unreasonably disturb the Owner of any Unit or any resident thereof. The foregoing covenants, however, shall not apply to the business activities, signs, and billboards, or the construction and maintenance of buildings, if any, of the Declarant, Developer, its agents or assigns, during the construction and sale period, and signs required by legal proceedings under Section 10. For purposes of resale, one sign per Lot is expressly permitted, the style and size of which must be approved by the Architectural Review Committee. No other sign of any kind or design shall be allowed without prior written approval by the Architectural Review Committee.

**Section 10. Mineral Exploration**

No Lot or any portion thereof shall be used in any manner to explore for or remove oil or other hydrocarbons, minerals of any kind or any earth substance of any kind.

**Section 11. Roof Mounted Equipment**

No apparatus, including evaporative coolers, heating and cooling units, etc. (except for customary vents and chimneys), shall be placed on the roof of any dwelling Unit unless screened from view by a wall, parapet or other screen which shall not exceed four (4) feet in height.

**Section 12. Radio, Television and Other Antennas**

Radio, television and other antennas may be placed or maintained on a Lot or dwelling Unit as permitted by the Architectural Review Committee. In no event shall free standing antennas be allowed except for satellite dishes which must be screened to limit visibility from neighboring Lots, roadways or Common Areas.

970718993

**Section 13. Trash Pickup**

Disposal of trash and refuse shall be the responsibility of individual Owners. At its discretion, the Association may require that Owners subscribe to a trash pickup service, if this is found to be in the best interest of the community. Each Owner shall be responsible for fees in connection with service to each Owner's Lot. Trash pickup fees may be included in the Association assessment, at the discretion of the Board.

**Section 14. Parking of Vehicles**

Except as otherwise specifically allowed in writing by the Architectural Review Committee (a) no boats, travel trailers, buses, motor homes, campers or other vehicles shall be parked or stored in or upon the Common Area or upon Lots except (i) within an enclosed garage as permitted by the Architectural Review Committee or (ii) an area not visible from other Lots or properly screened in a manner approved by the Architectural Review Committee, (b) no vehicle shall be repaired, serviced or rebuilt on any Lot or upon the Common Area and (c) no vehicle shall be parked on the private Streets or Roadways except in areas as may be designated by the Association.

**Section 15. Utilities**

No lines, wires or other devices for the communication, reception or transmission of electric current or power, including electricity, telephone, television and radio, shall be erected, placed or maintained anywhere upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures, unless approved by the Architectural Review Committee. Notwithstanding the above, erection of temporary power or telephone structures incident to the construction of buildings on the property is permissible as approved by the Architectural Review Committee.

**Section 16. Drainageways**

Drainageways shall conform to the requirements of all lawful public authorities including the Cochise County engineer to the full extent of the authority given such agency by law. No established drainage on the Property shall be altered in any way except upon approval of Cochise County and/or the Architectural Review Committee as applicable.

**Section 17. Resubdividing**

No Lot subject to this Declaration shall be resubdivided except as approved by the Deer Ridge Homeowners Association and the 3 Canyons Master Association.

**Section 18. Construction**

Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots and adjacent areas of the Property shall be kept in a neat and tidy condition during construction periods. Trash and debris shall not be permitted to accumulate, and building supplies and materials will be piled only in such areas as may be approved by the Architectural Review Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction may be kept only in areas approved by the Architectural Review Committee which may also require screening of such areas. Decisions in this regard are at the sole discretion of the Architectural Review Committee and the Board of Directors.

**Section 19. Residential Use**

Lots are intended solely for residential use. There shall be no commercial or similar establishments allowed, including without limitation, retail, office, industrial facilities, churches or schools, on any Lot. Notwithstanding the foregoing, home offices shall be allowed provided no retail or manufacturing is involved and providing that no measurable traffic impact is caused as a result.

**Section 20. Perimeter Fencing**

The only perimeter fencing allowed on any Lot shall be a wood fence or masonry wall unless specific written permission is obtained from the Architectural Review Committee.

**ARTICLE IX  
Easements**

*see addment  
9-11-98*

**Section 1. Common Easements**

Each Lot line, which is common between Lots, shall bear an easement of three (3) feet on each side of said common Lot line for the purpose of fencing and/or utilities servicing each adjoining Lot. Utilities, as installed, shall not interfere with each Owner's rights to fence his or her Lot.

**ARTICLE X  
General Provisions**

**Section 1. Enforcement**

The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Notwithstanding the above, if there is a dispute as to enforcement of or interpretation of any portion of this document during the Development Period, the Declarant, or its designated agent, shall have sole authority to issue a decision as to the dispute or interpretation. Any such decision shall be final and binding on all Owners of the Property.

**Section 2. Severability**

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

**Section 3. Revocation and Amendment**

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be extended automatically for successive periods of ten (10) years, unless amended or revoked as provided for below.

This Declaration shall not be revoked unless the Owners of one hundred percent (100%) of all Lots consent and agree to such revocation by written instrument duly recorded. This Declaration shall not be amended, except as otherwise herein provided, unless the Owners of eighty percent (80%) of the Lots consent and agree to such amendment by written instrument duly recorded. Any amendment to this Declaration may

also be evidenced by a recorded certificate of the Secretary of the Association, certifying that at a meeting of the Members duly called, the Owners of eighty percent (80%) of the Lots consented to such amendment.

Notwithstanding the foregoing amendment procedure, (a) the Declarant expressly reserves the right to amend this Declaration at any time prior to the termination of the Development Period and any such amendment shall be effective whether it applies uniformly or non-uniformly to the Property or any Lot, (b) no amendment shall be effective during the Development Period unless signed by the Declarant and (c) any such amendment signed by the Declarant shall be effective whether or not such amendment shall impact any prior vested right of interest, whether resulting from Ownership of any portion of the Property or otherwise.

**Section 4. Interpretation**

If there is any conflict among or between this Declaration, the Articles of Incorporation of the Association, the Bylaws of the Association, any written Architectural Review Committee guidelines or the Rules and Regulations of the Association, the provisions of this Declaration shall prevail; thereafter, priority shall be given first to such Articles of Incorporation, then to such Bylaws, then to the Architectural Review Committee guidelines and then to such Rules and Regulations.

IN WITNESS THEREOF the undersigned being the Declarant herein, has herunto set its hand and seal this 23<sup>rd</sup> day of MAY 1997

PIONEER TITLE AGENCY, INC., an Arizona Corporation, as Trustee under Trust No. 307953  
By: [Signature]  
Its: TRUST OFFICER

STATE OF ARIZONA            )  
County of Cochise        )ss.

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of May, 1997 by Roseita Newberry as Trust Officer for PIONEER TITLE AGENCY, INC., an Arizona Corporation, under Trust No. 307953.

[Signature]  
Notary Public



970718993

When Recorded Return To:  
Richard A. Pomroy & Rita C. Doyle  
3318 Navaho Street  
Sierra Vista, AZ 85635  
307953



FEE # 980927444  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE 9/11/98 HOUR 11

REQUEST OF  
PIONEER TITLE AGENCY  
CHRISTINE RHODES-RECORDER  
FEE : 10.00 PAGES : 3

AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
OF DEER RIDGE ESTATES HOMEOWNERS ASSOCIATION

WHEREAS, PIONEER TITLE AGENCY, INC. an Arizona corporation, as Trustee under Trust No. 307953, did execute and record a Declaration of Covenants, Conditions and Restrictions for Deer Ridge Estates on May 23, 1997 under Fee No. 970718993 in the office of the County Recorder of Cochise County, Arizona ('the Declaration'), affecting the following described real property:

Lots 1 through 20 & Common Area 'A' shown on the Plat of Deer Ridge Estates Subdivision located within a portion of 3 Canyons Ranch, Cochise County, Arizona as recorded in Book 14 of Maps and Plats, at Pages 4, 4a, 4b and 4c in the records of the Cochise County, Arizona Recorder ('the Property').

WHEREAS, RICHARD A. POMROY AND RITA C. DOYLE as Community Property with Right of Survivorship, as successor in interest to PIONEER TITLE AGENCY as Trustee under Trust No. 307953, and as the record owner of 100% of the total lot ownership subject to the Declaration, hereby amends said Declaration, as follows:

1. Article VI, Section 6, Paragraphs a, d, e and g of the Declaration are modified to read as follows:
  - a. Primary dwelling Units must have a minimum of 1,600 sq ft of living area, not including garages, patio areas or outbuildings.
  - d. All buildings will be limited to a maximum of two (2) stories.
  - e. Building setbacks, front, side and rear, shall be a minimum of one hundred (100) feet with the exception of Lots 1, 2, 3 and 20. Setbacks for the East, South and West lot lines of Lots 2, 3 and 20 and for the East and South lot lines of Lot 1 shall be a minimum of fifty (50) feet.
  - g. Walls and fences shall be limited to a maximum height of six (6) feet. Fences constructed of wood, single wire or wire mesh are permitted. Barbed wire and chain link fences are not permitted. Electric fences are permitted so long as they are totally contained within a fence

980927444



erected by the Property owner and present no shock or safety hazard to others.

2. Article VIII, Section 2 of the Declaration is modified as follows:

Paragraph 1 is modified to remove the restriction that a storage shed must be located within fifty (50) feet of the main residence. Item (5) is modified to read, "(5) one storage shed no greater than 600 square feet in size."

Paragraph 2 is modified to delete the requirement that the garage must be attached to the residence. The first sentence of Paragraph 2, as modified, reads "Garages must be built of the same material as the residence."

3. Article VIII, Section 4, Paragraph b of the Declaration is modified to read as follows:

b. Horses in reasonable numbers as determined by the Board of Directors of the Association

4. Article VIII, Section 20 of the Declaration is modified to read as follows:

Section 20. Perimeter Fencing

Perimeter fencing will be in accordance with Article VI, Section 6 of this Declaration.

5. Except as amended hereby, all other terms and conditions of the Declaration shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, this instrument has been executed this 10<sup>th</sup> day of September 1988.

Richard A. Pomroy and Rita C. Doyle,  
Husband and Wife, as Community  
Property with Right of Survivorship

Richard A. Pomroy  
Richard A. Pomroy

Rita C. Doyle  
Rita C. Doyle

980927444

STATE OF ARIZONA )  
 ) ss.  
County of Cochise )

This instrument was acknowledged before me this 10 day of  
September 1998 by Richard A. Pomroy and Rita C. Doyle.



Francisca Milianto  
Notary Public

My commission will expire 7/8/00

980927444