

SABINO VISTA NO. 3  
DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS: That MELVIN ZUCKERMAN, WILLIAM KALPIN and SAUL TOBIN, d b a KTZ LAND COMPANY, a partnership, hereinafter called the owner, presently the owners of the property described as follows:

Sabino Vista Number 3, according to the Plat of record in the office of the Pima County Recorder in Book 17 of Maps and Plats at Page 79 thereof.

do hereby declare and establish the following general plan for the improvement, development, ownership, use and sale of said property and each and every part thereof, as above described, and the manner, provisions, conditions, restrictions and covenants upon and subject to which said property and each and every lot thereof shall henceforth be used, improved, occupied, owned, sold and conveyed, and all of which shall be binding upon and inure to the benefit of the owner and future owners of said lots and all thereof and all of which shall apply to and bind the respective successors in interest of the present owner and future owners of said lots and all thereof, and all of which provisions, conditions, restrictions, and covenants are, and each of them is impressed and imposed upon each and every parcel of said property as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements, as follows, to-wit:

1. Each and every lot shall be used for private residence purposes only, and no structure whatever other than one first-class, single-story, unless the topography of the land permits a partial two-story residence, private, one-family residence, together with attached carports, guest houses, shall be erected, placed or maintained on any lot. No prefabricated houses shall be built in this subdivision. All exteriors shall be of masonry or stainless steel and glass, subject nevertheless, to the approval of the architect of the owners. Each building must be covered only by a tile, shake, gravel, rock roof or asbestos and each roof shall meet with the approval of the owners, their successors or architect. There shall be no changes of exteriors or roofs permitted unless written permission is given by the architect.

Any swimming pool erected on any parcel shall be approved by the owners, its architect or representative, as to size, location, operation, and method used to conserve water.

2. No business or profession of any nature (except a physician conducting his practice in his dwelling, employing not more than one nurse or assistant) shall be conducted on any lot; no building or structure intended for or adapted to business purposes, double house, flat building, lodging house, rooming house, hotel, hospital, or sanitarium shall be erected, placed, permitted or maintained on any lot.

No room or rooms in any principal residence, nor any accessory buildings, or parts thereof may be rented or leased to others by the owner or owners of any lot; nothing in this paragraph, however, shall be construed as preventing the renting or leasing of an entire lot, together with its improvements.

3. No temporary house, house trailer, tent or other outbuilding shall be placed or erected upon any part of said property, and no residence placed or erected on any lot shall be occupied in any manner at any time prior to its being fully completed in accordance with approved plan (as hereinafter provided) nor shall any residence, when completed, be in any manner occupied until made to comply with all requirements, conditions and restrictions herein set forth, provided, however, that during the actual construction or alteration of a building or any lot, necessary temporary building for storage of materials, etc., may be erected and maintained by the person doing such work. The work of constructing, altering or remodeling any building on any part of said property shall be prosecuted diligently from the commencement thereof until the completion thereof.

4. No building of any nature shall be removed from without said property to any lot within said property without the consent of the architect appointed from time to time as its representative authorized for such purpose; and in the event a building shall be placed from without the lot, said building shall comply in all respects with each and every provision of this declaration of conditions and restrictions relating thereto. In the event that any building, substantially destroyed by fire or other cause remains unrepaired or is not removed from the property within a period of one year from and after such destruction, a representative of the corporation shall have a right of entry upon the land for the purpose of removing said building and to charge the expense of such removal to the land owner.

5. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, placed or permitted upon any part of said property, nor shall any water, oil, natural gas, petroleum, asphaltum or hydrocarbon products or substances be produced or extracted therefrom; except the corporation or its successors or assignees in said subdivision may drill for water to be used in a water utility.

6. No billboards or advertising signs of any character other than a physician's sign upon his dwelling in accordance with paragraph 2 hereof, shall be erected thereon, other than a name plate of the occupant of any residence. This provision shall not forbid the erection and maintenance of signs and billboards used in connection with the sale of houses or lots in the subdivision subject however, to architectural approval as provided for herein.

7. All clothes lines, equipment, service yards, wood piles or storage piles shall be walled in or kept screened by adequate planting or other means in such manner as to conceal them from the view of neighboring lots, roads or streets.

8. 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 otherwise. No obnoxious or offensive activity shall be carried on or upon any lot nor shall anything be done, placed or stored thereon which may be or become an annoyance or nuisance to the neighborhood or occasion any noise or odor which will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding properties.

9. No cattle, sheep, goats, pigs, rabbits, poultry, or other livestock shall be kept or maintained on any part of said property. This restriction shall not be construed however, as prohibiting the keeping of ordinary domestic animals upon said property; provided, however, that the owners, their successors or assigns, shall have the right to order the removal from any lot any birds, fowls, or animals which are objectionable to any of the residents of adjacent property. The owner of said birds, fowls or animals shall immediately remove the same from the premises upon receipt of said notice in writing from the undersigned, its successors or assigns.

10. The native growth on said property, including cacti and palo verde trees, shall not be destroyed or removed from any of the lots in said subdivision by any of the lot owners, except such native growth as may be necessary for the construction and maintenance of roads, driveways, residences, garages, and other outbuildings, and/or walled in service yards and patios, and unless written permission be first had and obtained from the owners, their successors in interest or its architect.

11. No bermuda grass or other lawn, the pollen of which is considered to be an allergy stimulant, shall be grown on any lot in the above-mentioned subdivision.

12. No lot or lots shall be subdivided except for the purpose of combining the resubdivided portions with another adjoining lot or lots, provided that no additional lot is created thereby. Any ownership or single holding by any person comprising parts of two adjoining lots or of the whole of one lot and part or parts of one or more adjoining lots shall for all purposes of this declaration of conditions and restrictions, be deemed as constituting a single lot.

13. Every principal residence constructed on any lot shall have a fully enclosed floor area devoted to living purposes (exclusive of porches, terraces, garages and other outbuilding) of not less than 1,400 square feet.

14. All building plans for any building, wall, fence, coping or other structure whatsoever to be erected on or moved upon or to any part of said property, and the proposed location thereof on any lot, and the exterior color scheme thereof, and any changes after approval thereof, and any remodeling, alteration, or additions to any building or other structure on any lot in said subdivision shall be subject to approval in writing of an architect or agent of the undersigned, its successors and assigns, as its representative authorized for such purpose.

Before the owner of any lot shall commence the construction or alteration of any building, wall, fence, coping, or other structure whatsoever on any lot, such owner shall submit to the architect or agent above mentioned, two sets of plans and specifications for such structure, and no structure of any kind shall be erected, altered, placed or maintained upon any lot in said subdivision unless and until the plans, elevations and specifications therefor have received the written approval of such agent or architect. Such plans shall include a plot plan showing the location on the property in question, of the building, wall, fence, coping, or other structure, proposed to be constructed or altered, together with the proposed color scheme thereof.

The architect or agent shall either approve or disapprove said plans and specifications within thirty days from the receipt thereof. One set of plans and specifications, with the architect's or agent's approval or disapproval thereon, shall be delivered to the person submitting said plans and specifications by architect or agent; and the other copy thereof shall be retained by the architect or agent, its successors or assigns. If such architect or agent shall fail in any way to approve or disapprove of such plans and specifications within thirty days of the delivery thereof to him, and no action has been instituted to enforce the provisions of this paragraph shall be deemed waiver.

Said architect or agent shall have the right to disapprove any plans and specifications submitted to him as aforesaid if such plans and specifications are not in accord with this declaration or are not in harmony with the general surroundings or with adjacent buildings or if such plans and specifications are not substantially complete. The decision of such architect or agent shall be final.

15. Any building or structure other than a wall or fence erected or placed on any lot in said subdivision excluding uncovered terraces, steps and/or roof projections at the eaves shall be set back from the lot lines such distances as may be required by applicable zoning requirements.

16. No radio or T. V. antenna or aerial shall be constructed or installed which shall extend beyond 5 feet in height when same has been installed over the highest point of the roof upon which same is installed.

17. The aforesaid provisions, conditions, restrictions and covenants and all thereof shall run with the land and continue and remain in full force and effect at all times and against all persons until January 1, 1990, provided, however, that seventy-five (75%) per cent of the record owners of the lots in said subdivision shall have the right to amend or change any or all of these restrictions, conditions and covenants.

18. All provisions, conditions, restrictions and covenants herein shall be binding on all lots and parcels of real estate and the owners thereof, regardless of the source of title of such owners, and any breach thereof, if continued for a period of thirty days from and after the date that the corporation or other property owner shall have notified in writing the owner of lease in possession of the lot upon which such breach has been committed to refrain from a continuance of such action or correct such breach, shall warrant the undersigned or other lot owner to apply to any court of law or equity having jurisdiction thereof for an injunction or other proper relief, if such be granted the Court may in its discretion award to Plaintiff in such action his reasonable expenses in prosecuting such suit, including attorneys fees.

Provided, that any violation of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property. But such provisions, conditions, restrictions and covenants shall be enforceable against any portion of said property acquired by any person through foreclosure or by deed in lieu of foreclosure for any violation of the provisions, conditions, restrictions and covenants herein contained occurring after the acquisition of said property through foreclosure or deed in lieu of foreclosure.

19. No delay or omission on the part of the owners or their successors or assigns in interest, or the owner or owners of any other lot or lots in said property in exercising any right, power or remedy herein provided for in the event of any breach of any of the provisions, conditions, restrictions and covenants 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 corporation, its successors or assigns, for or on account of its failure or neglect to exercise any right, power or remedy herein provided for in the event, of any such breach, or for imposing herein provisions, conditions, restrictions or covenants which may be unenforceable.

20. In the event that anyone or more of the provisions, restrictions, and covenants herein set forth shall be held by any court of competent jurisdiction to be null and void, all remaining provisions, conditions, restrictions and covenants herein set forth shall continue unimpaired and in full force and effect.

21. Said property shall be subject to any and all rights which the County of Pima and/or the City of Tucson may require through dedication or by the filing or recording of maps or plats of said property.

22. Electric power and water service will be made available through private utility companies or government utilities authorized by the State of Arizona. The owner of the subdivision guarantees no certain quality or quantity of water or electric power to be furnished by said private companies or government utilities and shall in no event be liable for any shortage of water or electric power, due to causes beyond the control of said subdivision owner.