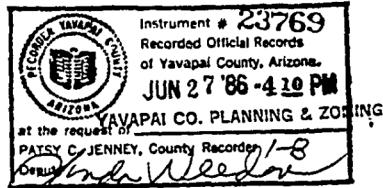


RUSH
Gary Berg
DAVAT ASSOC
WC



FOREST TRAILS UNIT TWO

8-

SUPPLEMENTAL DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

DONALD D. MYERS COMPANY

500-1833 PAGE 160

SUPPLEMENTAL DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SUPPLEMENTAL DECLARATION is made this 23rd day of July, 1986, by DONALD D. MYERS COMPANY, an Arizona corporation, and Donald D. Myers (the "Declarant"), pursuant to Sections 5.1 and 5.2 of the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of record in the office of the Recorder of Yavapai County, Arizona in Book 1583 at Page 556.

THE DECLARANT, being the owner of all of the following described premises, situated within Yavapai;

Lots 1 through 71, Tracts A through K, FOREST TRAILS
UNIT TWO according to the plat of record in the
office of the Yavapai County Recorder in Book 25,
Pages 88-89 thereof

and desiring to establish the nature of the use and enjoyment thereof, does hereby declare said premises subject to the following express covenants, conditions, and restrictions as to the use and enjoyment thereof, all of which are construed to be covenants running with, attaching to, and binding upon title to said lots and tracts and every part thereof.

SECTION ONE
DEFINITIONS

Terms used in this Declaration shall have the meanings specified for such terms in the Zoning Code or Subdivision Ordinance for the City of Prescott or Yavapai County, whichever is the appropriate jurisdiction, unless otherwise specifically defined or illustrated on the plat of record for the subdivision or in this Declaration or unless the context hereof otherwise dictates. All references to the plat, lots, tracts, easements, etc., mean such in Forest Trails Unit Two.

SECTION TWO
USE RESTRICTIONS

2.1 Use of Lots and Tracts. The lots shown on the plat shall be for single family residential use only (including a guest house), except for Tracts A, B, C and D, which may be used for cluster units at the densities approved by Yavapai County. These cluster units may be common wall or may be detached. Any lot may be used temporarily by the Declarant or his assigns for a septic tank and/or leachfield serving more than one lot.

1833 PAGE 161

Page 1

2.2 Common Areas and Open Space. No change from Declaration recorded in Book 1583 at Page 556.

2.3 Roads and Common Driveways.

2.3.1 Use of Certain Tracts. Tracts E, F, H, and I may be improved and used for utility easements, as private roadways and private driveways by present or future lot owners of the Forest Trails subdivision and their invitees. Said tracts also may be used for service access of various kinds to lot owners, including, but not limited to, fire protection, police protection, and garbage and refuse removal. No private driveway may disrupt the grading and drainage systems established within the tracts. Tracts G and K shall be common area for recreational purposes. Declarant or its successors or assigns reserves the right at any future date to dedicate Tract F to either Yavapai County or the City of Prescott as a public street.

2.3.2 Common Driveways. No change.

2.4 New Construction. No change.

2.5 Setbacks. The minimum front yard is 20 feet measured from the front lot line. If the slope of the front half of a lot is more than one foot rise or fall in seven feet, the front yard may be reduced to 10 feet.

Along each side lot line, the minimum width of each side yard shall be 10 feet or 10% of the total lot width, whichever is less, but in no event less than 7 feet. If a lot borders on two or more streets or on private roadways, the setback for the lot lines bordering on the street or private roadway shall be the same as for the front yard.

The rear yard setback shall be 20% of the lot depth, need not be more than 30 feet, and shall not be less than 15 feet, unless the average slope of the lot exceeds 10% in which event the rear yard setback may be reduced to 10 feet.

To the extent that modifying conditions exist with respect to lots and tracts as reasonably determined by the Declarant or by the Architectural Control Committee, different setbacks for such lots and tracts may be permitted.

If an open area easement extends into a setback, the uses established for the open area easement shall prevail. In no case may any structure in an open area, other than signs, be permitted nearer than 30 feet to any existing residential structure.

2.6 Height Limitation. Building heights shall be limited to 35 feet from the average natural grade of the lot area containing the footing for the main residence. The minimum distance between buildings on the same lot shall be 8 feet.

2.7 Lot Coverage. No more than 35% of a lot, exclusive of easements for common area and open space, shall be covered by buildings.

except on cluster tracts where maximum coverage may be 45% of the tracts as originally platted.

2.8 Walls and Fences. Walls and fences shall not be over 6 feet in height. When nearer the front lot line than the depth of the required front yard, they shall not be over 4 feet in height. Walls and fences shall be painted with natural forest colors and approved by the Architectural Control Committee.

2.9 Signs. No change.

2.10 Accessory Buildings. No change.

2.11 Recreational Vehicle Parking. Trailers, boats, recreational vehicles, motor homes, off road vehicles and non-motorized and non-operating vehicles and equipment of any type shall be located only in locations permissible for accessory buildings, except where not visible from neighboring lots or from a fronting street, or as determined pursuant to Section 2.21 of this Declaration, and shall not be used for sleeping or habitation.

2.12 Utilities. No change.

2.13 Rubbish. No change.

2.14 Minimum Size. Any residence on a single family lot shall have an enclosed living quarters floor area of not less than 1,200 square feet (exclusive of garages).

2.15 Roof Structure. No change.

2.16 Parking. Each lot owner shall be responsible for providing adequate parking space on the site for his own needs in order to help prevent parking on the pavement of the private roadways or easements for driveways.

2.17 Animals. No change.

2.18 Nuisance. No change.

2.19. Maintenance of Lots and Driveway Easements. Each lot owner shall at all times maintain the yard and landscaping thereon and the exterior of the structures thereon in neat and clean condition and repair. Any damage or destruction shall be repaired promptly. Easements for driveways shall be maintained in suitable condition for passenger car travel and shall have dust free, hard surfaces. Maintenance expenses for driveways within an easement for common driveways shall be shared equitably by the owners of the lots which they serve, unless the repairs are necessitated by the acts of a single lot owner (for example during construction) in which case that lot owner shall be responsible for repairs. If the lot owners cannot agree as to the responsibility for, or adequacy of, repairs, the Board of Directors of the Association shall decide.

1833-163

Page 3

2.20 Resubdivision and Combination. No lot or tract except Tracts A, B, C and D may be subdivided into smaller lots or tracts or conveyed in less than the full original dimensions shown on the plat. Contiguous lots may be combined into a single lot, in which case all provisions of this Declaration shall apply to the newly created lot as a single lot. Declarant may create one or more condominium or horizontal property regimes or replat all or part of the property subject hereto. Any such condominiums or horizontal property regimes or replats may include other and additional covenants but any such covenants shall be subject and subordinate to and not inconsistent with the covenants, conditions and restrictions in this Declaration.

2.21 Architectural Control. No building, structure, fence, or wall shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure upon the site have been approved by the Architectural Control Committee in accordance with then current Architectural Guidelines for the Forest Trails Residential Development. The Committee shall have the authority to waive any provision of this Declaration referred to in Sections 2.2, 2.4 through 2.11, 2.13 through 2.16, 2.22 and 2.23 when in its opinion it would be beneficial to do so and consistent with the purposes hereof.

2.21.1 Membership. No change.

2.21.2 The Architectural Control Committee. No change.

2.21.3 Procedure. No change.

2.22 Alteration of Property. No change.

2.23 Driveways. Driveway locations for cluster tracts may, with the Committee's approval, be relocated more suitably to serve proposed structures on those tracts.

SECTION THREE
THE ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Definitions.

3.1.1 No change.

3.1.2 No change.

3.1.3 No change.

3.1.4 "Owner" shall mean the record owner, whether one or more persons or entities, of equitable or beneficial title (and legal title) to a lot or "residence". "Residence" as used herein, shall include "lot" or "cluster unit". Owner shall not include the purchaser of a lot under an agreement for sale, installment contract or other executory contract for the sale of real property; shall not include persons or entities having an interest in a lot only as a security for

the performance of an obligation; and shall not include a lessee or tenant of a lot or dwelling. The owner may, however, grant the person living on the lot, or purchasing the lot under an agreement or contract, the right to act in every capacity on his behalf.

3.2 Organization. No change.

3.3 Board of Directors and Officers. No change.

3.4 Powers and Duties of the Association. No change.

3.4.1 No change.

3.4.2 No change.

3.4.3 Employ or contract for water, area maintenance, and renovation of common areas and open spaces (including all tracts designated for that use), hiking and riding trails, and all future tracts, common areas or open spaces of Forest Trails Unit Two or any units added pursuant to Section Five; and

3.4.4 No change.

3.4.5 No change.

3.4.6 No change.

3.4.7 No change.

3.4.8 No change.

3.4.9 No change.

3.5 The Association Rules. No change.

3.6 Personal Liability. No change.

3.7 Membership. Every owner of a lot or cluster unit shall automatically be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot or cluster unit which is subject to assessment. A membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of a lot to a new owner, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer of membership shall be void and shall not be reflected upon the books and records of the Association. The Association shall record the proper transfer of ownership upon the books of the Association, thus effecting the issuance of a new membership to a new owner. It is the responsibility of the new owner to notify the Association in writing of the purchase of a lot and, prior to such notification, the Association is entitled to rely on its books and records showing the true owner of a lot.

3.8 Voting Rights. The owner of a residential lot shall be entitled to one (1) vote in Association meetings. When more than one person owns an interest in any lot, all such persons shall be members and the vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast for any lot. Any notice for Association purposes need only be furnished to the first named owner on the recorded document evidencing ownership, or to such other persons as that owner may direct in writing to the Association. A single notice sent to a person owning more than one lot shall be sufficient. Tracts A, B, C and D shall each be entitled to a minimum of one (1) vote, or to one (1) vote for each three (3) cluster unit owners. A single notice sent to a designated representative of a cluster tract shall be sufficient.

3.9 Veto Rights. No change.

3.10 Rights Suspended Upon Default. No change.

3.11 Grant of Right to Use Name. No change.

SECTION FOUR
COMMON AREA MAINTENANCE AND ASSESSMENTS

4.1 Common Area Maintenance. No change.

4.2 Non-liability. No change.

4.3 Assessments - Procedures. No change.

4.4 Remedies of the Association. No change.

4.4.1 Suit. No change.

4.4.2 Lien. No change.

4.4.3 No change.

4.5 No change.

4.6 No change.

4.7 No change.

4.8 No change.

SECTION FIVE
RIGHT TO ADD ADDITIONAL LANDS
AND RIGHT TO ANNEX

5.1 No change.

5.2 No change.

1833 PAGE 166

Page 6

5.3 The Declarant, at its election, whenever the Declarant shall own at least eight lots or tracts subject to this Declaration, shall have the right to file an application to annex to the City of Prescott the property subject to this Declaration, and each Owner hereby grants the Declarant an irrevocable power of attorney to execute, acknowledge, record or register, for and in the name of such Owner, such instruments as may be necessary to apply for and effectuate the annexation of the Property to the City of Prescott.

SECTION SIX
MISCELLANEOUS

- 6.1 No change.
- 6.2 No change.
- 6.3 No change.
- 6.4 No change.
- 6.5 No change.

IN WITNESS WHEREOF, Donald D. Myers Company and Donald D. Myers have executed this instrument on the date first written above.

DONALD P. MYERS COMPANY

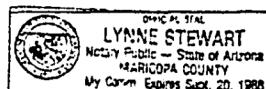
By: Donald D. Myers
President

Donald D. Myers
Donald D. Myers

STATE OF ARIZONA)
County of MARICOPA)
ss.

This instrument was acknowledged before me this 25th day of May, 1986, by Donald D. Myers, President of Donald D. Myers Company, an Arizona corporation, on behalf of the corporation, and by Donald D. Myers.

Notary Public



Page 7

My commission expires:

September 21, 1988

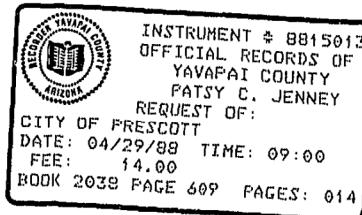
500.1833 PAGE 167

FOREST TRAILS UNIT TWO

PHASE TWO

AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

S	A	I	P	4	C	5	1
Bk	Map						



DONALD D. MYERS COMPANY

BOOK 2038 PAGE 609

	<u>Section</u>		<u>Page</u>
ONE	<u>Definitions</u>	1	
TWO	<u>Use Restrictions</u>	1	
	2.1 Use of Lots and Tract I	1	
	2.2 Common Areas and Open Space	1	
	2.3 Roads and Common Driveways	1	
	2.4 New Construction	2	
	2.5 Setbacks	2	
	2.6 Height Limitation	3	
	2.7 Lot Coverage	3	
	2.8 Walls and Fences	3	
	2.9 Signs	3	
	2.10 Accessory Buildings	3	
	2.11 Recreational Vehicle Parking	3	
	2.12 Utilities	3	
	2.13 Rubbish	3	
	2.14 Minimum size	3	
	2.15 Roof Structure	3	
	2.16 Parking	4	
	2.17 Animals	4	
	2.18 Nuisance	4	
	2.19 Maintenance of Lots and Driveway Easements	4	
	2.20 Resubdivision and Combination	4	
	2.21 Architectural Control	4	
	2.22 Alteration of Property	5	
	2.23 Driveways	5	
THREE	<u>The Association, Membership and Voting Rights</u>	5	
	3.1 Definitions	5	
	3.2 Organization	5	
	3.3 Board of Directors and Officers	6	
	3.4 Powers and Duties of the Association	6	
	3.5 The Association Rules	7	
	3.6 Personal Liability	7	
	3.7 Membership	7	
	3.8 Voting Rights	8	
	3.9 Veto Rights	8	
	3.10 Rights Suspended Upon Default	8	
	3.11 Grant of Right to Use Name	8	
FOUR	<u>Common Area Maintenance and Assessments</u>	8	
	4.1 Common Area Maintenance	8	
	4.2 Non-liability	8	
	4.3 Assessments - Procedure	9	
	4.4 Remedies of the Association	9	
FIVE	<u>Right to Add Additional Lands</u>	11	
SIX	<u>Miscellaneous</u>	11	

AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDED AND RESTATED DECLARATION is made this 28th day of April, 1988, by DONALD D. MYERS COMPANY, an Arizona corporation (the "Declarant"), and supersedes the original Supplemental Declaration of Covenants, Conditions and Restrictions recorded in Book 1839 at Page 615 of record in the office of the Recorder of Yavapai County, Arizona. This AMENDED AND RESTATED DECLARATION is pursuant to Sections 5.1, 5.2 and 6.4 of the AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS of record in the office of the Recorder of Yavapai County, Arizona, in Book 1583 at Page 556.

The DECLARANT, BEING THE owner of the following described premises, situated within Yavapai County, Arizona:

Lots 31 through 57, and Lots 59 through 70, inclusive, and Tracts I, K, L, M, N and O, FOREST TRAILS UNIT TWO, PHASE TWO, according to the plat of record in the office of the Yavapai County Recorder in Book 26 of Maps, Page 99,

and desiring to establish the nature of the use and enjoyment thereof, does hereby declare said premises subject to the following express covenants, conditions, and restrictions as to the use and enjoyment thereof, all of which are construed to be covenants running with, attaching to, and binding upon title to said lots and tracts and every part thereof.

SECTION ONE
DEFINITIONS

Terms used in this Declaration shall have the meanings specified for such terms in the Zoning Code or Subdivision Ordinance for the City of Prescott unless otherwise specifically defined or illustrated on the plat of record for the subdivision or in this Declaration or unless the context hereof otherwise dictates. All references to the plat, lots, tracts, easements, etc., mean such in Forest Trails Unit Two.

SECTION TWO
USE RESTRICTIONS

2.1 Use of Lots and Tracts. The lots shown on the plat shall be for single family residential use only (including a guest house). Declarant or its successors or assigns shall have the right to use any lot owned by Declarant for models, sales offices or management offices until such time as Declarant conveys title thereto to another owner. Declarant shall have the further right to maintain on the Property such advertising signs as comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed at the sole discretion of Declarant.

2.2 Common Areas and Open Space. All tracts designated for use as common areas and open space on the plat and easements for common areas and open space as shown on the plat shall be for the use and benefit of all members of the Forest Trails Homeowners' Association and their guests and invitees, including members by virtue of new land added pursuant to Section 5.2 of this Declaration. These areas shall be left in their natural state, unless used for trails, walkways, driveways, parking areas, appropriate signs, recreational amenities, landscaping, and easements for utilities (including cable television). All easements dedicated on the plat for driveways and emergency vehicle access may be used for ingress and egress by any lot fronting thereon.

2.3 Roads and Common Driveways.

2038 PAGE 611

2.3.1 Use of Certain Tracts. Tracts L, M, N and O may be improved and used for utility easements, as private roadways and private driveways by present or future lot owners of the Forest Trails subdivision and their invitees. Said tracts also may be used for service access of various kinds to lot owners, including, but not limited to, fire protection, police protection, and garbage and refuse removal. No private driveway may disrupt the grading and drainage systems established within the tracts. Tract K shall be common area for recreational purposes. Declarant or its successors or assigns reserves the right and power to grant easements on the private roadways for cable television, public utilities, and to persons owning land outside of the maps of the Forest Trails subdivisions for permanent access from such lands to a public roadway on the condition that any such lands so benefitted that are not subject to the Covenants, Conditions and Restrictions of Forest Trails shall be subjected to a covenant for assessments and liens by the Association for costs of construction and maintenance of the private roadways on the Property.

2.3.2 Common Driveways. The lots, as designed by the Declarant and set forth on the plat, contemplate that each lot is to have vehicular access to the residence by means of a driveway. Some of these driveways will be located wholly within the property lines of the applicable lot while other lots may be served by common driveways located wholly or partially upon an adjacent property or the common areas. Each owner served by a common driveway shall have and is hereby granted a nonexclusive easement for free and unrestricted pedestrian and vehicular access to his property by means of the common driveway. Neither the Association nor any owner of any residence over which any portion of a common driveway traverses shall in any way interfere with the easement access thereby. Except with respect to the foregoing easement, the existence of a common driveway shall not affect the ownership of the property over which said driveway easements run.

2.4 New Construction. All structures shall be of new construction and shall be completed within twelve months of the date construction is begun. No buildings shall be moved from any other location onto the lots without the specific written approval of Declarant. These restrictions notwithstanding, it shall be permissible for the Declarant, and Declarant's successors or assigns, and any builder designated by the Declarant or Declarant's successors or assigns, to maintain a temporary office, storage area, construction or sales trailer or shed during the period of sales or construction.

2.5 Setbacks. The minimum front yard is 20 feet measured from the front lot line. If the slope of the front half of a lot is more than one foot rise or fall in seven feet, the front yard may be reduced to 10 feet.

Along each side lot line, the minimum width of each side yard shall be 10 feet. If any yard shall be less than 16 feet, any wall less than 16 feet from the lot line shall have fire resistive specifications approved by the Prescott Fire Department. If a lot borders on two or more streets or on private roadways, the setback for the lot lines bordering on the street or private roadway shall be 20 feet.

The rear yard setback shall be 20% of the lot depth, need not be more than 25 feet, and shall not be less than 15 feet, unless the average slope of the lot exceeds 10% in which event the rear yard setback may be reduced to 10 feet.

To the extent that modifying conditions exist with respect to lots and tracts as reasonably determined by the Declarant or by the Architectural Control Committee, different setbacks for such lots and tracts may be permitted.

If an open area easement extends into a setback, the uses established for the open area easement shall prevail. In no case

may any structure in an open area, other than signs, be permitted nearer than 30 feet to any existing residential structure.

2.6 Height Limitation. Building heights shall be limited to 30 feet from the average natural grade of the lot area containing the footing for the main residence. The minimum distance between buildings on the same lot shall be 8 feet.

2.7 Lot Coverage. No more than 35% of a lot, exclusive of easements for common area and open space, shall be covered by buildings.

2.8 Walls and Fences. Walls and fences shall not be over 6 feet in height. When nearer the front lot line than the depth of the required front yard, they shall not be over 4 feet in height. Walls and fences shall be painted with natural forest colors and approved by the Architectural Control Committee.

2.9 Signs. No sign, antenna, structure, fixture, or other marking or appendage shall be affixed, placed, or attached to the walls, roof or any other exterior part of any building, or placed upon any part of a lot or on a common area without the prior consent of the Architectural Control Committee. This provision shall not apply to property owned by Declarant.

Identification and directional signs of appropriate size and dimensions may be located on tracts, easements for common areas and open space and private roadways as placed by Declarant or the Association.

2.10 Accessory Buildings. Accessory buildings (including guest houses) may occupy in aggregate not over 20% of the area of the buildings to which they are accessory, shall be located in the rear one-half of the lot, and shall not exceed 15 feet in height.

2.11 Recreational Vehicle Parking. Trailers, boats, recreational vehicles, motor homes, off road vehicles and non-motorized and non-operating vehicles and equipment of any type shall be located only in locations permissible for accessory buildings, except where not visible from neighboring lots or from a fronting street, or as determined pursuant to Section 2.21 of this Declaration, and shall not be used for sleeping or habitation. No repair or maintenance work shall be performed on any motor vehicle or other equipment except wholly inside a garage.

2.12 Utilities. Exterior utility lines of every kind shall be placed and kept underground to the walls of the buildings they serve.

2.13 Rubbish. No lot, tract, open area, or private roadway shall be used for dumping or storing rubbish, except that during construction building materials may be stored on a lot in a sightly and orderly manner. Trash, garbage, or waste shall be kept in sanitary containers, which shall be kept out of sight except on trash pickup days. Clothes lines, equipment, service yards, or storage piles shall be screened by planting or fencing in order not be visible from adjacent houses, streets, or roadways.

2.14 Minimum Size. Any residence on a single family lot shall have an enclosed living quarters floor area of not less than 1,200 square feet (exclusive of garages) and shall have a ground floor area of not less than 900 square feet.

2.15 Roof Structure. Antennas may extend only 8 feet above any roofline unless otherwise specifically permitted by the Architectural Control Committee. Roof-mounted mechanical and solar heating and cooling devices must be screened from the view of adjacent houses, streets, and roadways and are subject to the height limitation of Section 2.6. Combustible wood shakes or shingles are prohibited.

2.16 Parking. Each lot owner shall be responsible for providing adequate parking space on the site for his own needs in order to help prevent parking on the pavement of the private roadways or easements for driveways.

2.17 Animals. No animals, fowl or reptiles of any kind shall be raised, bred or kept on any lot or tract or in any building or common area, except that a reasonable number of dogs, cats or other common household pets may be kept on lots or in buildings, subject to rules and regulations adopted by the Association, provided that such pets are not kept, bred or maintained for any commercial purpose. Any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three days written notice from the Board of Directors of the Association.

2.18 Nuisance. No activity shall be permitted on any lot which may disturb the quiet enjoyment of neighboring lots. If there is disagreement among the parties involved as to violation of this restriction, the Board of Directors of the Association shall arbitrate the dispute.

2.19 Maintenance of Lots and Driveway Easements. Each lot owner shall at all times maintain the yard and landscaping thereon and the exterior of the structures thereon in neat and clean condition and repair. Any damage to or destruction of the natural growth on the property (such as that caused by construction) shall be promptly repaired by replanting any damaged or excavated areas. The Association may, at the lot owner's expense, enter upon any lot and remove any tract infested with destructive insects or diseases if, within 10 days after receiving notification from the Association, such removal is not accomplished by the Owner. Driveways shall be maintained in suitable condition for passenger car travel and shall have dust free, hard surfaces. Maintenance expenses for driveways within an easement for common driveways shall be shared equitably by the owners of the lots which they serve, unless the repairs are necessitated by the acts of a single lot owner (for example during construction) in which case that lot owner shall be responsible for repairs. If the lot owners cannot agree as to the responsibility for, or adequacy of, repairs, the Board of Directors of the Association shall decide.

2.20 Resubdivision and Combination. No lot or tract may be subdivided into a lot or tract more than 200 square feet smaller than the full original dimensions shown on the plat. Contiguous lots may be combined into a single lot, in which case all provisions of this Declaration shall apply to the newly created lot as a single lot. Declarant may create one or more condominium or horizontal property regimes or replat all or part of the property subject hereto. Any such condominiums or horizontal property regimes or replats may include other and additional covenants but any such covenants shall be subject and subordinate to and not inconsistent with the covenants, conditions and restrictions in this Declaration.

2.21 Architectural Control. No building, structure, (including mailboxes), fence, or wall shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure upon the site have been approved by the Architectural Control Committee in accordance with then current Architectural Guidelines for the Forest Trails Residential Development. There shall be no excavation or removal of natural vegetation until the site plan has been approved by the Committee. The site plan submitted for Committee approval shall indicate trees with trunks eight inches or more in diameter four feet above the base at natural grade, and major rock outcroppings that will be destroyed or altered by the proposed construction. The Committee shall have the authority to waive any provision of this Declaration referred to in Sections 2.2, 2.4 through 2.11, 2.13 through 2.16, 2.22 and 2.23 when in its opinion it would be beneficial to do so and consistent with the purposes hereof.

2.21.1 Membership. The Architectural Control Committee is composed of:

Donald D. Myers
Eric L. Myers
William F. Craig

2.21.2 The Architectural Control Committee. A majority of Committee may designate a representative to act for it. In the event of death or resignation of any Committee member, the remaining Committee members shall designate a successor. The members of the Committee shall serve without compensation for services performed pursuant to this covenant. At the time all lots are sold and recorded, the then record owners of the lots shall have the power to elect a new Committee by a majority vote of all owners and shall have the power through a duly recorded written instrument to change the membership of the committee and restore or change any of its powers and duties. The Architectural Control Committee is separate from the Association, and members of the Committee are not required to be property owners.

2.21.3 Procedure. The Committee's approval or disapproval as required by this Declaration shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, the submitted plans and specifications shall be deemed approved provided any dwelling, building or structure embraced by such plans and specifications shall be of masonry or frame construction and the location and size of the dwelling, building or structure shall not be violative of any of the restrictions contained in this Declaration. The Committee may charge \$150 or other reasonable fee for each such submittal of plans and specifications to cover the costs for professional services or counsel deemed necessary by the Committee to assist in its review of the plans and specification submitted.

2.22 Alteration of Property. An owner shall not alter the topographic conditions of his lot or create visible scarring of the hills and rocks to a degree more than necessary to construct a well-sited home, or alter the site in any other way that the Architectural Control Committee deems detrimental to the area.

2.23 Driveways. Driveway locations for cluster tracts may, with the Committee's approval, be relocated more suitably to serve proposed structures on those tracts.

SECTION THREE THE ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Definitions

3.1.1 "Association" shall mean Forest Trails Homeowners' Association, Incorporated by Declarant as a nonprofit corporation, and that Association's successors and assigns.

3.1.2 "Articles of Incorporation" shall mean the articles of incorporation of the Association, as the same may be amended from time to time.

3.1.3 "Member" shall mean any person or legal entity who is a member of the Association.

3.1.4 "Owner" shall mean the record owner, whether one or more persons or entities, of equitable or beneficial title (and legal title) to a lot or "residence". "Residence" as used herein, shall include "lot" or "cluster unit". Owner shall not include the purchaser of a lot under an agreement for sale, installment contract or other executory contract for the sale of real property; shall not include persons or entities having an interest in a lot only as a security for the performance of an obligation; and shall not include a lessee or tenant of a lot or dwelling. The owner may,

however, grant the person living on the lot, or purchasing the lot under an agreement or contract, the right to act in every capacity on his behalf.

3.2 Organization. The Association is to be a nonprofit corporation under the laws of the State of Arizona and is charged with the duties and vested with the powers prescribed by law and set forth in its articles of incorporation, bylaws, and this Declaration. Neither the articles of incorporation nor bylaws shall for any reason be amended or otherwise changed or interpreted to be inconsistent with this Declaration. In the event of an inconsistency between the articles of incorporation or bylaws and this Declaration, this Declaration shall govern.

3.3 Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the directors may elect or appoint, in accordance with the articles of incorporation and bylaws, as same may be amended from time to time.

3.4 Powers and Duties of the Association. It is the intention of the Declarant that the Association own, repair, manage, operate, and maintain the common areas and open space and improvements thereon in the development known as Forest Trails (all units), according to the plat or plats thereof to be placed in the office of the County Recorder of Yavapai County, State of Arizona; and it is the intention of the Declarant to have the Association supervise the performance of such duties, to maintain and create active and passive facilities, to supply basic services such as, but not limited to, groundskeeping, road repair, and any other community facilities which the Association deems necessary or advisable; and it is the intention to give the Association the greatest possible flexibility in management so that as much as possible of the assessments collected pursuant to Section Four of this Declaration will be used for these purposes and not be expended in administrative costs. Consistent herewith, the widest possible powers are granted to the Association to collect the monies necessary for its operation.

The Association shall have the following powers herein granted or necessarily implied which it shall exercise in its sole discretion, construing the powers herein granted and implied to the broadest extent consistent with the best interests of the members:

3.4.1 Employ, by contract or otherwise, a manager or an independent contractor or a professional management company to oversee, supervise, and follow out the express intention and spirit of this Declaration; and

3.4.2 Employ professional counsel and advice from such persons and firms such as, but not limited to, landscape architects, recreation experts, architects, planners, biologists, lawyers, accountants; and

3.4.3 Employ or contract for water, area maintenance, and renovation of common areas and open spaces (including all tracts designated for that use), hiking and riding trails, and all future tracts, common areas or open spaces of Forest Trails Unit Two or any units added pursuant to Section Five; and

3.4.4 Borrow and repay monies giving notes, mortgages, or other security inferior to the rights of existing mortgages, if any, upon such term or terms as it deems necessary; and

3.4.5 Invest and reinvest monies; sue and be sued; collect interest, dividends, capital gains, exercise rights; lease land for recreation or other purposes; pay taxes; make and enter into contracts; insure common areas and open spaces and recreational facilities and matters pertinent thereto; insure its own liability for claims against it or for damages, including moral claims; and insure its liability

for the exercise of all other powers contained herein, and those necessary and incidental thereto; and

3.4.6 Use the powers granted to the Association herein to borrow money on a real estate mortgage, pass title to real estate, or purchase real estate with the assent of seventy-five percent (75%) of the members; and

3.4.7 Delegate, in its sole discretion, any or all of its powers and authority to a corporation, person or partnership, as its agent; and

3.4.8 Create, in its sole discretion, various services and make appropriate charges therefor to the users thereof and/or each individual lot owner, in connection with the maintenance and management of its properties, provided that such services shall be available to all members upon the payment of charges so established, and to avail itself of any rights granted by law without being required to render such services to those members who do not assent to the same charges and to such other rules and regulations as the Association deems proper. In addition, the Association shall have the right to discontinue any service upon non-payment, while the charges remain unpaid, or to eliminate services for which there is inadequate demand or inadequate funds; and

3.4.9 Be the final judge of all aesthetic matters and act in its sole discretion without liability to any member, with the exception of those matters pertaining to architectural control, which shall be the responsibility of the Architectural Control Committee.

3.5 The Association Rules. By a majority vote of the Board of Directors, the Association may, from time to time and subject to the provisions of this Declaration, adopt, amend, and repeal rules and regulations to be known as the Association Rules. The Association Rules may restrict and govern the use of any area by any owner, by the family of such owner, or by any invitee, licensee or lessee of such owner; provided, however, that the Association Rules may not discriminate among owners (unless there is determined to be a logical and reasonable necessity for distinguishing the rights, duties, obligations and benefits of owners) and shall not be inconsistent with this Declaration, the articles of incorporation or the bylaws. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each owner and may be recorded. Upon such recordation or delivery, said Rules shall have the same force and effect as if they were set forth in and were part of this Declaration.

3.6 Personal Liability. No member of the Board of Directors, or any committee of the Association, or any officer of the Association, or any agent of the Board or Association shall be personally liable to any owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association, the Board, its agents, or any other representatives or employees of the Association, or any other committee, or any officer of the Association, provided that such person, committee, or agent has, upon the basis of such information as may be possessed, acted in good faith without willful or intentional misconduct.

3.7 Membership. Every owner of a lot or cluster unit shall automatically be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot or cluster unit which is subject to assessment. A membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale of a lot to a new owner, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer of membership shall be void

and shall not be reflected upon the books and records of the Association. The Association shall record the proper transfer of ownership upon the books of the Association, thus effecting the issuance of a new membership to a new owner. It is the responsibility of the new owner to notify the Association in writing of the purchase of a lot and, prior to such notification, the Association is entitled to rely on its books and records showing the true owner of a lot.

3.8 Voting Rights. The owner of a residential lot shall be entitled to one (1) vote in Association meetings. When more than one person holds an interest in any lot, all such persons shall be members and the vote for such lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast for any lot. Any notice for Association purposes need only be furnished to the first named owner on the recorded document evidencing ownership, or to such other persons as that owner may direct in writing to the Association. A single notice sent to a person owning more than one lot shall be sufficient.

3.9 Veto Rights. Whenever the Declarant shall own at least eight lots subject to this Declaration, including lots subsequently added, Declarant shall have the right to veto finally or provisionally the decisions of the Association and may thus cause the Association to reconsider its acts or proposed actions.

3.10 Rights Suspended Upon Default. In the event that any owner is in arrears in the payment of any amount due to the Association, or in default in the performance of any provision of this Declaration, or the articles of incorporation, bylaws, rules, or regulations of the Association for a period of fifteen (15) days or more, after written notice of same, the voting right of the lot to which the default or violation relates may be suspended at any time without further notice by the Board of Directors of the Association and may remain suspended until all payments are brought current and all defaults and violations are remedied.

Furthermore, in the event an owner is in arrears in the payment of any amount due under any of the provisions of this Declaration, the owner's right to use the common areas shall be suspended until all payments are marked current and all defaults reimbursed. The owner in default shall be charged a reasonable amount for any use of the common areas which occurs during the period above.

3.11 Grant of Right to Use Name. This section shall serve as the Association's written consent for Declarant to use the name, "Forest Trails," within the name of any future subdivision Declarant so designates.

SECTION FOUR COMMON AREA MAINTENANCE AND ASSESSMENTS

4.1 Common Area Maintenance. For the mutual benefit of the owners of lots and tracts in Forest Trails, and new lands subsequently added pursuant to Section Five of this Declaration, the Association as owner of all tracts designated for use as common areas and open space, for drainage purposes, or for private roadways shall be responsible for the repair, maintenance, management and operation of all tracts, riding and hiking trails and open areas illustrated on the plats. Responsibilities of the Association as set forth in this Declaration and the articles of incorporation and bylaws are intended to give the Association maximum flexibility in management within minimum administrative costs. The Association is granted the power to collect from lot owners the monies necessary for the performance of its specified duties.

The Association's authority is subject to easements for utilities and other purposes as indicated on the plat or thereafter granted. The Association may assign and/or subcontract in whole

or in part its responsibilities pursuant to the articles of incorporation, bylaws, or this Declaration.

4.2 Non-liability. The Association shall not be liable for any theft, vandalism, disturbance, unauthorized entrance or other similar occurrence, accident, injury, death or property damage which may take place on any lot or tract.

4.3 Assessments - Procedure. Assessments shall be determined from time to time by the Board of Directors in such manner as shall be set forth in the bylaws. Written notice of the amount of assessments and the due dates shall be provided to the owners not less than 30 days prior to the due date if payable annually or not less than 10 days prior to the due date if payable monthly. Failure to provide such notice shall not relieve any owner from the obligation to pay such assessment. The first assessment period shall not commence earlier than the day of conveyance of the first lot or residence to an owner, other than Declarant. Original lots and tracts owned by Declarant, its successor or assigns, that have never been conveyed to a member of the Association, shall not be subject to assessment by the Association. Upon demand and for a reasonable charge, the Board of Directors shall furnish to any owners certificates setting forth whether the assessments and charges on their residences are paid and, if unpaid, the amount unpaid. The certificate when signed by an officer or director shall be binding upon the Association as of the date of issuance.

4.4 Remedies of the Association. Each owner covenants and agrees to pay to the Association the assessments provided for herein on or before the due date thereof as established by the Board of Directors and agrees to the enforcement of the assessments in the manner herein specified. In the event the Association employs attorneys for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each owner shall pay reasonable attorneys' fees and costs thereby incurred in addition to any other sums due or any other relief or remedy obtained against such owner. In the event of a default in payment of any assessment when due, the assessment shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or equity.

4.4.1 Suit. The Board of Directors may cause a lawsuit to be commenced and maintained in the name of the Association against an owner to enforce the payment of any delinquent assessment. Any judgment rendered in any such action shall include, without limitation, the amount of the delinquency, interest at 12% per annum from the date of delinquency, court costs, and reasonable attorneys' fees fixed by the court.

4.4.2 Lien. There is hereby created a lien, with private power of sale, on each and every residence to secure payment to the Association of any and all assessments levied against any and all owners, interest thereon at the rate of 12% per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including, without limitation, costs and reasonable attorneys' fees. After the occurrence of any default in the payment of any assessment, the Association, or its authorized representative, may, but shall not be required to, make a written demand for payment to the defaulting owner, on behalf of the Association. Each default shall constitute a separate lien, but any number of defaults may be included within a single suit or foreclosed as a single lien. All delinquent assessments shall constitute a continuing lien on the residence from the date due but unpaid, whether or not a claim of lien is recorded. A claim of lien may be executed, acknowledged and recorded.

by any officer of the Association, and shall contain substantially the following information:

- (a) The name of the delinquent owner.
- (b) The legal description and street address of the property.
- (c) The amount due and owing including interest thereon, collection costs and reasonable attorneys' fees.
- (d) That the lien is claimed by the Association pursuant to this Declaration.

Upon the occurrence of a delinquent assessment, the lien shall immediately attach and become effective in favor of the Association as a lien upon the property against which such assessment was levied. Except as provided in the following paragraph, the lien shall have priority over all liens or claims created subsequent to the due date of the first delinquent assessment for which the lien is claimed. Any lien may be foreclosed by the appropriate action in a court in the manner provided by law for the foreclosure of a realty mortgage or enforcement of a trust deed, with private power of sale, as provided by Arizona law. The lien shall be in favor of the Association and for the benefit of all other owners. The Association shall have the right to purchase at a sale and the power to bid at any foreclosure sale and to purchase, acquire, hold, lease, mortgage or convey any residence. In the event of any such foreclosure or action to collect delinquent assessments or enforce such lien, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be added to and constitute a part of such delinquency and lien, payable by the owner and enforceable as provided herein. Each owner, by becoming an owner of a lot or residence, hereby expressly waives any objection to the provisions hereof with respect to the collection, enforcement and foreclosure of delinquent assessments.

4.4.3 Sale or transfer of any lot or residence shall not affect the assessment lien or relieve such owner or property from liability for any assessments thereafter becoming due or from the lien thereon, nor shall sale or other conveyance relieve the previous owner from personal liability for assessments that became due prior to such sale or other conveyance.

4.5 No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common areas or abandonment of his lot.

4.6 The Association agrees to keep books of account for the performance of its functions as outlined in this Declaration and its bylaws and to allow each lot owner to inspect such books at all reasonable times.

4.7 An assessment lien shall be junior and subordinate to the lien of any institutional lender's first realty mortgage against an owner's lot, and foreclosure of an assessment lien shall not affect or impair the lien of any such institutional realty mortgage. Any institutional mortgage foreclosure purchaser or grantee taking by deed in lieu of foreclosure shall take the lot free of the assessment lien and charges that have accrued to the date of issuance of a sheriff's deed or deed in lieu of foreclosure, but shall become subject to the assessment lien and all assessments and charges accruing subsequent to the issuance of a sheriff's deed or deed given in lieu of foreclosure. An institutional lender's deed of trust under this section shall be deemed to have, to the extent permitted under Arizona law, rights and remedies equivalent to those granted above to an institutional mortgagee.

4.8 An easement over the entirety of the tracts, except Tracts H and I is hereby provided for the benefit of the Association in order for it to carry out its duties and responsibilities, including providing necessary utilities and services and providing access for those and similar purposes.

SECTION FIVE
RIGHT TO ADD ADDITIONAL LANDS

5.1 The Declarant, at its election, in the manner set forth in Section 5.2, shall have the exclusive right to extend from time to time the area served and maintained by the Declarant or the Association pursuant to this Declaration. Such additional land, when added, shall become part of the Forest Trails development and shall be located within Section 30 or Section 31 in Township 14 North, Range 2 East, G&SRB&M.

5.2 Any new land subject to this Declaration shall be added as follows:

The Declarant, its successor or assigns, shall record in the office of the County Recorder of Yavapai County, Arizona, a supplement to this Declaration (hereinafter called "Supplemental Declaration"), signed by the Declarant, which Supplemental Declaration shall (a) describe the new land being subjected to these covenants, and (b) state what additions, deletions or other changes or modifications have been made in the provisions hereof with respect to such new land.

5.3 The Declarant, at its election, whenever the Declarant shall own at least eight lots or tracts subject to this Declaration, shall have the right to file an application to annex to the City of Prescott the property subject to this Declaration, and each Owner hereby grants the Declarant an irrevocable power of attorney to execute, acknowledge, record or register, for and in the name of such Owner, such instruments as may be necessary to apply for and effectuate the annexation of the Property to the City of Prescott.

SECTION SIX
MISCELLANEOUS

6.1 Except for judicial construction, Declarant shall have the exclusive right to construe and interpret this Declaration until all lots in all units have been sold and escrows closed, or until such earlier date as the Declarant relinquishes this right. Thereafter, the Association shall have the exclusive right to interpret and construe this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, Declarant's interpretation of the covenants hereunder shall be final, conclusive and binding upon all persons and upon the premises.

6.2 Any determination by any court of competent jurisdiction that any provision in this instrument is invalid or unenforceable shall not affect the validity or enforceability of the remaining provisions of this instrument and the same shall remain in full force and effect.

6.3 The failure to enforce any breach or violation of any of the provisions of this Declaration shall not constitute an abandonment or waiver of any right to enforce such provision in the future or of any of the other covenants herein set forth.

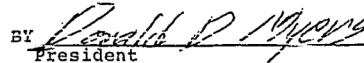
6.4 This Declaration shall remain in full force and effect for a period of twenty years from the date hereof. Thereafter, it shall be deemed to have been renewed for successive yearly terms, unless revoked or amended by an amendment in writing, executed and acknowledged by more than 50% of the owners entitled to vote, within ninety days prior to the expiration of the initial effective period hereof, or any yearly extension. This Declaration may be amended at any time by not less than 60% of

the owners entitled to vote and the written approval of the Declarant or its successors or assigns. Notwithstanding the foregoing, or any other provision herein to the contrary, this Declaration may be revoked or amended by Declarant or its successors or assigns acting alone, without the consent or approval of any owner or others, at any time if required by the Federal Housing Administration (HUD) the Veterans Administration, or such other Government administration or regulatory authority.

6.5 This Declaration, as it may be amended pursuant to Section 6.4, shall be binding upon the premises through December 31, 2010. After said date, this Declaration as so amended shall be automatically extended from year to year unless amended or revoked by more than 50% of the members of the Association entitled to vote.

IN WITNESS WHEREOF, Donald D. Myers Company has executed this instrument on the date first written above.

DONALD D. MYERS COMPANY

BY 
President

STATE OF ARIZONA)
County of) ss.

This instrument was acknowledged before me this 27 day of APRIL, 1988, by Donald D. Myers, President of Donald D. Myers Company, an Arizona corporation, on behalf of the corporation.


Notary Public

My commission expires:

May 19, 1990

SEAL