

183-4B

When recorded mail to:

Mogollon Airpark Association Inc
PO Box 1778
Overgaard AZ 85933

**AMENDMENT TO DECLARATION OF ESTABLISHMENT OF
CONDITIONS, RESERVATIONS AND RESTRICTIONS AND
MUTUAL AND RECIPROCAL COVENANTS AND LIENS
RUNNING WITH THE LAND**

This Amendment to Declaration of Establishment of Conditions, Reservations and Restrictions and Mutual and Reciprocal Covenants and Liens Running with the Land ("Declarations") is made and entered into effective as of October 2, 2008, by the undersigned owners.

WHEREAS, that Declaration made and entered into by Mr. B. R. Preece as a General Partner of Mogollon Airpark Properties II, as Declarant, as of June 26, 1994, and recorded at Docket Number 1198 of Records, Page 281 Inclusive, and modified under Amendment One of the Declaration, recorded on October 31, 1994 at Docket 1211, Pages 354, Records of Navajo County, Arizona, provides for the amendment of the Declaration by an instrument which is executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, and by due recording of said instrument; and

WHEREAS, the property which is subject to the Declaration is subject also to the Plat of record for Mogollon Airpark, recorded at Book 206 of Maps, Page 29 (all such property so encumbered is hereinafter referred to as the "Project"); and

WHEREAS, the Declaration provides for amendment of the Declaration by an instrument which is executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, and by due recording of said instrument; and

WHEREAS, the owners of three-fourths of the lots in said subdivision have executed and acknowledged the amendment to the Declaration;

NOW, THEREFORE, the Declaration is amended as follows:

1. The Recitals set forth above are hereby incorporated into this amendment and made a part hereof.

2. The following paragraph is hereby added to the Declaration:

37. The use of Tract A, Tract B and Lot 1 for the purpose of operating an aircraft shall be restricted to use by a maximum of two (2) active licensed pilots per lot unless prior written approval is granted by the Association. This section does not limit the use of Tract A, Tract B and Lot 1 by guests of Lot owners provided the guests execute and file with the Association the requisite hold harmless agreement prior to using Tract A, Tract B and Lot 1. The Association reserves the right to limit the number of guests per Lot using Tract A, Tract B and Lot 1 if use by guests of Lot owner is excessive or a safety hazard. In addition, this section does not preclude the use of Tract A, Tract B and Lot 1 for special events provided the special events have been approved by the Association.

3. The following paragraph is added to the Declaration under the Section entitled "Tract A, Tract B and Lot 1":

4. The use of Tract A, Tract B and Lot 1 for the purpose of operating an aircraft shall be restricted to use by a maximum of two (2) active licensed pilots per lot unless prior written approval is granted by the Association. This section does not limit the use of Tract A, Tract B and Lot 1 by guests of Lot owners provided the guests execute and file with the Association the requisite hold harmless agreement prior to using Tract A, Tract B and Lot 1. The Association reserves the right to limit the number of guests per Lot using Tract A, Tract B and Lot 1 if use by guests of Lot owners is excessive or a safety hazard. In addition, this section does not preclude the use of Tract A, Tract B and Lot 1 for special events provided the special events have been approved by the Association.

4. Except as expressly amended by this Amendment, the Declaration shall remain in full force and effect. In the event of any conflict of inconsistency between this Amendment and the Declaration, this amendment shall control.

IN WITNESS WHEREOF the undersigned have agreed to and acknowledged this instrument at the time and place shown on the attached acknowledgments after receipt of a copy of the original instrument.

2018-17164
Page 1 of 34
Requested By: Mogollon Airpark Association Inc
Navajo County Recorder - Doris Clark
10-18-2018 11:51 AM Recording Fee \$42.00

When recorded mail to:

Mogollon Airpark Association, Inc.
P O Box 1778
Overgaard AZ 85933

**AMENDMENT TO DECLARATION OF ESTABLISHMENT OF
CONDITIONS, RESERVATIONS AND RESTRICTIONS AND
MUTUAL AND RECIPROCAL COVENANTS AND LIENS
RUNNING WITH THE LAND**

This Amendment to Declaration of Establishment of Conditions, Reservations and Restrictions and Mutual and Reciprocal Covenants and Liens Running with the Land (“Declarations”) is made and entered into effective as of October 18, 2018 by the undersigned owners.

WHEREAS, that Declaration made and entered into by Mr. B. R. Preece as a General Partner of Mogollon Airpark Properties II, as Declarant, as of June 26, 1994, and recorded at Docket Number 1198 of Records, Page 281 Inclusive and modified under Amendment One of the Declaration, recorded on October 31, 1994 at Docket 1211, Pages 354, Records of Navajo County, Arizona, provides for the amendment of the Declaration by an instrument which is executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, and by due recording of said instrument; and

WHEREAS, the property which is subject to the Declaration is subject also to the Plat of record for Mogollon Airpark, recorded at Book 206 of Maps, Page 29 (all such property so encumbered is hereinafter referred to as the “Project”); and

WHEREAS, the Declaration provides for amendment of the Declaration by an instrument which is executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, and by due recording of said instrument; and

WHEREAS, the owners of three- fourths of the lots of said subdivision have executed and acknowledged the amendment to the Declaration:

NOW, THEREFORE, the Declaration is amended as follows:

- 1. The Recitals set forth above are hereby incorporated into this amendment and made a part hereof.
- 2. The following paragraph is hereby added to the Declaration:

LAND USE:

Para 2: There are two categories of lots: Residential lots, identified by three digit numbers 178 through 213, inclusive, and Hangar Tracts, identified by letters E through M, inclusive. All buildings or structures erected on said lots shall be of new construction, and no building or structure shall be moved from other locations onto said premises.

Only one single family structure or combination hangar/house may be erected on a residential lot. A separate aircraft storage hangar may be erected on lots with access to the airport taxiway system. A guest house or recreational vehicle storage garage may also be constructed on lots which are 30,000 square feet or more. Every single family structure or combination hangar/house shall have an area devoted to living purposes, exclusive of porches, terraces, garages, aircraft hangar, and guest house of not less than 1,200 square feet.

Hangar Tracts E through M shall initially be sold to the purchasers of the following residential lots in Unit 4A or 4B:

- | | |
|-------------------|-------------------|
| Tract E – Lot 212 | Tract F – Lot 211 |
| Tract G – Lot 213 | Tract H – Lot 171 |
| Tract I - Lot 206 | Tract J – Lot 207 |
| Tract K – Lot 209 | Tract L – Lot 210 |
| Tract M – Lot 208 | |

Any subsequent resale of any of the above Hangar Tracts shall only be to owners of lots within Mogollon Airpark and who are members of the Mogollon Airpark Homeowner’s Association

Tracts E through M are for aircraft storage hangars only. Guest quarters may be constructed as part of an aircraft storage hangar on these Tracts.

Guest houses on residential lots, and guest quarters in aircraft storage hangars are for temporary living only and in no case will be used as a permanent residence. For the purposes of this provision, “temporary” means not longer than four months per calendar year. If special circumstances exist such as during construction of single family structure, owners can request an extension of the four month limit from the Board of Directors of Mogollon Airpark, Inc.

The owners of Tracts E, F, G, and lots 183, 184, 185, 190, 191, 192, 193, 194, and 213 shall have a portion of the Tract B tiedown area specifically reserved for their ingress and egress to a hangar or tiedown area contained on their respective lot.

ARCHITECTURAL CONTROL

Para 28: Wherever the terms “owner” or “owners” are used herein, such terms shall include purchase or purchasers under an agreement for sale or contract to purchase, and beneficiaries of any trust owning or purchasing any parcel within said subdivision who inherit the property as beneficiaries of a trust or individuals who inherit the property through a will of the owners of record at Navajo County.

When recorded mail to:



FEE # 94 13859
RECORDED AT THE REQUEST OF
BILL R. PREECE
ON 8-17-94 @ 4:00 p.m.
IN DOCKET 1198 PAGE(S) 281-304 INCL
OFFICIAL RECORDS OF NAVAJO COUNTY, ARIZONA
JAY H. TURLEY, RECORDER

CAPTION HEADING: RESTRICTIONS

DO NOT REMOVE

This is part of the official document.

§ 11-480. Requirements for form of instruments

A. Only an instrument which upon presentation to a county recorder for recordation fails to meet any of the following conditions may be rejected for recordation at the time of presentation for recordation:

4. Effective January 1, 1991, each instrument shall be no larger than eight and one-half inches in width and no longer than fourteen inches and shall have a print size no smaller than ten point type.

5. Effective January 1, 1991, each instrument shall have at least a one-half inch margin across the bottom and the left and right sides from the top to the bottom. The first page shall have a top margin of at least two inches of vertical space from left to right and shall be reserved for recordation and return address information.

CONTACT THE RECORDER'S OFFICE IF YOU NEED FURTHER INSTRUCTIONS

DOCKET 1198 PAGE 281

ST PICTURE POSSIBLE

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DECLARATION OF ESTABLISHMENT OF
CONDITIONS, RESERVATIONS AND RESTRICTIONS
AND MUTUAL AND RECIPROCAL COVENANTS AND LIENS
RUNNING WITH THE LAND

This declaration is made this 26th day of June, 1994 ,
by MOGOLLON AIRPARK PROPERTIES II, an Arizona Limited Partnership,
hereinafter called Declarant, as present owner of the second
beneficial interest in TRANSAMERICA TITLE INSURANCE COMPANY as
Trustee under Trust No. 84-616, being properly authorized so to act
by the terms of the trust and TRANSAMERICA TITLE INSURANCE COMPANY
as Trustee thereunder, hereinafter called Trustee, solely as bare
legal title held and not personally and acting at the proper
direction of said Beneficiary-Declarant, executes this declaration
of reservations, covenants, conditions and restrictions to run with
the following real property for the purpose as hereinafter set
forth: Lots 178 through 213, inclusive, and Tracts B, E, F, G, H,
I, J, K, L, and M MOGOLLON AIRPARK UNIT FOUR B, recorded in Book
18 of Plats, page 9-10, records of Navajo County, Arizona.

The Declarant hereby declares that it has established, and
does hereby establish, a general plan for the improvement and
development of the property shown on said plat and does hereby
establish the provisions, conditions, restrictions and covenants
upon which and subject to which all lots and portions of said lots
shall be improved or sold and conveyed by the said TRANSAMERICA
TITLE INSURANCE COMPANY as Trustee, as owner thereof; each and

every one of said provisions, conditions, restrictions and covenants is and are for the mutual and reciprocal benefit of each owner of land in said subdivision, or any interest therein, and is a factor in the determination of the value and sales price of said land, and shall inure to and pass with each and every parcel of said subdivision, and shall bind the respective successors in interest of the present owner thereof and any and all other persons who may become owners or interested in said land, said provisions, conditions, restrictions and covenants are and each thereof is imposed upon the said lots, all of which are to be construed as real covenants and liens running with the title to said lots and with each and every parcel thereof, to-wit:

LAND USE

1. Said lots are hereby restricted to single-family dwellings for residential use only. No business activities of any kind whatsoever shall be conducted upon any of said lots or improvements located thereon.

2. All buildings or structures erected on said lots shall be of new construction and no used building or structure shall be moved from other locations onto said premises. No more than one single-family structure may be erected on any individual lot, provided, however, a separate guest quarter may be constructed without cooking facilities on lots which are 30,000 square feet and above. For the purposes of this provision, a guest house may be constructed as part of an aircraft storage hangar on the lot or on Tracts E through M, inclusive. Every residential structure shall have an area devoted to living purposes, exclusive of porches,

terraces, garages, and guest quarters of not less than 1,200 square feet. The following aircraft storage tracts shall initially be sold to the purchasers of the following residential lots in Unit 4A or Unit 4B:

Tract E - Lot 212	Tract F - Lot 211
Tract G - Lot 213	Tract H - Lot 171
Tract I - Lot 206	Tract J - Lot 207
Tract K - Lot 209	Tract L - Lot 210
Tract M - Lot 208	

Any subsequent resale of any of the above aircraft storage tracts shall only be to owners of lots within Mogollon Airpark and who are members of the Mogollon Airpark Homeowner's Association.

The owners of tracts E, F, and G and lots 183, 184, 185, 190, 191, 192, 193, and 194 shall have a portion of the Tract B tiedown areas specifically reserved for their ingress and egress to a hangar or tiedown area contained on their respective lot. The width of this reserved area shall be sufficient to permit aircraft with a wing span up to 45 feet to safely ingress and egress the lot from or into the Tract B tiedown areas. This reserved area shall not be used either as a temporary or permanent tiedown area except by the respective lot owner. Any portions of the pedestrian easements associated with the Tract B tiedown areas may be cleared and improved as necessary to facilitate taxiway access to aircraft storage tracts E, F, and G, and to lots 184, 185, 190, 191, and 193.

3. All plumbing, including but not limited to toilets, bathing facilities, and kitchen facilities, shall be of the modern inside type.

4. SETBACK REQUIREMENTS. No structure shall be erected on any lot within 20 feet of the front or rear line of said lot or within 15 feet of either side line of said lot; except that for Tracts E, F, and G, the setback shall be 20' from the front of the tract (taxiway side), 10' on the back of the tract, and 5' on each side of the tract; and for Tracts H through M, inclusive, the setback shall be 10' on the front, back, and sides of the tract; provided, however, that the setback requirements herein provided may be amended or modified by the Mogollon Airpark Association, a non-profit association hereinafter defined and described and referred to herein as the "Association", upon written application by any owner, if the Association is of the opinion that the setback requirements would work and undue hardship, or where a variation thereof would be in the best interest of the lot owners and subdivision as a whole, without prior consent or approval of the other lot owners. Should a variance be required, it must be obtained through the Navajo County Planning Department by Board of Adjustment action. In the event a lot is served by a driveway and also fronts on the street, the street side of the lot shall be considered the front side of the lot. In addition, that lot can only use the driveway as a method of ingress and egress to the lot and cannot use another way from the street.

5. ARCHITECTURAL CONTROL. No building, fence, wall or

antenna or other structure shall be commenced, erected, maintained or remodeled until the plans and specifications showing the nature, kind, shape, color, height, material, floor plans, location and approximate cost of such a structure shall have been submitted to and approved by the Association (and in certain instances to the Navajo County Planning Department) and a copy thereof, as finally approved, lodged permanently with said Association. The following are specific requirements for the materials to be used in the structures: Laminated wood siding and "pressed board", "pressed wood", "pressed paper" or other similar siding is prohibited. A natural solid wood siding shall be required for the structures. Redwood and cedar shiplap or tongue-and-groove solid wood siding or logs or log siding are specifically approved. Other types of natural solid wood siding materials must be specifically approved by the Association. Homes shall not be painted, but shall have natural stain, oil, or other protective coating which will enhance and not hide the natural texture and beauty of the wood. However, small trim areas may be painted with a medium to dark brown color if desired by the owner. The roof material shall be cedar shake or imitation cedar shake which shall match in quality, color, appearance and durability to real cedar shake. The use of imitation cedar shake shall require the specific approval of the Association. Failure of said Association to reject in writing said plans and specifications within sixty days from the date the same are submitted shall constitute approval of said plans and specifications. Approval of plans and specifications shall not be

unreasonably withheld, and rejection of any plans or specifications must be based on reasonable judgment as to the effect that said construction changes and alterations will have on the subdivision as a whole. The Association shall have the right to refuse to approve any such plans or specifications or grading plan, which are not suitable or desirable, in its opinion, for aesthetic, or any other reasons, and in so passing upon such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be built, to the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. All subsequent additions to or changes or alterations, including, but not limited to, painting of exterior surfaces of any building, fence, wall or other structure, shall be subject to the prior approval of the Association. Insofar as is practical, the architecture of any associated hanger, guest house, or other detached structure shall match that of the main house. Specifically, the siding and roofing materials shall generally be of the same type. The architectural design of those hangars on Tracts E through M, inclusive, shall be as illustrated in Figure #1, and shall meet the following specifications:

a. Siding material shall be log siding similar to that contained on the "hex" hangar located on Parcel B, Mogollon Airpark.

b. Roofing material shall be imitation cedar shake, aged cedar in color, similar to that contained on the "hex" hangar located on Parcel B, Mogollon Airpark.

c. The location of windows and doors shall be as illustrated in Figure #1.

e. The hangar shall be 46' wide and 36' deep as shown in Figure #1, and shall have a hangar door opening of 42' wide and 12' high.

The owners of tracts E, F, and G, shall have the option, but not the obligation, of constructing three hangars with common side walls on Tracts E, F, and G, and forming a Hangar Association for the management, care, and control, of the hangar complex. The specific plans for the hangar complex and the By-laws for the Hangar Association shall be approved by the Association. However, the types of siding materials, roofing materials, and architectural design shall be as close as possible to the requirements stated above for a single hangar. Similarly, the owners of Tracts J and K and the owners of Tracts L and M, may likewise form a Hangar Association and build a "duplex" hangar on the combined tracts. The restrictions, reservations, and architectural design specified above for Tracts E, F, and G shall apply to Tracts J and K, and to Tracts L and M for the construction of a common hangar.

Notwithstanding anything to the contrary above, the Declarant, Mogollon Airpark Properties II, does hereby exclusively reserve to itself until all of the lots in Mogollon Airpark Properties II (Units 4A, 4B, and 6) have been sold, to review and grant final

approval for all plans and specifications that hereinabove require Association approval.

6. All lots which abut and share the use of a driveway shall contribute to the common maintenance of that driveway, including, but not limited to, grading, snow removal, graveling, etc. The maintenance shall be that agreed upon by the lots sharing the use of the driveway and should any lot owner fail to make its prorata contribution, that lot shall be subject to a lien for the amount due and, if the owner fails to pay the amount due, the court may assess him with a reasonable attorney's fee.

7. CORNER LOTS. In the event a lot is situated on the corner so that it abuts two streets or a street and a driveway, then the side facing the street shall still be considered the front; however, the elevation abutting the other street or driveway, as the case may be, shall also be considered a front only for architectural approval purposes when the Association considers the architectural treatment of the side of the structure facing the other street or driveway. In addition, that lot can only use the driveway as a method of ingress and egress to the lot and cannot use another way from the street.

8. No horses, cattle, sheep, goats, pigs or other livestock or poultry may be kept, boarded or maintained on any of said lots or any part thereof.

9. All clotheslines, equipment, garbage cans, incinerators and service yard shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring parcels and

streets. No metal fence shall be erected on any lot. All rubbish, trash or garbage shall be removed from the premises and shall not be allowed to accumulate thereon.

10. No temporary house trailer, travel trailer, mobile type home, mobile home, or any temporary housing shall be placed or erected on any lot in said subdivision. "Mobile home" as used in these restrictions shall be defined in the Arizona Revised Statutes, Sections 33-1409. Manufactured housing shall be permitted within the subdivision, but only if the architectural design of such housing is approved by the Association prior to construction on a lot.

11. No elevated tanks of any kind shall be erected, placed or permitted upon any of said lots. Any tanks for use in connection with any residential construction on said property including tanks for the storage of gas or fuel oil, must be buried or walled in or kept screened by adequate planting to conceal it from the neighboring tracts, roads, and streets. It shall be the responsibility of the lot owners to cause a culvert to be installed on their lots prior to the ingress or egress of heavy trucks or construction equipment in order to prevent damage to the Navajo County road system serving Mogollon Airpark. Failure to comply with this provision shall make the lot owner liable for all necessary repairs to the roads caused by these heavy trucks or construction equipment. Vehicles and aircraft using the common area taxiways shall limit their speed to not more than 10 MPH. Construction traffic is prohibited on the common area runway,

taxiways, and tiedown areas. The failure of a lot owner to prevent construction traffic associated with his lot from entering upon the common area runway, taxiways, and tiedown areas shall make that lot owner liable for any necessary repairs caused by construction traffic upon these areas. Lot owners shall specifically include a clause in their construction contracts prohibiting contractor equipment from entering upon the common areas runway, taxiways, and tiedown areas.

12. No lot or lots shall be subdivided except with the permission of the Association and the Navajo County Board of Supervisors. Any ownership of single holding by any person compromising parts of two adjoining lots or the whole of one lot and parts of one or more adjoining lots shall, for the purposes of this Declaration of Conditions and Restrictions, be deemed to constitute a single lot.

13. In the event the owner of any lot shall fail to maintain the premises and the exterior of the improvements situated thereon in a manner reasonably satisfactory to the Association, or in the event the owner of any lot shall fail to keep a fire line cleared to the mineral soil around his lot, or permit litter and debris to accumulate on his lot, or fail to comply with any other reasonable fire preventive requirements, the Association, through its agents and employees, shall have the right to enter upon such premises and to repair, maintain, rehabilitate and restore the exterior of any improvements situated thereon and/or clean or clear any lot of litter and debris, or take any other steps necessary to meet

litter and debris, or take any other steps necessary to meet reasonable fire preventive regulations; provided, however, that the Association shall first give written notice to the owner of said lot of its intention to make such repairs or of its intention to perform such cleaning, maintenance or rehabilitation work, affording the owner of said lot thirty days time in which to make said necessary repairs, maintenance or clearing work. If at the end of said thirty day period the work to be performed has not been done by the owner, then the Association shall have the right, as set forth herein, to make such repairs, rehabilitation, clearing or maintenance work. Nothing herein contained shall be construed to grant to the Association any right to enter into or inside of any building located on any lot without the consent of the owner thereof. Any costs incurred by the Association in enforcing and carrying out of the performance of this paragraph shall be charged against the owner of said lot, and a lien may be created on said lot until the Association has been paid in full for all costs incurred, which lien may be foreclosed in the manner set forth in Paragraph 35 of this Declaration.

14. Within twelve months after the date of the initial purchase of any lot, the lot owner shall cause said lot to be raked to the mineral soil and the vegetation thereon thinned to comply with reasonable fire preventive requirements. In the event the owner of the lot shall fail to have said lot raked and thinned within the period, the Association through its agents and employees, shall have the right to enter upon such premises and

shall follow the same procedures for notice to the owner and shall be reimbursed for costs incurred as set forth in Paragraph 34 of this Declaration, and a lien may be created on said lot until the Association has been paid in full for all costs incurred, which lien may be foreclosed in the manner set forth in Paragraph 34 of this Declaration.

15. Fireplaces, at the time of their construction or installation, shall have spark arresters installed.

16. No individual water system shall be permitted on any lot in said subdivision. A duly franchised water company and its agent, or an agent of the improvement district provided for herein, shall supply all necessary water to lot owners.

17. Although there is no requirement that a residence or other improvement be constructed upon any lot, upon the commencement of the construction of any improvement, such construction of at least the exterior thereof shall be prosecuted with reasonable diligence to completion so that the aesthetics of the area are not disturbed by the appearance of an incomplete structure for an unreasonable period of time. For the purposes of this paragraph, a reasonable period of time to complete the construction of the exterior section of any structure shall be six months from the commencement of the construction of the exterior.

No signs, advertisements, billboards, "for sale or rent" signs or promotional signs of any kind shall be erected and/or exhibited in any manner on or above the property without prior written approval from the Association. The issuance of such approved "for

sale" sign must be removed from any lot within thirty days after sale has been consummated. Promotional signs are defined as subdivision advertisement signs only.

Notwithstanding anything to the contrary, the Declarant, Mogollon Airpark Properties II, shall have the right to install "for sale" signs and promotional signs on any unsold lots or upon the common areas.

19. Any exterior lighting caused or allowed to be erected on any lot by a lot buyer shall be shaded so as to not create a nuisance to any other lot owner or occupier thereof.

20. Easements for roadway slopes, drainage, sewers, water, cable television, electricity, telephone, and other utilities along, under, around, adjacent to, and across the lots which are subject to these restrictions are hereby granted, reserved and established; such shall include the right to excavate for, place, cover, repair, and do everything necessary or desirable to maintain the same in a workmanlike manner and proper condition. This right shall be exercised in such a manner as to preserve the greatest amount of natural growth and vegetation and do the least amount of injury to the lots, consistent with the most feasible location of, and proper construction of any improvements to, said easements. The location of these easements and the construction of any improvements thereto shall be as shown on the subdivision plat. Any such easement shall be within fifteen feet of any lot line. Within these easement areas, no structure, plants, or other

material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement areas of each lot and parcel of land and all improvements in it shall be maintained continuously by the owner of said lot and parcel of land.

21. All injuries or rights to assert damage to lots arising out of the construction of roads to grades or elevations other than the grades or elevation of such lots, are hereby waived, provided said roads or sewers are constructed in accordance with good engineering practice.

22. During the time of construction of the easement improvements referred to in Paragraph 20, easements for the construction of same, for the movement and storage of equipment and materials, and for entry and access for inspection and other incidental purposes are hereby granted, reserved and established in, over, under and upon each of said lots, in order to facilitate construction and completion of such improvements. This right shall be exercised in such manner as to preserve the natural growth and vegetation and do the least amount of injury to said lots, consistent with the economic construction of said improvements.

23. No trees or other native vegetation shall be cleared from any of said lots except to the extent that such clearing is necessary to allow construction of a residence, provide driveway access thereto, and to provide for reasonable fire protection or its removal if necessary as a safety precaution. All clearing and grading of lots must first have written approval of the

Association.

24. A no-fee County Highway Department permit shall be required for all access to a County Highway and/or roadway accepted for maintenance by the County and for egress and ingress from subdivision lots and shall be obtained prior to any construction and/or installation of same. The permit will show the egress and ingress requirements and will include the specifications for driveway drainage culverts to subdivision lots, said culverts to be provided by owner and installed to county specifications and be installed by Navajo County Engineering Department. There shall be no ingress or egress from or to a county road or subdivision streets from subdivision lots until the proper culverts are installed to specifications. If ingress and/or egress control signs are required there will be a fee to cover their purchase and installation by the County Highway Department except for those as outlined in ARTICLE IX of the SUBDIVISION REGULATIONS AND REQUIREMENTS as adopted by the County Board of Supervisors on April 5, 1971/ The required permit(s) may be obtained from one of the County Highway Departments or the County Engineer's office and shall be posted in view at the construction site.

25. All construction on subdivision lots shall require a Navajo County Building permit and shall comply with all established requirements.

26. The covenants, restrictions, reservations and conditions contained herein shall run with the land and shall be binding upon all persons purchasing or occupying any lot or lots in said

subdivision after the date on which this instrument has been recorded. These covenants, restrictions, reservations and conditions may be enforced by the owner of any parcel in said subdivision or any one or more of said individuals and corporation; provided, however, that any breach of said covenants, restrictions, reservations and conditions or any right of re-entry by reason thereof, shall not defeat or affect the lien of any mortgage or deed of trust made in good faith and for value upon said land, but except as hereinafter provided, each and all of said covenants, restrictions, reservations and conditions shall be binding upon and effective against any owner of said premises whose title thereto is acquired by foreclosure, trustee's sale or otherwise and provided also that the breach of any of said covenants, restrictions, reservations and conditions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such deed or trust or mortgage. All instruments of conveyance of any interest in all or any part of said subdivision shall contain reference to this instrument and shall be subject to the covenants, restrictions, reservations and conditions herein as fully as though the terms and conditions of this instrument were therein set forth in full; provided, however, that the terms and conditions of this instrument shall be binding upon all persons affected by its terms, whether express reference is made to this instrument or not.

27. Unless otherwise provided herein, these covenants, restrictions, reservations and conditions shall remain in full

force and effect for a period of thirty years from the date hereof. Thereafter, they shall be deemed to have been renewed for successive terms of ten years, unless revoked or amended by an instrument in writing, executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, which said instrument shall be recorded in the office of the County Recorder of Navajo County, Arizona, within ninety days prior to the expiration of the initial effective period hereof or any ten year extension.

28. Wherever the terms "owner" or "owners" are used herein, such terms shall include purchase or purchasers under an agreement for sale or contract to purchase, and beneficiary or beneficiaries of any trust owning or purchasing any parcel within said subdivision.

29. Invalidation of any one of these covenants, restrictions, reservations or conditions, by judgment or court order, shall in no way affect the validity of the other provisions, and the same shall remain in full force and effect.

30. All restrictive covenants listed or contained herein are subject in all instances to compliance with the State of Arizona and the County of Navajo health ordinances, restrictions and regulations, zoning regulations or any other duly enacted laws or regulations.

31. Should it become necessary at any time that anyone authorized by this Declaration to enforce same, employ counsel to enforce any of the provisions, conditions, restrictions, or

covenants herein contained, all costs incurred in the enforcement of such provisions conditions, restrictions or covenants herein contained including, but not limited to, a reasonable fee for counsel, shall be paid by the owner of a lot or lots who, through their breach, make it necessary for the Association to enforce such provisions, conditions, restrictions, or covenants herein contained. The Association shall have a lien upon such lot or lots to secure payment of such costs, which lien may be enforced in the manner specified in Paragraph 34 hereof.

32. None of the rights of the Association to enforce the covenants and restrictions contained herein shall be construed to be mandatory obligation or duty of the Association to enforce said covenants and restrictions.

33. The Association shall have the right to enter upon the land when a provision or provisions of this Declaration of restrictions has been violated and remedy such breach and bring about the proper aesthetics and sanitary conditions as are contained herein without deeming such entrance as trespassing.

34. Each property owner agrees that by the acceptance of the contract of purchase or deed to any lot within said tract that he will become a member of the Mogollon Airpark Association ("Association") and each of the above described lots shall entitle the owner or owners thereof to one membership in the Association. The owner thereof shall be entitled to the rights and privileges of such membership and shall comply with the duly promulgated rules and regulations of the Association. Each of said lots shall be

assessable by the Association as provided in the Bylaws thereof, and any such assessment shall constitute, from the date of such assessment, a lien on each such lot to secure the payment of the assessment. In the event that any such assessment shall not be paid on or before the due date thereof, the Association shall have the right to foreclose in the manner prescribed by Arizona law for the foreclosure of liens on real property other than mortgage liens. In the event of any action to foreclose such lien, the lien shall be deemed to secure, in addition to all assessments then due and unpaid, all costs and expenses (including reasonable attorney's fees) incurred in preparation for or in connection with such foreclosure, together with interest on the unpaid assessment or assessments from the due date thereof until paid. The primary purpose of the Association shall be for the administration of those restrictions set forth in this Declaration (including the appointment of a committee to approve or disapprove proposed improvements as required by Paragraph 5 of this Declaration) not specifically committed to administration by another, to maintain and operate or contribute to the maintenance and operation of the improvements referred to in this Declaration which otherwise would be insufficiently maintained and operated, in the judgment of the Association. The execution of any agreement to purchase any of said lots or the acceptance of a deed to any such lot shall, without further affirmative act or consent by such purchaser or recipient, cause such recipient or purchaser and the lot so purchased or received, to be subject to the Bylaws of any

promulgated rules and regulations of the Association and the provisions of the Declaration.

35. This agreement shall be construed under the laws of the State of Arizona.

36. Each party who acquires any interest in all or any part of the property described herein further agrees that upon such acquisition of any interest in all or part of the real property, said acquiring party shall look only to the other subscribed property owner or owners acquiring an interest in said property for any performance or relief deemed equitable or necessary for the enforcement of the covenants, conditions and restrictions contained herein.

TRACT B

Notwithstanding any of the restrictions and conditions above set forth, Tract B shall not be subject to the same conditions, reservations and restrictions, but shall be governed by this paragraph and shall be declared as a common area under the ownership thereof, to the Homeowners Association upon the sale of the last lot in Unit IV and Unit VI as shown on the master plan from Mogollon Airpark Expansion.

TRACTS C AND D

Tracts C and D are hereby reserved as drainage areas for the subdivision. There shall be no construction of any type whatsoever within these tracts and the Homeowners Association shall ensure the areas remain free of trash or debris and are properly maintained aesthetically.

BEST PICTURE POSSIBLE

IN WITNESS WHEREOF, MOGOLLON AIRPARK PROPERTIES II, an Arizona Limited Partnership, has caused its name to be hereunto affixed this 26th day of June 1994.

MOGOLLON AIRPARK PROPERTIES II,
an Arizona Limited Partnership,

By B. R. Preece
B. R. PREECE, General Partner,
Trustee for the Emily and Bill
Preece Family Trust

RATIFIED AND APPROVED:

TRANSAMERICA TITLE INSURANCE COMPANY
as Trustee solely as bare legal title held
and not personally, under Trust 84-616

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

Before me on this 26th day of June, 1994, personally appeared B. R. PREECE, who acknowledged himself to be the General Partner of MOGOLLON AIRPARK PROPERTIES II, an Arizona Limited Partnership, and that he, as such General Partner, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

In witness whereof I hereunto set my hand and official seal.

Loopy L. Soeur
Notary Public




My Commission expires:

Commission Expires Nov. 8, 1996

RATIFIED AND APPROVED:

TRANSAMERICA TITLE INSURANCE COMPANY, a California corporation
as Trustee under Trust 84-616, and not personally

by 
Lelia Sutherland, Asst Secy.

STATE OF ARIZONA)
) ss.
County of Navajo)

This instrument was acknowledged before me this 22nd day of July, 1994
by Lelia Sutherland who acknowledged herself to be an Assistant Secretary
of the Transamerica Title Insurance Company and that she as such officer
being authorized so to do, executed the foregoing instrument for the
purposes therein contained by signing the name of the corporation as
Trustee, by herself as such officer.



My commission will expire: 6/4/96


Notary Public

SPANCO
Construction

P.O. Box 454
Overgaard, AZ 85933
(602) 535-5499

Licensed & Bonded

Res./Lic. 078150 Comm./Lic 092796

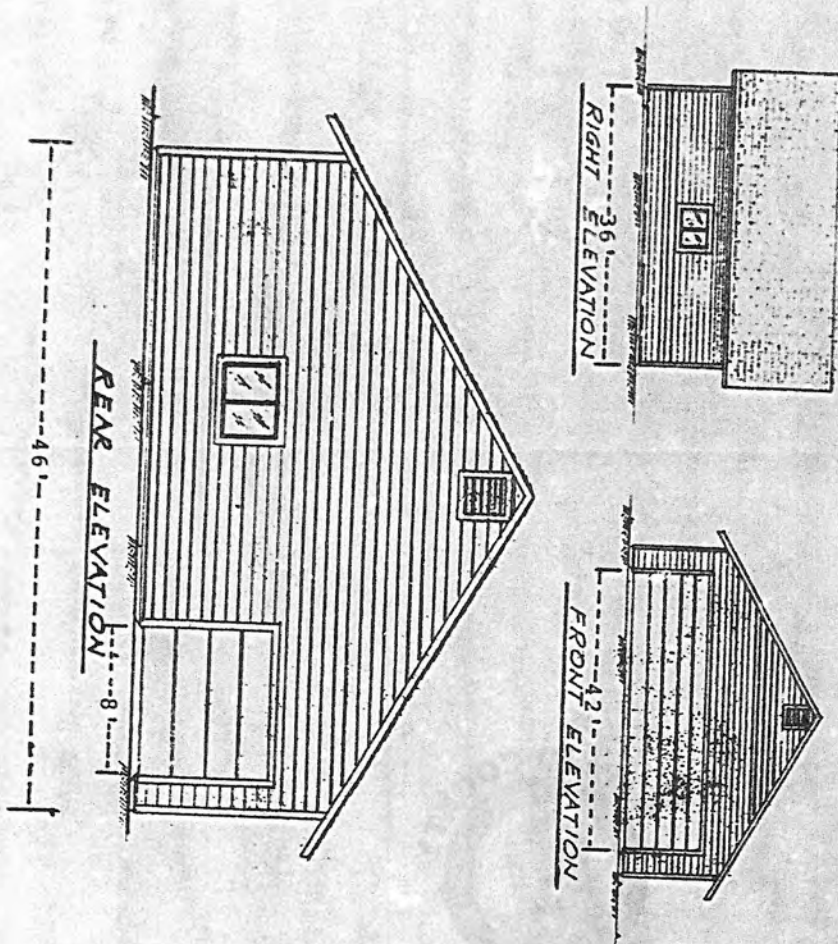


Figure #1

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Signature



CERTIFIED: A TRUE COPY

LAURETTE JUSTMAN, NAVAJO COUNTY RECORDER

BY Laurette Justman

Dated this 30 Day of March, 2015

2018-17164
Page 1 of 34
Requested By: Mogollon Airpark Association Inc
Navajo County Recorder - Doris Clark
10-18-2018 11:51 AM Recording Fee \$42.00

When recorded mail to:

Mogollon Airpark Association, Inc.
P O Box 1778
Overgaard AZ 85933

**AMENDMENT TO DECLARATION OF ESTABLISHMENT OF
CONDITIONS, RESERVATIONS AND RESTRICTIONS AND
MUTUAL AND RECIPROCAL COVENANTS AND LIENS
RUNNING WITH THE LAND**

This Amendment to Declaration of Establishment of Conditions, Reservations and Restrictions and Mutual and Reciprocal Covenants and Liens Running with the Land (“Declarations”) is made and entered into effective as of October 18, 2018 by the undersigned owners.

WHEREAS, that Declaration made and entered into by Mr. B. R. Preece as a General Partner of Mogollon Airpark Properties II, as Declarant, as of June 26, 1994, and recorded at Docket Number 1198 of Records, Page 281 Inclusive and modified under Amendment One of the Declaration, recorded on October 31, 1994 at Docket 1211, Pages 354, Records of Navajo County, Arizona, provides for the amendment of the Declaration by an instrument which is executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, and by due recording of said instrument; and

WHEREAS, the property which is subject to the Declaration is subject also to the Plat of record for Mogollon Airpark, recorded at Book 206 of Maps, Page 29 (all such property so encumbered is hereinafter referred to as the “Project”); and

WHEREAS, the Declaration provides for amendment of the Declaration by an instrument which is executed and acknowledged by the owners of not less than three-fourths of the lots in said subdivision, and by due recording of said instrument; and

WHEREAS, the owners of three- fourths of the lots of said subdivision have executed and acknowledged the amendment to the Declaration:

NOW, THEREFORE, the Declaration is amended as follows:

- 1. The Recitals set forth above are hereby incorporated into this amendment and made a part hereof.
- 2. The following paragraph is hereby added to the Declaration:

LAND USE:

Para 2: There are two categories of lots: Residential lots, identified by three digit numbers 178 through 213, inclusive, and Hangar Tracts, identified by letters E through M, inclusive. All buildings or structures erected on said lots shall be of new construction, and no building or structure shall be moved from other locations onto said premises.

Only one single family structure or combination hangar/house may be erected on a residential lot. A separate aircraft storage hangar may be erected on lots with access to the airport taxiway system. A guest house or recreational vehicle storage garage may also be constructed on lots which are 30,000 square feet or more. Every single family structure or combination hangar/house shall have an area devoted to living purposes, exclusive of porches, terraces, garages, aircraft hangar, and guest house of not less than 1,200 square feet.

Hangar Tracts E through M shall initially be sold to the purchasers of the following residential lots in Unit 4A or 4B:

- | | |
|-------------------|-------------------|
| Tract E – Lot 212 | Tract F – Lot 211 |
| Tract G – Lot 213 | Tract H – Lot 171 |
| Tract I - Lot 206 | Tract J – Lot 207 |
| Tract K – Lot 209 | Tract L – Lot 210 |
| Tract M – Lot 208 | |

Any subsequent resale of any of the above Hangar Tracts shall only be to owners of lots within Mogollon Airpark and who are members of the Mogollon Airpark Homeowner’s Association

Tracts E through M are for aircraft storage hangars only. Guest quarters may be constructed as part of an aircraft storage hangar on these Tracts.

Guest houses on residential lots, and guest quarters in aircraft storage hangars are for temporary living only and in no case will be used as a permanent residence. For the purposes of this provision, “temporary” means not longer than four months per calendar year. If special circumstances exist such as during construction of single family structure, owners can request an extension of the four month limit from the Board of Directors of Mogollon Airpark, Inc.

The owners of Tracts E, F, G, and lots 183, 184, 185, 190, 191, 192, 193, 194, and 213 shall have a portion of the Tract B tiedown area specifically reserved for their ingress and egress to a hangar or tiedown area contained on their respective lot.

ARCHITECTURAL CONTROL

Para 28: Wherever the terms “owner” or “owners” are used herein, such terms shall include purchase or purchasers under an agreement for sale or contract to purchase, and beneficiaries of any trust owning or purchasing any parcel within said subdivision who inherit the property as beneficiaries of a trust or individuals who inherit the property through a will of the owners of record at Navajo County.



FEE # 94 18873
RECORDED AT THE REQUEST OF
MOGOLLON AIR PARK
ON 10-31-94 @ 9:35 AM
IN DOCKET 1211 PAGE(S) 354-358 INCL.
OFFICIAL RECORDS OF NAVAJO COUNTY, ARIZONA
JAY H. TURLEY, RECORDER

AMENDMENT ONE OF DECLARATION OF ESTABLISHMENT
OF CONDITIONS, RESERVATIONS AND RESTRICTIONS
AND MUTUAL AND RECIPROCAL COVENANTS AND LIENS
RUNNING WITH THE LAND

This amendment and declaration is made this 24th day of October, 1994, by MOGOLLON AIRPARK PROPERTIES II, as present owner of the second beneficial interest in TRANSAMERICA TITLE INSURANCE COMPANY, as Trustee under Trust No. 84-616, being properly authorized so to act by the terms of the trust and TRANSAMERICA TITLE INSURANCE COMPANY as Trustee thereunder, hereinafter called Trustee, solely as bare legal title held and not personally and acting at the proper direction of said Beneficiary-Declarant, executes this amendment and declaration of reservations, covenants, conditions and restrictions to run with the following real property for the purpose as hereinafter set forth: Lots 178 through 213, inclusive, and Tracts B, E, F, G, H, I, J, K, L, and M, MOGOLLON AIRPARK UNIT FOUR B, recorded in Book 18 of Plats, page 9-10, records of Navajo County, Arizona.

The Declarant hereby amends the original reservations, covenants, conditions and restrictions as follows:

Page 4, Paragraph 4. is hereby amended
to read:

"SETBACK REQUIREMENTS. No structure shall be erected on any

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lot within 20 feet of the front or rear line of said lot or within 15 feet of either side line of said lot; except that for Tracts E, F, and G, the setback shall be 20' from the front of the tract (taxiway side), 10' on the back of the tract, and 5' on each side of the tract; and for Tracts H through M, inclusive, the setback shall be 10' on the front, back, and sides of the tract; and for lots 182, 184, and 185, the setback for hangars on that portion of the lot which is adjacent to Tiedown B, shall be 5', and for lots 190, 191, 192, 193, and 194, the setback for hangars on that portion of the lot which is adjacent to Tiedown C shall be 5'; except that for Lot 194, in order to facilitate the construction of a hangar, the setback from Lot 195 and from Tract E shall be 5' and the setback from Tiedown C shall be 0'; provided, however, that the setback requirements herein provided may be amended or modified by the Mogollon Airpark Association,.....
..... In addition, that lot can only use the driveway as a method or ingress and egress to the lot and cannot use another way from the street."

Page 5, lines 17, 18, and 19 - Delete in its entirety the following sentence:

....."However, small trim areas may be painted with a medium to dark brown color if desired by the owner.".....

Page 7, paragraph 5.c. is hereby amended to read:

"The location of windows and doors, with the exception of the main hangar door, shall be at the discretion of the lot owner subject to approval by the Association. The main hangar door shall be oriented as illustrated in Figure #1 and shall face the taxiway serving that hangar lot."

IN WITNESS WHEREOF, MOGOLLON AIRPARK PROPERTIES II, an Arizona

Limited Partnership, has caused its name to be hereunto affixed this 24th day of October 1994.

MOGOLLON AIRPARK PROPERTIES II,
an Arizona Limited Partnership,

By: B. R. Preece, General Partner
for the Emily and Bill
Preece Family Trust

RATIFIED AND APPROVED:

TRANSAMERICA TITLE INSURANCE COMPANY
as Trustee solely as bare legal title held
and not personally, under Trust 84-616

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

Before me on this 24th day of October, 1994, personally appeared B. R. Preece, who acknowledged himself to be the General Partner of MOGOLLON AIRPARK PROPERTIES II, an Arizona Limited Partnership, and that he, as such General Partner, being authorized so to do, executed the foregoing instrument for the purpose therein

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BEST PICTURE POSSIBLE

contained.

In witness whereof I hereunto set my hand and official seal.



Lelia Sutherland
Notary Public

9/14/97



CERTIFIED: A TRUE COPY

LAURETTE JUSTMAN, NAVAJO COUNTY RECORDER

BY Laurette Justman

Dated this 9 Day of April, 2015