

Recording Requested By:

COMMUNITY DEVELOPMENT
DEPARTMENT

City of Somerton
Somerton, AZ 85350

WHEN RECORDED MAIL TO:

Community Development Department
City of Somerton
PO BOX 638
Somerton, AZ 85350

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT

Tax Assessor's Parcel Number: _____

THIS AGREEMENT, made and entered into this _____ day of _____ by and between the CITY OF SOMERTON a Municipal corporation, hereinafter known as "CITY" and; _____ herein after known as "OWNER".

WITNESSES

WHEREAS, the Owner(s) of the property propose(s) to construct or modify a swimming pool or spa on the hereinafter described real property located at: _____, City of Somerton, Arizona.

WHEREAS, the City of Somerton Municipal Code, Article 2-7 by reference adopts the Zoning Ordinance; AND

WHEREAS, Section 3.2.6.J of the Somerton Zoning Ordinance states Every swimming pool shall be completely enclosed by a permanent fence, wall or barrier to restrict access to the swimming pool from public property, from adjacent private property and directly from all dwelling units or guest rooms located on the same premises as the swimming pool. These swimming pool enclosure and barrier detail requirements apply to all new swimming pools installed on or after the effective date of this Ordinance and to all additions, alterations, repairs or replacements made to existing swimming pool enclosures; AND

WHEREAS, Section 3.2.6.J.a.iii of the Somerton Ordinance states; The property owner and any other person in charge of a swimming pool shall ensure that the required swimming pool enclosure, including all gates, doors, locks, latches and other portions of the barrier are maintained safe and in good working order. No person shall alter or remove any portion of a swimming pool enclosure except to repair, reconstruct or replace the enclosure in compliance with this Section.

WHEREAS, Section 3.2.6.J.a.iv of the Somerton Zoning Ordinance allows for an exception the barrier requirement and reads as follows; An approved alarm system, continuously maintained at all points of ingress and egress to the dwelling unit and guest rooms may substitute the barrier requirement from dwelling unit to pool whenever no children under the age of six (6) are permanent occupants of the property. It shall be the owner's responsibility to maintain this alarm system fully functional at all times. This exception does not eliminate the requirement to restrict access to the pool from public or adjacent private property using a permanent fence, wall or barrier; AND

WHEREAS, The City of Somerton strongly recommends the physical enclosure of all swimming pools and spas regardless of the age of the permanent occupants of the residents; AND

WHEREAS, The Owner of the property is willingly requesting an exception to the barrier requirement as described in Zoning Ordinance Section 3.2.6.J.a.iv.

WHEREAS, The Owner of the property declares that no occupants of the described real property are under the age of six.

AGREEMENT

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

FIRST: That OWNER shall not construct, alter or use any swimming pool and spa for without first obtaining a building permit from CITY; AND

SECOND: That OWNER agrees to follow and obey all swimming pool and spa life safety requirements outlined in Section 3.2.6.J of the Somerton Zoning Ordinance prior to construction, during construction, and during the perpetual lifetime of the swimming pool and/or spa; AND

THIRD: That OWNER accepts the risk and liability associated with requesting the physical barrier exception described in Zoning Ordinance Section 3.2.6.j.a.iv; AND

FOURTH: That OWNER will not seek legal action against CITY for any injuries or losses related to the requested exception of the swimming pool and/or spa barrier requirement.

FIFTH: That OWNER shall immediately notify CITY if a person under the age of six becomes a permanent resident of the property and immediately erect a physical barrier in order to satisfy the requirements of Section 3.2.6.J of the Somerton Zoning Ordinance; AND

SIXTH: That this Agreement shall not be cancelled without the written approval of both parties herein; AND

SEVENTH: That this Agreement is a Covenant Running with the Land, contractually binding the property owner and property to the conditions set by ordinance and in this agreement, and shall be recorded in the County Recorder's Office of Yuma County

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the day and year above written, and shall be binding upon future owners, encumbrances, heirs successors, assignees and shall continue in effect until such time that this agreement is released by authority of the Department of Community Development of the City of Somerton.

CITY OF SOMERTON

BY: _____

City of Somerton
Somerton, AZ 85350
143 N. State Avenue | PO BOX 638

Signature

State of Arizona)
County of Yuma)
City of Somerton)

On this _____ day of _____, before me, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Arizona that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

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OWNER

Owner Name:
Address:

Signature

State of Arizona)
County of Yuma)
City of Somerton)

On this _____ day of _____, before me, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons acted, executed the instrument.

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Notary Public