

DOCUMENT TITLE:

Conditions, Covenants and Restrictions for Dancing Rocks Community, located at 8925, 8935, 8945, 8965, and 8975 North Scenic Drive, Tucson, Arizona

PURPOSE:

For protecting the rights of People and the Natural Systems in which they live

PROPERTY OWNERS:

Barbara Rose (8945, 8965 and 8975), Keith Kleber (8935), Mary Joan Pettit (8925)
Dancing Rocks Community
8965 North Scenic Drive
Tucson, Arizona 85743

Signed: _____

Date: _____

DECLARATION OF THE RIGHTS AND POWERS OF PEOPLE, COMMUNITIES AND NATURE AS EMBODIED IN THESE PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF DANCING ROCKS PERMACULTURE COMMUNITY (DRPC), TUCSON, ARIZONA

THIS DECLARATION is made this _____ day of _____, by Barbara Rose, Keith Kleber and Mary Joan Pettit (hereinafter referred to as “Declarants”) to describe and establish the environmental purposes and community goals of DRPC.

WHEREAS, Declarants are the owners of the real property described on Exhibit A on which the community is located;

WHEREAS, Declarants intend and desire to develop this community and its property in an environmentally sound manner and to create easements, covenants, conditions and restrictions running with the land that will assure the development and maintenance of the Property in such a manner;

NOW, THEREFORE, Declarants hereby declare the above described property and each of the parcels thereon shall be held, sold and conveyed subject to this declaration and the following easements, covenants, conditions and restrictions, all of which shall constitute a general scheme for the use, maintenance, occupancy, development and enjoyment thereof, for the purpose of enhancing and protecting the ecological value, environmental health, integrated holistic design and desirability of such property, in a manner which shall protect each owner, enhance the environmental and conservation value of the property and prevent any use or improvement upon the property which is not in harmony with the general scheme of a high quality and environmentally sensitive regenerative permaculture development.

These easements, covenants, conditions and restrictions shall run with the property and shall be binding upon all parties having or acquiring any right, title or interest in and to the above described property or any part thereof, and shall inure to the benefit of declarants, each person who becomes an owner of any part of the property and each successor in interest of any such person. In addition, a separate Homeowners' Manual for the property (Article 1.5), shall be considered an educational supplement to and integral part of these easements, covenants, conditions and restrictions.

ARTICLE 1

DEFINITIONS

- 1: "Declarants" shall mean and refer to Barbara Rose, Keith Kleber and Mary Joan Pettit and their successors and assigns who acquire all or a portion of the property from Declarants for the purpose of development.
- 2: "Dedicated Natural Conservation Area" shall mean that portion of the property which shall be conserved in its natural state and which will not be available for residential development, buildings or roadways. This area shall be available and may be used for the development of water resources for the community, for water harvesting, for the harvest of native foods and herbs, and for habitat restoration.
- 3: "Development envelope" shall mean that portion of the property on which building is permitted and roads or other construction may take place. This area is limited to approximately 8000 square feet per lot.
- 4: "Existing Roads" shall mean those areas in existence on the date of this instrument which are presently being used for ingress and egress to the property or portions thereof. Any further use of such roads shall be as granted by the Declarants.
- 5: "Homeowners' Manual" shall refer to a booklet which describes in detail practices to be implemented and utilized to preserve and protect the property and which are incorporated by reference into these covenants, conditions and restrictions. The Homeowners' Manual is a dynamic document which may be updated from time to time to better serve the ecological and social values of the community. Each Owner shall keep this Manual in their possession and refer to it when planning any changes to existing water harvesting earthworks, gardens or buildings.
- 6: "Lot" means one of the five designated divisions of land on the property on which a residence and other buildings are constructed.
- 7: "Owner" shall mean and refer to the record owner, including Declarants, of any portion of the property, whether one or more persons or entities, but excluding those having such interest as merely security for the performance of an obligation.
- 8: "Property" shall mean and refer to that certain real property described above as all property shown on Exhibit A.

9: "Unit" and "Primary Unit" shall be synonymous with and shall mean and refer to a building or structure constructed upon a lot as the primary structure on such lot, along with accessory buildings such as a guesthouse/studio.

ARTICLE II

GENERAL RESTRICTIONS ON USE OF LOTS

1. Limitations. None of the restrictions contained in this Declaration shall limit or be deemed to limit the rights of Declarants provided for in Section 2 of Article IV hereof.
2. Permitted Uses. The property and each lot shall be used only for such residential, guest, agricultural, ecological and educational purposes as may be permitted by this Declaration and by applicable laws, regulations and ordinances of governmental entities having jurisdiction over the property. Mulching, composting, recycling and reuse, solar systems, private cemeteries and clotheslines for drying clothes are specifically permitted.
3. Utilities. All new or relocated utility lines shall be placed underground. Lines relocated due to improvement projects shall be placed underground.
4. Development Envelopes. The areas around homes (approx. 8,000 sf) in which any grading, improvements, construction, or other modifications to the landscape may occur, excepting maintenance in the central area roadway accessing the development envelopes or otherwise specifically permitted by these covenants. Foot trails associated with water harvesting earthworks and community water harvesting development are specifically permitted outside of the development envelope, as are community areas located within the building cluster, and the community barn. The Development Envelope is detailed in the Homeowners' Manual.
5. Grading. Any grading for construction or improvements must occur just prior to building construction. All grading is restricted to within 10 feet of the improvement being constructed. Destruction of the natural vegetation and topography shall be kept to the absolute minimum. In no event shall access to other parcels be obstructed or impaired. During construction, all building materials shall be reused, composted or recycled to the greatest extent possible. All graded land not used for construction of the improvement must be replanted with the same native species within one year of the grading. Following completion of the improvements, any disturbed land shall be contoured to control erosion and harvest rainwater, mulched and replanted as soon as possible.
6. Natural Conservation Area. All land which falls within the Dedicated Natural Conservation Area (Exhibit "C") shall be protected from further erosion and disturbance. Only native Sonoran desert plants or naturalized non-invasive heritage species used for re-vegetation to further restore the area are allowed. Water harvesting earthworks (stone checkdams, basins, cisterns, and berms for paths and trails etc.) and wells for community water development are allowed. Conservative harvesting of native foods and herbs, up to ten percent of the foods and herbs seasonally available, is allowed in this area. Small primitive shade structures used while harvesting and preparing native foods and herbs may be constructed. Tents or other temporary structures for camping by students and interns in this area are allowed by permission of the owners. Such camp areas shall be maintained in pristine condition and restored to their prior condition after such use. Private cemetery sites on the edge of the natural conservation area are allowed.

7. Restoration of Previously Disturbed Land. All land disturbed by grading or construction shall be contoured for water harvesting, mulched and replanted with typical native plants upon completion of project.
8. Additional Permanent Structures. All structures, including porches, ramadas, guesthouses, studios and all buildings shall be designed to maximize passive solar features, built with local, recycled, and/or green materials to the greatest extent possible, and built to meet or exceed current Pima County Regional Residential Green Building Standard, and refer to the Cascadia Region Green Building Council's Living Building Challenge.
9. Outdoor Fires. No outdoor fires shall be permitted except in locations and at times agreed to by all current Owners.
10. Building Materials. All building and landscaping materials shall be local, reused, recycled and green to the greatest extent possible. All buildings shall be designed, insulated and built to use a minimum of energy for cooling and heating and to facilitate the collection, use and re-use of rainwater and greywater.
11. Water and Energy. The community is served by a common well which requires cooperation to balance supply and demand. Water usage for household and landscaping shall be kept to a minimum by the use of composting toilets, low flow faucets and shower heads. Rainwater harvesting and greywater are preferred for irrigation of gardens and landscaping. Use of other water conservation techniques are set forth more fully in the Homeowners Manual. As the area water table continues to drop, the community will design, fund and build additional rainwater catchment systems for household water use. A separate Well Agreement (Exhibit "B") describes maintenance of the community water supply. Energy conservation shall include the use of passive solar clothes drying and low energy evaporative cooling systems. Electric and gas clothes dryers are prohibited. All Solar electric power systems will be maintained and new buildings will incorporate passive and active system best management practices.
12. Lighting. External lighting shall be restricted to that which is necessary to provide the functional requirements of safety, security and identification. High pressure sodium and mercury vapor lighting shall not be permitted. Low energy lighting (florescent to be recycled and phased out as better products arrive) such as LED bulbs or similar technology are permitted. Light standards for driveways and all other outdoor uses shall not exceed 42 inches in height and shall consist of low intensity, low profile type of lighting. Sources of light shall be spaced sufficiently to create isolated, downward pools of light rather than a contiguous, saturated form of lighting. All lighting sources shall be fully shielded to reduce dispersal of ambient light. All lighting shall conform to the Pima County Dark Skies Ordinance.
13. Building Height. No new building construction shall exceed twenty-two feet in height as measured from the surrounding grade.
14. Buffer. In order to maintain Scenic Drive's rural character, a twenty foot native planted buffer shall exist along Scenic Drive. A farm stand, historic building and well site are located in this buffer. Where vegetation is removed for building improvements, any plant material removed in the process shall be replanted within the buffer area or wherever necessary to reduce the visual impact of development.
15. Cultivation. Within residents' development envelopes, low water use organic gardens and fruit trees are permitted. A native plant nursery and gardens are permitted at the barn. Composting is permitted and encouraged. Manures are permitted to be used in soil preparation for planting. Invasive plants, shrubs and trees are not permitted anywhere on the property.

16. Fire Prevention. Each owner is responsible for maintaining the vegetation on their lot to prevent fire hazards. Dead limbs and plants shall be broken down and laid flat on contour to decompose naturally, or composted, to help restore soils for native plants and habitat. Trimmings and dead vegetation shall not be carried off the property as waste material.

17. Chemical and Pesticide Use. To protect ground water, soils and vegetation, as well as public health and safety, the use of chemically derived biocides, herbicides, pesticides and fertilizers for household and landscape purposes is not permitted. Organic and biological preparations only shall be used which, when properly applied, are harmless to human and animal populations. No aerial applications of agricultural chemicals is permitted. All household and agricultural preparations shall be used, stored, labeled and disposed of in strict accordance with label directions and government restrictions. Household cleaners, solvents, paints and livestock preparations shall be considered chemicals. Nontoxic biodegradable products shall be used wherever possible. Preferred products include vinegar, EM products, Oasis soap and sodium free detergent, Bon Ami cleanser, oxygen based bleaches, hydrogen peroxide, Simple Green, enzymes and similar products. Products to be avoided include any containing sodium laurel sulfate, baking soda, salts and chlorine bleach. Solvent free "Green" paints, preservatives and finishes for buildings shall be used. Chemically treated lumber is considered a biocide, alternative weather and insect resistant materials such as recycled steel framing will be used. Products listed by Green Seal are acceptable.

18. Groundwater Contamination. To preserve the groundwater and common water supply, none of the materials set forth in paragraph 17 nor any other paints, sealers, solvents, chemicals, adhesives, finishes, or other chemicals of any sort may be disposed of into any greywater system, septic system or grounds on the property. Unused portions of paints, sealers, and household liquids shall be stored and clearly and safely marked. Unused and empty containers and their contents shall be recycled if possible, or brought to a hazardous materials collection site. Notwithstanding the foregoing, greywater distribution systems, garden composting and thermophillic composting toilet systems are permitted.

19. Swimming Pools. No swimming pools are permitted. Small sized soaking tubs, filled with harvested rainwater, covered when not in use for safety and mosquito control, and reused/directed to vegetation when emptied periodically, are permitted if sufficient rainwater is available. Chlorine and saline products for disinfection are not permitted.

20. Pets. Pets are not recommended. If pets or domestic animals of any kind are kept by the individual Owners, they shall be maintained within the Development Envelope and properly controlled so as not to interfere with, bother or harass the other property owners or disrupt the native habitat or native species of plants and animals.

21. Farm Animals. Individual Owners may each keep up to 10 chickens and may care for chickens of other owners, housed in a separate area and protected from predators. Large grazing animals such as horses and cattle are not permitted. Small stock animals may be allowed by agreement of the Owners, confined to Development Envelopes or the Barn yard. All small stock manure must be kept mulched and composted.

22. Motor Vehicles. No "All Terrain Vehicles" of any kind shall be allowed to operate anywhere on the property. All cars, trucks, and other vehicles shall be used and parked only on the designated roads and parking areas. No inoperable motor vehicle shall be parked or left on the property. No boat, trailer, motor home, RV, camper or similar vehicle shall be parked on the property without express permission of the residents and only for short term construction, work-study or internship purposes.

23. Prohibited Uses. The operation of any businesses on the property not in keeping with DRPC's environmental protection purposes shall not be permitted. This prohibition shall not apply to such home businesses as freelance artists, writers, educators or consultants unless the business, its materials or operation is in conflict with energy, water or environmental concerns included in these documents.

24. Minerals and Archaeology. No property nor portion thereof nor any lot shall be used in any manner for exploration or removal of any water, oil, other hydrocarbons or minerals of any kind, gravel, earth or substance of any kind, that are in conflict with energy, water and environmental concerns included in these documents, including mineral leases existing prior to the date of these restrictions. Future decisions by the Owners of the properties will be made in keeping with energy, water and environmental concerns included in these documents. Archaeological sites on and adjacent to the Property will be preserved intact, unless excavated under the direction of professional archaeologists for educational purposes only and with the consent of all Owners. Any such sites will be restored and/or maintained only for a more complete understanding of the cultural significance and ecological awareness of the area and its prior residents. No pothunting whatsoever is permitted by Owners, guests or others.

ARTICLE III

ENFORCEMENT

Right to Enforce. The Declarants, or any owner, or a Homeowners Association if one is established, shall have the right to enforce all provisions, liens or charges imposed by this Declaration by any proceeding at law or in equity. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to enforce thereafter.

Choice of Laws. The provisions of this Declaration shall be construed and interpreted with reference to the laws of the State of Arizona.

Attorney's Fees. In any legal or equitable proceeding for the enforcement of any portion of this Declaration or to restrain the violation of any portion of this Declaration, the losing party or parties shall pay the attorney's fees and costs of the prevailing party or parties in such amount as may be fixed by the Court in such proceeding. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

Non-Liability. The Declarants shall not be liable in damages or otherwise to any person for failure to enforce the terms of this Declaration or any portion thereof. Every person acquiring title to any portion of the property or any interest therein hereby covenants that s/he will not bring any action or suit against Declarants to recover any such damages.

ARTICLE IV

TERM, TERMINATION, MODIFICATION AND ASSIGNMENT OF DECLARANTS' RIGHTS AND DUTIES

This Declaration shall continue in full force and effect for a period of twenty-five (25) years from the date hereof and shall automatically renew for additional periods of 25 years, unless 100% of the owners at any such renewal date record an agreement to terminate this Declaration.

Extension, Termination and Modification. This Declaration or any provision hereof or any covenant, condition or restriction contained herein, including this section, may be extended, modified or amended as to the whole of the property or any portion thereof by Declarants at any time during the term of this Declaration or by the written consent of one hundred per cent (100%) of the owners. No action contemplated by this section shall become effective until a proper instrument in writing has been executed, acknowledged and recorded in the office of the Pima County Recorder, Tucson, Arizona.

Assignment of Declarants' Rights and Duties. Any or all of the rights or powers of Declarants contained in this Declaration may be assigned by Declarants to any person, corporation or association which shall assume the duties of Declarants pertaining to the particular rights or powers assigned and upon the assignee's written acceptance of such assignment, s/he or it shall, to the extent of such assignment, have the same rights and powers and be subject to any obligations or duties held by Declarants according to this Declaration.

ARTICLE V

MISCELLANEOUS PROVISIONS

Constructive Notice and Acceptance. Every person who owns or acquires any right, title or interest in or to any portion of the property is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, including the attached exhibits, whether any reference to this Declaration is contained in the instrument by which such person acquired an interest in said property or not.

Section Headings. Section headings where used herein are inserted solely for convenience and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope or intent of the particular sections to which they refer.

Resolution of Conflicts. In the event of any conflict between owners or between Declarants and owners as to the meaning of any provision of this Declaration, mediation and other non-litigation methods shall be utilized before any party commences litigation.

Severability. If any provision of this Declaration is held to be invalid by any Court, the invalidity of such provision shall not affect the validity of the remaining provisions of this Declaration

IN WITNESS WHEREOF, Declarants have executed this instrument as of the day and year first above written.

Barbara Rose

Keith Kleber

Mary Joan Pettit

STATE OF ARIZONA)

)
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of _____, 200_, by Barbara Rose, Keith Kleber and Mary Joan Pettit.

NOTARY PUBLIC

My Commission Expires:

Exhibit A-Dancing Rocks Community Real Property Map

Exhibit B-Dancing Rocks Community Well Agreement

Exhibit C-Dancing Rocks Community Natural Conservation Area Legal Description