 **CANDACE OWENS**  
**COCONINO COUNTY RECORDER**  
**OFFICIAL RECORDS OF**  
**COCONINO COUNTY**

INST: 97-10631 FEE: \$ 9.50  
AT THE REQUEST OF:  
CITY OF FLAGSTAFF  
DATE: 04/23/1997 TIME: 10:41  
DKT: 1977 PG: 307 PAGES: 010

**DECLARATION OF RESTRICTION**

**FOR**

**ASPEN TRAILS SUBDIVISION**

**1977-307**

DECLARATION OF RESTRICTION

FOR

ASPEN TRAILS SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS:

Lake Mary L.L.C., an Arizona limited liability company, ("Developer"), being the owner of all the following described premises, situated within the County of Coconino, State of Arizona, to wit:

LOTS 1 through 103 inclusive,  
ASPEN TRAILS SUBDIVISION  
according to Case \_\_\_\_\_,  
Maps 25 + 25A, Records of  
Coconino County, Arizona, ("Property"),

and desiring to establish the nature of the use and enjoyment thereof, does hereby declare said premises subject to the following express covenants running with the title to said premises and with each and every part of and parcel thereof.

1. Land Use and Building Type. No lot within the Property, ("Lot"), shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than a dwelling not to exceed two stories in height and an attached or detached private garage or carport. All structures shall be of new construction, and no building shall be moved from any other location onto any Lot.
2. Maintenance and Repairs. The Aspen Trails Property Owners Association, ("Association"), shall have the responsibility for the maintenance, insurance, payment of real property taxes, cleanliness and safety of Tract C, D, E, F, and G of the subdivision. This responsibility shall include maintenance, repairs of drainage facilities, detention basins and landscaping, maintenance and repair of water and sewer lines not under City control and related matters. Should the Association fail to provide such maintenance and repair, and the City of Flagstaff determines that a hazard to the residents of the area exists because of such failures, then the City of Flagstaff may perform said maintenance and repairs and assess the Association for all costs and expenses incurred by the City.
3. Removal of Trees. Except for trees removed by the Developer during the construction of original improvements, no tree may be removed at any time without

approval of the Association and the City of Flagstaff. Removal of any such tree could result in civil and criminal penalties by the City of Flagstaff.

4. Dwelling Size. No dwelling shall be permitted on any Lot having a ground floor area of less than One Thousand (1,000) square feet, exclusive of one-story open porches, pergolas, carports, and garages.
5. Development Envelope. The development envelope as delineated on every lot within the plat is more restrictive than the typical lot setbacks for the R-1 zone. All building construction is limited within the development envelopes as shown. The development envelope as shown is the allowed distributable area for each lot.

All on-lot areas beyond the designated development envelopes are perpetual tree resource protection easements, remaining undisturbed. Tree protection shall be maintained by the individual lot owner.
6. Lot Area and Width. No dwelling shall be erected or placed on any interior Lot having a width of less than sixty (60) feet at the minimum setback line or having an area of less than Seven Thousand (7,000) square feet. No dwelling shall be erected or placed on any corner Lot having a width of less than sixty-five (65) feet at the minimum setback line or having an area of less than Seven Thousand (7,000) square feet.
7. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

No clotheslines shall be erected except between the rear walls of the house and the rear property line. Under no condition shall a temporary clothesline be permitted on the carport for the purpose of drying or airing clothes.
8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, or barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.
9. Signs. No signs of any kind shall be exposed to the public view on any Lot except one professional sign of not more than one (1) square foot, one sign of not more than five (5) square feet advertising the property for sale or for rent, or any sign or signs used by a builder to advertise the property during the construction and sales period.

10. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derricks or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any Lot.
11. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.
12. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
13. Water Supply. No individual sewage disposal system shall be permitted on any Lot.
14. Fences and Walls. No solid wall or fence on any Lot shall exceed six (6) feet in height. No solid wall or fence over two and one-half (2 1/2) feet high shall be constructed or permitted to remain nearer to the front street line of any Lot than the front walls of the building erected on such Lot. In the case of a corner Lot having the side Lot line of another Lot common with its rear Lot line or separated therefrom by an alley, no solid wall or fence over two and one-half (2 1/2) feet high shall be constructed or permitted to remain closer to the side street line than the walls of the building erected on such Lot. In the case of a Lot upon which no building has been constructed, no solid wall or fence over two and one-half (2 1/2) feet high shall be constructed closer to the front street line than twenty (20) feet.
15. Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the extension of street property lines and a line connecting them at points twenty-five (25) feet from the intersection of a street line. The same sight line limitations shall apply on any Lot edge of a driveway or alley pavement. No tree shall be permitted to remain

within such distance of such intersections unless the foliage is maintained a sufficient height to prevent obstruction of such sight line.

16. Term. The foregoing restrictions and covenants run with the land and shall be binding on all persons owning any of said Lots in ASPEN TRAILS SUBDIVISION, until January 1, 2010, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless by vote of majority of the then-owners of the said ASPEN TRAILS SUBDIVISION, it is agreed to change the said covenants in whole or in part.
17. Enforcement. Deeds of conveyance of said property or any part thereof may contain the above restriction covenants by reference to this document, but whether or not such reference is made in such deed, each and all of such restrictive covenants shall be valid and binding upon the respective grantees. Violations of anyone or more of such covenants may be restricted by any court of competent jurisdiction and damages awarded against such violations, provided, however, that a violation of these restrictive covenants, or any one or more of them, shall not affect the lien of any mortgage now or record, or which hereafter may be placed on record upon said Lots, or any part thereof.
18. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any of the other provided provisions, which shall remain in full force and effect.
19. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear eight (8) feet of certain Lots. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.
20. Membership.
  - 20.1. Establishment of Rights. There shall be one membership in the Association pertinent to each Lot. The owner of the Lot shall designate in writing to the Association an individual who shall be the member, hereinafter "Member", with respect to the

Lot. In the absence of such written designation, an assessment shall nevertheless be charged against the Lot an owner thereof.

20.2. Voting. The Association Member, shall be the only person entitled to vote on behalf of the owner at Association meetings and elections. The number of Memberships, and therefore, votes, which an owner is entitled to cast shall be equal to the number of Lots owned by an individual.

21. Association.

21.1. Formation of the Association. The Association shall be incorporated by the Developer as a non-profit corporation to serve as the governing body for all of the owners of Lots within Aspen Trails relevant to the insurance, maintenance, and repair of Tract C in the Property.

21.2. Membership. Each owner of a Lot within Aspen Trails shall be a member of the Association as long as he owns a Lot within the Property. Any attempt to make a transfer of membership independent of any Lot shall be invalid and shall not be recognized by the Association.

21.3. Affairs of the Association. The Association shall be governed by a Board of Directors, ("Board"), in accordance with the Articles and Bylaws of the Association. The Developer shall have the absolute power and right to appoint and remove the members of the Board until seventy five percent (75%) of the Lots within the entire Aspen Trails Subdivision, including any additional phases of Aspen Trails annexed hereto pursuant to Paragraph 9 below, or ten (10) years after the recording date of this Declaration, whichever occurs sooner, hereinafter "Transition Date". At or prior to the Transition Date, the Developer shall appoint successor Directors and Officers of the Association. At or before the Transition Date, the Developer shall convey title to Tract C within Aspen Trails to the Association. Except for Directors appointed by the Developer prior to the Transition Date, if any Director or Officer ceases to own a Lot within a subdivision, he will thereupon cease to be a Director or Officer and his place on the Board shall be deemed vacant. At the first annual meeting of the Association subsequent to the Transition Date, the Lot owners shall elect successor Directors of the Association.

21.4. Board's Determination Binding. In the event of any dispute or disagreement between any owners, Members, or any other persons subject to this Declaration relating to the Property, or any question of interpretation or application of the provisions of this Declaration, the Articles, or Bylaws, the determination thereof by the Board shall be final and binding. The Board may, at its election, delegate the resolution of such dispute or disagreement to a committee appointed by the Board or the

Association President.

21.5. Indemnification. To the fullest extent permitted by law, every director and every officer of the Association, and the Developer shall be indemnified by the Association, and every other person serving as an employee or direct agent of the Association, or on behalf of the Association as a member of a committee or otherwise, may, in the discretion of the Board, be indemnified by the Association, against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association (or in the case of the Developer by reason of having appointed, removed or controlled or failed to control members of the Board), or any settlement thereof, whether or not he or she is a director or officer or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that such officer, director, or other person, or the Developer, did not act, fail to act, or refuse to act willfully or with gross negligence or fraudulent or criminal intent in the performance of his duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all rights to which such persons may be entitled at law or otherwise.

21.6. Non-Liability of Officials. To the fullest extent permitted by law, neither the Developer, the Board, or any other committees of the Association nor any member thereof, nor any directors or officers of the Association, shall be liable to any Member, Owner, Occupant, the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which the Developer, the Board, or such committees or Persons reasonably believed to be within the scope of their respective duties.

22. Annexation or Modification of Subject Property. The Developer, in the Developer's sole discretion, retains the right to increase or decrease the real property subject to this Declaration prior to the Transition Date. Subsequent to the Transition Date, any modification of the Property subject to this Declaration shall require the approval, by majority vote, of the Board. Prior to the recording of said Declaration of Amendment and Annexation, no real property other than the Property shall be subject to these restrictions.

23. Assessments.

23.1. Creation of Lien and Personal Obligations. Each Lot owner hereby covenants and agrees to pay to the Association regular

assessments, to be established and collected from time to time as provided in this Declaration. The assessments, together with interest thereon, late fees, attorneys fees, court costs and any other cost of collection, shall be a continuing lien of such owner's or member's Lot or Lots. Each assessment, including any arrearage and collection cost, shall become the obligation of an owner's successor or assign, even if not expressly assumed by him. The lien against a Lot as provided for in this Declaration shall be continuing and shall not be extinguished by the sale, conveyance or any other transfer of a Lot. All assessment obligations shall be joint and several. The assessments levied by the Association shall be used to promote the health, safety, and welfare of the owners of Lots within Aspen Trails, including without limitation the owners of Lots within Aspen Trails, including without limitation to pay the cost of administration of the Association and all other expenses, including without limitation, insurance, taxes, and any maintenance expenses associated with the Aspen Trails common areas.

23.2. Basis of the Assessments. Each member shall pay as his regular assessment, in the amount established by the Association Board of Directors and their business judgment, the owner's proportionate share of the Association's expenses. The Association shall establish the payment frequency of the assessments in its discretion including without limitation, monthly, quarterly or annually.

23.3. Developer Obligations. Prior to the Transition Date, the Developer shall ensure that the Association has a reasonably sufficient budget, but shall not be required to pay any assessments for Lots owned by the Developer. The Developer, shall, however, fund a reasonable reserve or sinking fund for the Association which, in the business judgment of the Developer and in view of the scope and nature of the Tract C improvements, is determined to be no less than two hundred fifty dollars (\$250.00).

23.4. Special Assessments. The Association shall be authorized, based upon a majority vote, to establish Special Assessments for any capital project or improvements within Aspen Trails. Any Board resolution, however, which would authorize a Special Assessment which represents an increase of the regular, annual assessments by more than one hundred percent (100%), shall require a 3/4 majority vote of the Board.

23.5. Subordination of Lien. The lien associated with any assessment obligations as set forth herein shall be subordinated to any deed of trust, mortgage or Purchase Agreement recorded against a Lot.

23.6. Lien Enforcement. The lien provided for in this Declaration may be foreclosed by the Association in any matter provided or permitted for the foreclosure of realty mortgages or deeds of trust in the State of Arizona. Nothing herein shall be




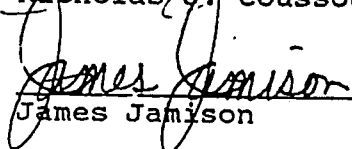
construed as requiring the Association taking any action required hereunder in any action at any time, shall not constitute a waiver of the right to take action at a later time or in a different instance.

24. Amendments. This Declaration may be amended by recording with the County Recorder of Coconino County, Arizona, a Certificate of Amendment duly signed and acknowledged by the President or Vice President of the Association. The Certificate of Amendment shall set forth in full the Amendment adopted and shall certify that an election duly called and held for this purpose pursuant to the Articles and Bylaws of the Association that no less than seventy five percent (75%) of the members of the Association voted affirmatively for the adoption of the Amendment established therein.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 12<sup>th</sup> day of August 1996.

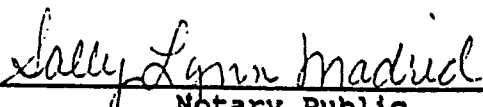
Lake Mary, L.L.C.,  
an Arizona limited liability company

  
\_\_\_\_\_  
Nicholas J. Coussoulis

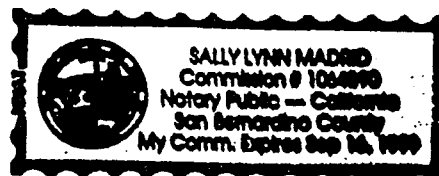
  
\_\_\_\_\_  
James Jamison

STATE OF CALIFORNIA        )  
                                      ) ss.  
County of San Bernardino )

ACKNOWLEDGEMENT. On the 12<sup>th</sup> day of August, 1996, before me, a Notary Public, personally appeared Nicholas J. Coussoulis, known to me or satisfactorily proven to be the person whose name is subscribed to this instrument and acknowledged that he executed the same.

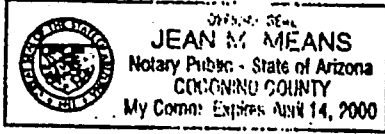
  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
9/16/99



STATE OF ARIZONA )  
 ) ss.  
County of Coconino )

ACKNOWLEDGEMENT. On the 29<sup>th</sup> day of July, 1996,  
before me, a Notary Public, personally appeared James Jamison,  
known to me or satisfactorily proven to be the person whose name is  
subscribed to this instrument and acknowledged that he executed the  
same.



Jean M. Means  
Notary Public

My Commission Expires:  
4/14/00

LM\_LLC\Declara2.Res

# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**

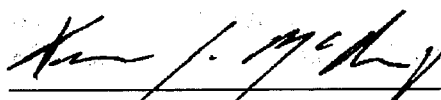
**CERTIFICATE OF REINSTATEMENT**

**\*\*\*ASPEN TRAILS HOMEOWNERS' ASSOCIATION\*\*\*  
File Number -0808139-0**

Effective this date, the ARIZONA CORPORATION COMMISSION, pursuant to Arizona Revised Statutes, Section 10-2442, hereby REINSTATES the Article s of Incorporation the above named corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 21st day of February, 2006, A. D.



  
Executive Director

By 