

WHEN RECORDED, MAIL TO: YAVAPAI HILLS, INC.  
P. O. BOX 2547  
PRESCOTT, ARIZONA 86302

STATE OF ARIZONA }  
COUNTY OF YAVAPAI } ss. **28095**

I do hereby certify that the within instrument was  
filed and recorded at the request of Yavapai County Planning  
and Zoning on *Sept 28*, A.D. 1978 at 9:30 o'clock  
A.m., Book *1169* Official Records, Page(s) *785-804 (inc)*

, Records of Yavapai County, Arizona.

WITNESS my hand and official seal the day and year  
first above written.

PATSY C. JENNEY, COUNTY RECORDER

By *[Signature]* Deputy

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR RESIDENTIAL LOTS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Continental Service Corporation, as Trustee  
for the benefit of Yavapai Hills, Inc., a Delaware corporation,  
is the owner of the following described premises, situated  
within the County of Yavapai, State of Arizona, to-wit:

Lots 462 thru 611, inclusive, in Unit III,  
YAVAPAI HILLS, as shown and designated on a  
plat entitled, "Yavapai Hills, Unit III"  
filed in the office of the Yavapai County  
Recorder on *Sept. 28*, 1978, in Book *20*  
of Maps, page(s) *61 + 62*; and

WHEREAS, Continental Service Corporation, as Trustee,  
will convey said premises subject to certain protective  
covenants, conditions, restrictions, reservations, liens  
and charges as hereinafter set forth;

BOOK *1169* PAGE *785*

NOW, THEREFORE, Continental Service Corporation, as Trustee, solely as bare legal title owner and not personally and acting at the proper direction of said Yavapai Hills, Inc., hereby declares that all of the lots described above and any other lots to which this Declaration is extended by Continental Service Corporation, as Trustee, shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of all property described in Exhibit "A" and all other property to which this Declaration is extended by Continental Service Corporation, as Trustee, and all of which are hereby declared to be for the benefit of the property described in Exhibit "A" and all other property to which this Declaration is extended by Continental Service Corporation, as Trustee, and the owners thereof, their heirs, successors, grantees and assigns.

Continental Service Corporation, as Trustee, reserves unto itself, for as long as this Declaration remains in force and effect, the right to extend the provisions of this Declaration to any other real property now owned, hereafter acquired or developed by Continental Service Corporation, as Trustee, as part of the plan for development of a community known as "Yavapai Hills."

RULES OF  
CONSTRUCTION:

1. For the purposes of this Declaration, and when not inconsistent with the context;

-2-

BOOK 1169 PAGE 786

- 1.1 Words used in the present tense include the future.
- 1.2 Words in the singular include the plural.
- 1.3 Words in the plural include the singular.
- 1.4 The masculine includes the feminine.
- 1.5 The word "shall" is mandatory and not directory.
- 1.6 The word "may" is directory.
- 1.7 The particular controls the general.
- 1.8 Enumeration is not limited.

DEFINITIONS:

2. Unless the context otherwise requires, the following terms, phrases and words shall have the meaning hereinafter given for purposes of this Declaration.

- 2.1 "Declaration" means this Declaration of Covenants, Conditions, and Restrictions for Residential Lots as now constituted or as the same may from time to time be amended in accordance with the provisions hereof.
- 2.2 "Articles" means the Articles of Incorporation of the Association which are, or will be, filed in the office of the Corporation Commission of the State of Arizona, and as the same may be amended from time to time.
- 2.3 "Association" means Yavapai Hills Home Owners Association, a non-profit corporation, its successors and assigns, incorporated or that will be incorporated under the laws of the State of Arizona for the purpose of performing the functions and duties enumerated in this Declaration and for such other purposes as set forth in Articles of Incorporation.
- 2.4 "Board" means the Board of Directors of the Association.

-3-

BOOK 1169 PAGE 787

- 2.5 "By-Laws" means the by-laws adopted by the Association and as the same may be amended from time to time.
- 2.6 "Committee" means the Architectural Committee or Committees appointed or that will be appointed as hereinafter provided, and as the same may from time to time be appointed.
- 2.7 "Common Areas and Facilities" means those areas or facilities owned or acquired by the Association or placed under the jurisdiction of the Association, including but not limited to:
- 2.101 Open spaces.
  - 2.102 Recreational areas.
  - 2.103 Sewage treatment plant sites and equipment.
  - 2.104 Drives.
  - 2.105 Walks.
  - 2.106 Guard houses.
  - 2.107 Parks.
  - 2.108 Lakes.
  - 2.109 Picnic areas.
  - 2.110 Club houses.
  - 2.111 Recreational facilities.
  - 2.112 Improvements and personal property used in conjunction with the foregoing.
- 2.8 "Lot" means a residential lot.
- 2.9 "Lot Owner" means the owner or owners of a residential lot.
- 2.10 "Member" means any person, corporation, partnership, joint venture or any other legal entity who is a member of the Association.

-4-

BOOK 1169 PAGE 788



2.11 "Residential Lot" means Lots

462 through 611, inclusive, Yavapai Hills, Unit III, a subdivision in Yavapai County, Arizona, according to the plat thereof in Book of Maps and Plats, pages to inclusive, records of the County Recorder of Yavapai County, Arizona, and any other lot or parcel of land to which the provisions of this Declaration have been extended by Yavapai Hills, Inc., and recorded in the records of the County Recorder of Yavapai County, Arizona.

2.12 "Rules and Regulations" means the Rules and Regulations adopted by the Association for the regulation of Common Areas and Facilities and as the same may from time to time be amended.

2.13 "Yavapai Hills, Inc." means the existing corporation, organized under the laws of the State of Delaware, its successors and assigns.

SINGLE FAMILY DWELLING:

3. No buildings or structures shall be erected, altered, placed or permitted to remain on any lot other than a single family dwelling, a garage, and any other accessory building customarily found on residential property in a subdivision (but in no event shall there be any barns, mobile homes, trailers, sheds or shacks). There shall not exist on any lot at any time, more than one single family residence.

ARCHITECTURAL COMMITTEE:

4. One or more Committees shall be appointed to function as hereinafter provided.

4.1 Appointment of Committee or Committees

Each Committee shall consist of three (3) persons, two of whom shall be appointed by Yavapai Hills, Inc., and one of whom shall be appointed by the Board. The persons, and their successors, appointed to a Committee by Yavapai Hills, Inc., shall serve at the

-5-

BOOK 1169 PAGE 789

discretion of Yavapai Hills, Inc. and in the event such an appointee is removed, resigns, refuses to serve, dies, or is unable to serve for any reason, Yavapai Hills, Inc. shall appoint his successor. The person, and his successors, appointed to each Committee by the Board shall serve at the discretion of the Board and in the event such appointee is removed, resigns, refuses to serve, dies or is unable to serve for any reason, the Board shall appoint his successor. At such time as shall be designated by Yavapai Hills, Inc., the foregoing power of appointment of Yavapai Hills, Inc. shall be relinquished in favor of the Board, and thereafter the power of appointment for all persons on each Committee shall be exercised by the Board, and all powers, rights and authorities of each such Committee shall be exercised and vested in such Committee as an Association Committee. Yavapai Hills, Inc. may delegate to another corporation, association, or person, its right to appoint persons to each Committee. Until such time as Yavapai Hills, Inc. has relinquished its power of appointment as aforesaid, the number of Committees and the area of authority of each Committee shall be determined by Yavapai Hills, Inc., and thereafter by the Board.

#### 4.2 Approval of Plans

No dwelling, building or other structure shall be commenced, erected, or maintained until the plans and specifications and plot plan, showing the nature, kind, shape, height, materials, floor plans, exterior color scheme, location and approximate cost of such dwelling, building or other structure and the grading of the lot to be built upon, shall have been submitted to and approved by the Committee, and a copy thereof, as finally approved, lodged permanently with the Committee. The Committee shall have the right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable, in its opinion, for aesthetic or 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 dwelling or other structure, the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the dwelling, building or other structure

-6-

BOOK 1169 PAGE 790

as planned on the outlook from adjacent or neighboring property. All subsequent additions to or changes or alterations in any dwelling, building or structure, including exterior color scheme, shall be subject to the prior approval of the Committee. No lot owner or other parties shall have recourse against the Committee for its refusal to approve any such plans and specifications or plot plans, including lawn areas and landscaping. The Committee shall not be liable for any structural defects in such plans or specifications, or in any dwelling, building or structure erected according to such plans and specifications.

#### 4.3 Request for Approval

Request for the Committee's approval of such plans and specifications, together with a copy of such plans and specifications and any other information which the Committee may reasonably request, shall be submitted in writing to the Committee at least thirty days prior to the date on which construction is to commence. Within thirty days from receipt of such written request, the Committee shall notify in writing the lot owner making the request of its decision either approving or rejecting the plans and specifications. In the event the Committee rejects the plans and specifications, then and in that event the Committee shall set forth in its notification the reason for rejection thereof. The decision of the Committee shall be final if such lot owner fails to request a hearing in accordance with the procedures outlined in provision 4.5.

#### 4.4 Failure to Act

In the event the Committee shall fail to approve or disapprove plans or specifications within thirty days after receipt of the written request, the plans, specifications, and other information requested by the Committee, approval thereof shall be deemed to have been given; provided however, 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 in violation of any of the restrictions contained in this Declaration or any applicable law, rule or regulation of any governmental body or agency having jurisdiction thereof.

-7-

BOOK 1169 PAGE 791

#### 4.5 Right of Hearing

Should the Committee reject or disapprove the plans and specifications as submitted, the lot owner, within fifteen days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The Committee, upon receipt of such written request, shall fix the date, time and place of the hearing and shall notify the lot owner in writing of the date, time and place of the hearing at least seven days prior to the hearing date. The date of the hearing shall be fixed no later than thirty days after receipt of the written request for hearing. At the hearing the lot owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall then determine, by majority vote of the persons appointed by the Committee, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Notice in writing of the Committee's decision shall be mailed to the lot owner within seven days from the date of the hearing. The decision of the Committee shall be final if such lot owner fails to exercise the right of appeal in accordance with the procedures set forth in provision 4.6.

#### 4.6 Right of Appeal

In the event the lot owner is dissatisfied with the decision of the Committee rendered in accordance with provision 4.5, then and in that event, the lot owner may appeal such decision to the Board. The right of appeal shall be exercised by the lot owner within fifteen days from the date the Committee mails notice of its decision to the lot owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of a notice of appeal, shall fix the date, time and place of the hearing on appeal and shall notify in writing the Committee and the lot owner of the date, time and place of the hearing at least seven days prior to the hearing date. The date of the hearing shall be fixed no later than thirty days after receipt of the notice of appeal. At the hearing on appeal both the Committee and the lot owner

-8-

BOOK 1169 PAGE 792



shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing on appeal the Board shall then determine, by majority vote of all Directors, whether the decision of the Committee shall be affirmed or reversed. Notice in writing of the Board's decision shall be mailed to the Committee and the lot owner within seven days from the date of the hearing on appeal. The decision of the Board shall be final.

TIME OF CONSTRUCTION AND  
TEMPORARY STRUCTURES:

5. Construction on a lot shall be governed by the following:

5.1 Time of Construction

All construction on a lot must be commenced within three months from the date of approval by the Committee of the plans and specifications and all dwellings, buildings or structures shall be completed within six months from commencement of construction; provided however, the Committee may extend such time when in its opinion conditions warrant such extension. It shall be the responsibility of the lot owner to notify the Committee in writing of the starting and completion dates of construction.

5.2 Temporary Structures

No trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character on any lot shall at any time be used as a residence, either temporarily or permanently. No temporary dwellings, buildings or structures of any type shall be placed on any lot, except as may be required for storage or watchmen during the period of construction of the dwelling on such lot. Debris resulting from construction of the dwelling unit must be disposed of weekly.

SIZE AND HEIGHT:

6. The size and height of dwellings, buildings or other structures shall be limited as follows:

-9-

BOOK 1169 PAGE 793

6.1 Size

No dwelling having less than one thousand (1,000) square feet of heated living area on at least one floor shall be permitted on any lot.

6.2 Height

No dwelling, building or structure on any lot shall be higher than two stories or exceed thirty feet in height.

RESERVATION OF EASEMENTS:

7. With respect to each lot, easements and rights-of-way, as set forth in recorded plats of Yavapai Hills, are hereby reserved unto Yavapai Hills, Inc., and its assigns, for construction, installation, and maintenance of water supply lines, sewers, utility lines and drains.

OCCUPANCY OF DWELLING:

8. No lot shall be used for residential purposes prior to the time at least one water flush toilet is installed in the dwelling thereon or prior to the time the dwelling is serviced by water and sewer connections.

DIVISION OF LOTS:

9. No lot shall be subdivided into smaller lots, nor conveyed or encumbered in less than the full original dimensions of such lot, except for purposes of the installation or maintenance of public utilities. This restriction shall not prevent the division of a lot to increase the size of the lots on either side so long as no new building site is created nor made smaller. Nothing herein contained shall

-10-

BOOK 1169 PAGE 794

prevent the dedication or conveyance of portions of lots for public utilities, in which event the remaining portion of any such lot shall, for the purpose of this provision, be treated as a whole lot. This restriction or any others contained herein shall not prevent the utilization of two or more contiguous lots having common ownership as a single building site.

PETS:

10. No animals, birds or poultry shall be kept or maintained on any lot, except recognized household pets which may be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants, and not for any commercial use or purpose. Any pets permitted out of doors or off any lot must be contained in an enclosure approved by the Architectural Committee or secured on a leash. This restriction shall not prohibit the establishment by Yavapai Hills, Inc., or the Association, of a stable or stables for use of members of the Association upon a tract or tracts of land which may be set aside specifically for that purpose.

OBSTRUCTION OF EASEMENTS,  
DITCHES OR CULVERTS:

11. No dwelling, building or structure of any kind or nature shall be erected, permitted or maintained on, over or across the easements for utilities or drainage as shown on recorded plats of Yavapai Hills. No lot owner, nor anyone acting under his direction, shall cover, bridge or otherwise interfere with drainage or irrigation ditches.

-11-

BOOK 1169 PAGE 795



or culverts now existing or hereafter installed without the prior express written approval of the Committee.

WEEDS, GARBAGE AND TRASH:

12. No weeds, underbrush or other unsightly growths shall be permitted to grow upon any lot. Waste, rubbish and garbage must be kept in suitable containers and must not be allowed to accumulate on any lot and must be removed from each lot in accordance with applicable sanitation regulations. Trash containers are to be stored in such manner that they are invisible from adjoining properties, with the provision that they may be placed near the street the morning of collection and must be removed by evening of the same day. No waste, rubbish or garbage shall be burned or dumped on any lots or any part of Yavapai Hills, except in such places as may be specifically designated and approved for such purposes by the governmental authorities having jurisdiction thereof. Until such time as a garbage refuse collection service is inaugurated, each lot owner must use such service. Failure to comply with either this provision 12 or provision 5.2 pertaining to the removal of building debris, automatically grants a right to Yavapai Hills, Inc., its designee, or the Association, to enter upon any lot for purposes of removing waste, rubbish garbage or clearing weeds, underbrush or unsightly growth, and all expenses so incurred shall be a charge against the lot, and until paid, shall constitute a lien upon the lot which may be foreclosed pursuant to the procedures outlined in provision 21.

-12-

BOOK 1169 PAGE 796



LANDS RETAINED BY  
YAVAPAI HILLS, INC.:

13. Neither the purchaser of a lot nor any successor in interest thereof shall be deemed to have acquired any proprietary or riparian rights in lands that are retained by Yavapai Hills, Inc., in any improvements on such lands or in any of the lakes, irrigation ditches, or other waterways on such lands.

BUSINESS PROHIBITION  
AND NUISANCES:

14. No residential lot shall be used in whole or in part for any trade, business or commercial purpose. No residential lot shall be used in whole or in part for the storage of any property or object that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any lot be used in such manner that it will emit foul or obnoxious odors, will cause unreasonable noise, or will cause a nuisance.

FENCES AND HEDGES:

15. Except as may be otherwise required by law, no lot boundary fences or screens of any kind shall be erected or maintained on any residential lot. Fences for private patios, swimming pools, tennis courts or pet runs must be first submitted to the Architectural Committee for approval but in no case may they project beyond the property line setback for structures. No hedge shall be maintained on any lot which shall unreasonably restrict or block the

-13-

BOOK 1169 PAGE 797

view from an adjoining lot, or which shall materially impair the continuity of the general landscaping plans of Yavapai Hills. In no event shall any hedge be maintained which shall exceed four feet in height without the prior approval of the Committee.

SIGNS, MAIL BOXES  
AND YARD LIGHTS:

16. No sign or advertisement of any kind, other than name plate signs not to exceed one square foot in area, shall be erected or maintained on the premises without the written approval of the Committee. All owners of lots must use mail boxes and electric or natural gas yard lights, the location and design of which must be approved by the Committee.

RESERVATION AND  
RIGHT OF ACCESS:

17. Right of access to each lot is hereby reserved to Yavapai Hills, Inc., for general improvements of any person's premises or premises of Yavapai Hills, Inc., but such right of access to any lot shall terminate upon commencement of construction on the lot by the owner.

OFF-STREET PARKING:

18. Lot owners shall be responsible for providing off-street parking for all vehicles owned by the lot owner and guests, insofar as possible, to keep the street lanes clear to the movement of traffic.

-14-

BOOK 1169 PAGE 798

SETBACK REQUIREMENTS:

19. All setback requirements for front, back and side yards, and any and all other setback requirements as are now in effect under the provisions of the Planning and Zoning Ordinance of the County of Yavapai, adopted February 5, 1968, as amended February 5, 1973, shall be complied with at all times. In the event such Zoning Ordinance is further amended or is superseded by another zoning ordinance or zoning code of Yavapai County, or any other municipality having jurisdiction thereof, then and in that event the setback requirements of the Planning and Zoning Ordinance of the County of Yavapai, adopted February 5, 1968, as amended February 5, 1973, shall continue to be the setback requirements to be complied with to the extent such requirements are more restrictive than the setback requirements of any such further amendments or superseding zoning ordinances or codes. Notwithstanding anything to the contrary herein, the Committee shall have the right to permit reasonable modification of the setback requirements where, in the discretion of the Committee, strict enforcement of these setback provisions would work a hardship. However, any such modification shall not be contrary and conflict with the setback requirements of the applicable zoning ordinance, code or other law then in effect, unless the person seeking the modification has obtained from the proper authority having jurisdiction thereof a variance from such zoning ordinance, code or

-15-

BOOK 1169 PAGE 799



other law that would allow such modification by the Committee, or the Committee may grant the modification conditioned upon the obtaining of such variance. Where two or more lots are acquired as a single building site, the side lot lines shall refer only to the lot lines bordering the adjoining property owners.

TANKS:

20. No elevated tanks of any kind shall be erected, placed or permitted upon any lot unless same are kept screened by adequate planting or lattice, which must be approved by the Committee, to conceal the tank from neighboring lots or streets.

RECREATIONAL VEHICLES:

21. Boats, campers, motor homes, travel trailers and other recreational vehicles shall be kept in a garage and out of view of neighboring lots or streets or may be kept in a fenced enclosure, provided or to be provided, by the developer, for such parking purpose, at a minimal cost.

YAVAPAI HILLS HOME OWNERS ASSOCIATION:

22. For the purpose of construction, maintenance and improvement of Common Areas and Facilities and of any and all common community services of every kind and nature required or desired in areas owned, acquired by, or under the jurisdiction of the Association for the general benefit and use of members, each and every lot owner, in accepting a deed or contract of purchase for any lot in such premises, agrees to and shall be a member of and be subject to the obligations



and duly enacted By-Laws and Rules and Regulations of the Association, and to pay an annual assessment and any special assessment levied against each lot to provide the necessary funds for the aforesaid purposes. Such assessment shall be paid promptly when the same becomes due and in the event of failure of a lot owner to pay such assessment promptly when due, for which the lot owner shall be personally liable, the amount of the unpaid assessment shall constitute a lien upon the lot owned by such lot owner. The lien may be enforced in equity, as in the case of a real estate mortgage lien foreclosure, by the Association in accordance with such policies and procedures as the Board may from time to time adopt. The foreclosure judgment shall award to the Association all costs, expenses and reasonable attorney's fees incurred in connection with the foreclosure, such attorney's fees to be fixed by the judge of the court of applicable jurisdiction without use of a jury.

Notwithstanding anything herein to the contrary, membership in the Association shall not be restricted to lot owners. Other persons, corporations, partnerships, joint ventures, or other legal entities entitled to use the common areas and facilities shall or may become members of the Association in accordance with the applicable terms and provision of the Articles and By-Laws of the Association.

ENFORCEMENT OF COVENANTS:

25. Failure to enforce any of the covenants, conditions and restrictions contained herein shall not, in any event, be construed or held to be a waiver thereof or consent to

-17-

BOOK 1169 PAGE 801

any further or succeeding breach or violation. Upon breach or threatened breach of such covenants, stipulations or restrictions, or any of them, anyone owning or having an interest in Yavapai Hills Unit III, or any other subdivision to which this Declaration has been extended, including the Association, may bring an appropriate action in the proper court to enjoin or restrain such violation or to compel compliance with such covenants, conditions or restrictions herein contained, or to collect damages or other dues on account thereof. A violation of the covenants, conditions or restrictions shall not affect the lien of any mortgage now of record or hereafter placed of record on any lot or part thereof.

INVALIDATION:

24. The invalidation of any one of these restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

DURATION OF DECLARATION  
OF RESTRICTIONS:

25.-- The aforesaid provisions, covenants, conditions and restrictions, and each and all thereof, shall run with the land and every part thereof, and shall be binding on the owner or owners of any lot until twenty (20) years from the date of recording of the Declaration, after which they shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the

-18-

BOOK 1169 PAGE 802

then owners of the lot has been recorded agreeing to amend or terminate the same in whole or in part.

DEEDS OF CONVEYANCE:

26. Deeds of conveyance of a lot or lots, or any part of a lot, may contain the above covenants, conditions and restrictions by reference to this Declaration, but whether or not such reference is made in such deeds, or any thereof, each and all of such covenants, conditions and restrictions shall be binding upon the respective grantees, their heirs, successors and assigns.

DATED this       day of       , 19 .

CONTINENTAL SERVICE CORPORATION,  
As Trustee and not personally

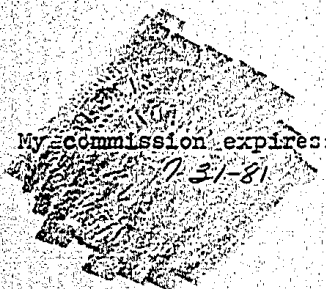
By

*R. A. Jacobs, Jr. off.*

STATE OF ARIZONA }  
COUNTY OF YAVAPAI } ss.

Before me this *12<sup>th</sup>* day of *June*, 1978,  
personally appeared *R. A. Jacobs*, who acknowledged  
himself to be a Trust Officer of the Continental Service  
Corporation and that he 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 himself as such officer.

My commission expires:



*Dennis K. Corcoran*  
Notary Public

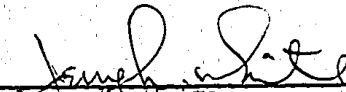
-19-

BOOK 1169 PAGE 803

Approved:

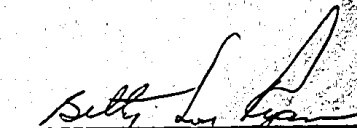
YAVAPAI HILLS, INC.  
A Corporation

By

  
Jerry H. White  
Vice President

STATE OF ARIZONA }  
COUNTY OF YAVAPAI } ss.

The foregoing instrument was acknowledged before  
me this 12<sup>th</sup> day of June, 1978, by Jerry H. White,  
Vice President of Yavapai Hills, Inc, a corporation, on  
behalf of the corporation.

  
Notary Public

My commission expires:

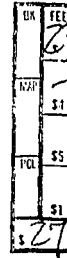
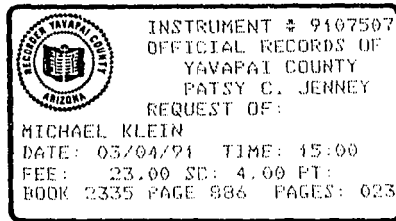
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-20-

BOOK 1169 PAGE 804



michael Klein  
w/c  
**RUSH**



**SECOND AMENDED DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR RESIDENTIAL LOTS**

**RECITALS**

Yavapai Hills, Inc., a Delaware corporation, as present owner of the beneficial interest in Trust No. 1017 at Capital Title Agency, Inc., an Arizona corporation, being properly authorized so to act by terms of the Trust, and Capital Title Agency, Inc., as Trustee thereunder, solely as bare legal title holder, and not personally, and acting at the proper direction of said beneficiary recites that:

1. On September 28, 1978 an instrument entitled "Declaration of Covenants, Conditions And Restrictions For Residential Lots" was recorded in Book 1169, Pages 785-804 inclusive, Official Records of Yavapai County, Arizona, to run with the following described real property:

Lots 462 thru 611, inclusive, in Unit III, YAVAPAI HILLS, as shown and designated on a plat entitled, "Yavapai Hills, Unit III" filed in the office of the Yavapai County Recorder on September 28, 1978, in Book 20 of Maps, Page(s) 61 and 62.

2. Events occurring subsequent to the recording of the aforementioned Declaration of Covenants, Conditions And Restrictions For Residential Lots rendered the Declaration of Covenants, Conditions And Restrictions For Residential Lots obsolete and unsuitable as the circumstances then existed, and, on April 17, 1987, an instrument entitled "Amended Declaration Of Covenants, Conditions And Restrictions For Residential Lots" was recorded in Book 1924, Page 935-958 which revoked and cancelled the aforementioned Declaration of Covenants, Conditions And Restrictions For Residential

BOOK 2335 PAGE 886

Lots and substituted in lieu thereof covenants, conditions and restrictions pertaining only to the following described premises situated within the County of Yavapai, State of Arizona, to wit:

Lots 473-525 and 568-601, inclusive, in Unit III, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Unit III" filed in the office of the Yavapai County Recorder on September 28, 1978 in Book 20 of Maps, pages 61 and 62.

3. Yavapai Hills, Inc. desires to establish the nature of the use and enjoyment of additional lots in Unit III, Yavapai Hills, by enacting the Second Amended Declaration Of Covenants, Conditions And Restrictions For Residential Lots affecting the following described premises within the County of Yavapai, State of Arizona, to wit:

Lots 462-472, Lots 526-567 and Lots 602-611, inclusive, in Unit III, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Unit III" filed in the office of the Yavapai County Recorder on September 28, 1978 in Book 20 of Maps, Pages 61 and 62.

NOW, THEREFORE, Yavapai Hills, Inc., hereby declares that the real property described in paragraph 3 above shall be held, sold and conveyed subject to the following Second Amended Declaration Of Covenants, Conditions And Restrictions For Residential Lots:

**SECOND AMENDED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR RESIDENTIAL LOTS**

**KNOW ALL MEN BY THESE PRESENTS:**

WHEREAS, Capital Title Agency, Inc., an Arizona corporation, as Trustee under Trust No. 1017, is the legal title holder of the following described premises, situated within the County of Yavapai, State of Arizona, to-wit:

-2-

BOOK 2335 PAGE 887

Lots 462-472, Lots 526-567, and Lots 602-611, inclusive, in Unit III, YAVAPAI HILLS, as shown and designated on a plat entitled "Yavapai Hills, Unit III" filed in the office of the Yavapai County Recorder on September 28, 1978 in Book 20 of Maps, Pages 61 and 62.

WHEREAS, Capital Title Agency, Inc., as Trustee, will convey said premises subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Capital Title Agency, Inc., as Trustee, solely as bare legal title holder and not personally and acting at the proper direction of said Yavapai Hills, Inc., hereby declares that all of the lots described above and any other lots to which this Second Amended Declaration is extended by Yavapai Hills, Inc. shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, reservations, easements, liens and charges, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the above-described property and all other property to which this Second Amended Declaration is extended by Yavapai Hills, Inc., and all of which are hereby declared to be for the benefit of the above-described property and all other property to which this Second Amended Declaration is extended by Yavapai Hills, Inc., and the owners thereof, their heirs, successors, grantees and assigns.

Yavapai Hills, Inc. reserves unto itself, for as long as this Second Amended Declaration remains in force and effect, the right to extend the provisions of this Second Amended Declaration to any other real property now owned, hereafter acquired or developed by Yavapai Hills, Inc., as part of the plan for development of a community known as "Yavapai Hills."



**RULES OF CONSTRUCTION:**

1. For the purposes of this Second Amended Declaration, and when not inconsistent with the context:

- 1.1 Words used in the present tense include the future.
- 1.2 Words in the singular include the plural.
- 1.3 Words in the plural include the singular.
- 1.4 The masculine includes the feminine.
- 1.5 The word "shall" is mandatory and not directory.
- 1.6 The word "may" is directory.
- 1.7 The particular controls the general.
- 1.8 Enumeration is not limited.

**DEFINITIONS:**

2. Unless the context otherwise requires, the following terms, phrases and words shall have the meaning hereinafter given for purposes of this Second Amended Declaration:

- 2.1 "Second Amended Declaration" means this Second Amended Declaration of Covenants, Conditions, And Restrictions for Residential Lots as now constituted or as the same may from time to time be amended in accordance with the provisions hereof.
- 2.2 "Articles" means the Articles of Incorporation of the Association which are, or will be, filed in the office of the Corporation Commission of the State of Arizona, and as the same may be amended from time to time.
- 2.3 "Association" means Yavapai Hills Home Owners Association, a non-profit corporation, its successors and assigns, incorporated or that will be incorporated under the laws of the State of Arizona for the purpose of performing the functions and duties enumerated in this Second Amended Declaration and for such other purposes as set forth in Articles of Incorporation.
- 2.4 "Board" means the Board of Directors of the Association.
- 2.5 "By-Laws" means the By-Laws adopted by the Association and as the same may be amended from time to time.

- 2.6 "Committee" means the Architectural Committee or Committees appointed or that will be appointed as hereinafter provided, and as the same may from time to time be appointed.
- 2.7 "Common Areas and Facilities" means those areas or facilities owned or acquired by the Association or placed under the jurisdiction of the Association, including but not limited to:
- 2.101 Open spaces.
  - 2.102 Recreational areas.
  - 2.103 Drives.
  - 2.104 Walks.
  - 2.105 Guard houses.
  - 2.106 Parks.
  - 2.107 Lakes.
  - 2.108 Picnic areas.
  - 2.109 Club houses.
  - 2.110 Recreational facilities.
  - 2.111 Improvements and personal property used in conjunction with the foregoing.
- 2.8 "Lot" means a residential lot.
- 2.9 "Lot Owner" means the owner or owners of a residential lot.
- 2.10 "Member" means any person, corporation, partnership, joint venture or any other legal entity who is a member of the Association.
- 2.11 "Residential Lot" means Lots 462-472, 526-567 and 602-611, inclusive, Yavapai Hills, Unit III, a subdivision in Yavapai County, Arizona, according to the plat thereof in Book 20 of Maps and Plats, pages 61 to 62, inclusive, records of the County Recorder of Yavapai County, Arizona, and any other lot or parcel of land to which the provisions of this Second Amended Declaration have been extended by Yavapai Hills, Inc., and recorded in the records of the County Recorder of Yavapai County, Arizona.
- 2.12 "Rules and Regulations" means the Rules and Regulations adopted by the Association for the

regulation of Common Areas and Facilities and as the same may from time to time be amended.

2.13 "Yavapai Hills, Inc." means the existing corporation, organized under the laws of the State of Delaware, its successors and assigns.

SINGLE FAMILY DWELLING:

3.1 No buildings or structures shall be erected, altered, placed or permitted to remain on any lot other than a single family dwelling, an attached garage or carport, and any other accessory building customarily found on residential property in a subdivision (but in no event shall there be any barns, mobile homes, trailers, sheds or shacks) and landscaping. There shall not exist on any lot at any time, more than one single family residence.

3.2 Garage and Parking - Each dwelling must provide an attached carport or garage or a detached garage as approved by the Committee. In addition to garage or carport parking, every improved lot must be provided with paved off-street parking spaces for at least two (2) additional vehicles.

3.3 Pavement - Driveways, turnarounds and off-street parking areas shall be paved with concrete or asphalt or other permanent materials approved by the Committee.

3.4 Contractors and Time of Completion - Each structure shall be constructed by a contractor licensed by the State of Arizona for the work. The Committee may waive the licensed contractor requirement for any owner it deems qualified to act as his own prime contractor. Said owner shall be subject to any and all rules, regulations and/or other governmental requirements pertaining to the construction or improvements to a residential lot.

-6-

BOOK 2035 PAGE 831



ARCHITECTURAL COMMITTEE:

4. One or more Committees shall be appointed to function as hereinafter provided.

4.1 Appointment of Committee or Committees.

Each Committee shall consist of three (3) persons, two of whom shall be appointed by Yavapai Hills, Inc., and one of whom shall be appointed by the Board. The persons, and their successors, appointed to a Committee by Yavapai Hills, Inc., shall serve at the discretion of Yavapai Hills, Inc. and in the event such an appointee is removed, resigns, refuses to serve, dies, or is unable to serve for any reason, Yavapai Hills, Inc. shall appoint his successor. The person, and his successors, appointed to each Committee by the Board shall serve at the discretion of the Board and in the event such appointee is removed, resigns, refuses to serve, dies or is unable to serve for any reason, the Board shall appoint his successor. At such time as shall be designated by Yavapai Hills, Inc., the foregoing power of appointment of Yavapai Hills, Inc. shall be relinquished in favor of the Board, and thereafter the power of appointment for all persons of each Committee shall be exercised by the Board, and all powers, rights and authorities of each such Committee shall be exercised and vested in such Committee as an Association Committee. Yavapai Hills, Inc. may delegate to another corporation, association, or person, its right to appoint persons to each Committee. Until such time as Yavapai Hills, Inc. has relinquished its power of appointment as aforesaid, the number of Committees and the area of authority of each Committee shall be determined by Yavapai Hills, Inc., and thereafter by the Board.

4.2 Approval of Plans and Specifications.

No dwelling, building, fence, patio, deck, port, landscaping or other structure shall be commenced, erected, added to, have its exterior modified, changed, altered, be painted or repainted, placed or permitted to remain on any lot or maintained, except in accordance with the plans and specifications and plot plan, showing the nature, kind, shape, height, materials, floor plans, exterior color scheme, location and approximate cost of such dwelling, building or other structure and the grading of the lot to be built upon, which have been previously submitted to and approved in writing by the Committee, and a copy thereof, as finally approved, lodged permanently with the Committee. The Committee shall have the

right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable, in its opinion, for aesthetic or other reasons, and in so reviewing such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed dwelling or other structure, the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the dwelling, building or other structure as planned on the outlook from adjacent or neighboring property. No lot owner or other parties shall have recourse against the Committee for its refusal to approve any such plans and specifications or plot plans, including lawn areas and landscaping. The Committee shall not be liable for any structural defects in building or structure erected according to such plans and specifications.

#### 4.3 Site Plans

Site plans shall show:

- (i) Location of all trees over three inches (3") in trunk diameter, one foot from the ground.
- (ii) Trees to be removed to permit construction.
- (iii) Location of all easements.
- (iv) Dimensions and bearings of the boundaries of the item to be constructed, erected or placed on the lot.
- (v) Existing grade and grade changes.
- (vi) Structure location.
- (vii) Front, side and rear set backs.
- (viii) Driveways and Parking Areas.

4.4 Excavation and Removal - There shall not be any excavation or removal of rocks, dirt or natural vegetation or importation of dirt, rocks, etc., until the site plan has been approved by the Committee.

#### 4.5 Request for Approval.

Request for the Committee's approval of such plans and specifications, together with a copy of such plans and specifications and any other information which the Committee may reasonably request, shall be submitted in writing to the Committee, at least thirty (30) days

prior to the date on which construction is to commence. Within thirty (30) days from receipt of such written request, the Committee shall notify in writing the lot owner making the request of its decision either approving or rejecting the plans and specifications. In the event the Committee rejects the plans and specifications, then and in that event that Committee shall set forth in its notification the reason for rejection thereof. The decision of the Committee shall be final if such lot owner fails to request a hearing in accordance with the procedures outlined in provision 4.7.

#### 4.6 Failure to Act

In the event the Committee shall fail to approve or disapprove plans or specifications within thirty (30) days after receipt of the written request, the plans, specifications, and other information requested by the Committee, approval thereof shall be deemed to have been given; provided however, any dwelling, building or structure embraced by such plans and specifications shall be masonry or frame construction and the location and size of the dwelling, building or structure shall not be in violation of any of the restrictions contained in this Second Amended Declaration or any applicable law, rule or regulation of any governmental body or agency having jurisdiction thereof.

#### 4.7 Right of Hearing

Should the Committee reject or disapprove the plans and specifications as submitted, the lot owner, within fifteen (15) days from the date of written notice of rejection or disapproval, may request in writing a hearing before the Committee. The Committee, upon receipt of such written request, shall fix the date, time and place of the hearing and shall notify the lot owner in writing of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the written request for hearing. At the hearing the lot owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing the Committee shall then determine, by majority vote of the persons appointed by the Committee, whether its prior decision concerning the plans and specifications shall be affirmed or reversed. Notice in writing of the Committee's decision shall be mailed to the lot owner within seven (7) days from the date of the hearing. The decision of the Committee shall be final

if such lot owner fails to exercise the right of appeal in accordance with the procedures set forth in provision 4.8.

#### 4.8 Right of Appeal

In the event the lot owner is dissatisfied with the decision of the Committee rendered in accordance with provision 4.7, then and in that event, the lot owner may appeal such decision to the Board. The right of appeal shall be exercised by the lot owner within fifteen (15) days from the date the Committee mails notice of its decision to the lot owner. The notice of appeal shall be in writing addressed to both the Committee and the Board. The Board, upon receipt of a notice of appeal, shall fix the date, time and place of the hearing on appeal and shall notify in writing the Committee and the lot owner of the date, time and place of the hearing at least seven (7) days prior to the hearing date. The date of the hearing shall be fixed no later than thirty (30) days after receipt of the notice of appeal. At the hearing on appeal, both the Committee and the lot owner shall be afforded the opportunity to be heard and to present evidence, both oral and documentary, concerning the rejection of the plans and specifications. Upon conclusion of the hearing on appeal the Board shall then determine, by majority vote of all Directors, whether the decision of the Committee shall be affirmed or reversed. Notice in writing of the Board's decision shall be mailed to the Committee and the lot owner within seven (7) days from the date of the hearing on appeal. The decision of the Board shall be final.

#### TIME OF CONSTRUCTION AND TEMPORARY STRUCTURES:

5. Construction on a lot shall be governed by the following:

##### 5.1 Time of Construction

All construction on a lot must be commenced within three (3) months from the date of approval by the Committee of the plans and specifications and all dwellings, buildings or structures shall be completed within six (6) months from commencement of construction; provided, however, the Committee may extend such time when in its opinion conditions warrant such extension and landscaping must be substantially completed in accordance with the approved plans within nine (9) months of the commencement of construction of a dwelling. It shall be the responsibility of the lot owner to notify the Committee in writing of the starting and completion dates of construction.



## 5.2 Temporary Structures

No trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character on any lot shall at any time be used as a residence, either temporarily or permanently. No temporary dwellings, buildings or structures of any type shall be placed on any lot, except as may be required for storage or watchmen during the period of construction of the dwelling on such lot. Debris resulting from construction of the dwelling unit must be disposed of weekly.

### SIZE AND HEIGHT:

6. The size and height of dwellings, buildings or other structures shall be limited as follows:

#### 6.1 Area

Exclusive of enclosed or open porches, garages, carports and any area in the basement or within the foundation:

- (i) Each single level dwelling shall have a minimum of 1,400 square feet of living area.
- (ii) Each two-story dwelling shall have a minimum of 1,000 square feet of living area on the main level and a total living area of not less than 1,400 square feet.
- (iii) Each one and one-half story dwelling shall have a minimum of 1,000 square feet of living area on the first floor and a total living area of not less than 1,400 square feet.
- (iv) Each split or multi-level dwelling shall have a minimum of 1,400 square feet of living area.

#### 6.2 Height

The height limitation of buildings shall be two stories, but not to exceed 30 feet at any point on the side of a building facing a dedicated street or a private roadway platted on a subdivision phase of the Development, but a building may have an additional story on a downhill side not facing such roadway or street with approval of the Committee.

RESERVATION OF EASEMENTS:

7. With respect to each lot, easements and rights-of-way, as set forth in recorded plats of Yavapai Hills, Inc. are hereby reserved unto Yavapai Hills, Inc., and its assigns for construction, installation, and maintenance of water supply lines, sewers, utility lines and drains.

OCCUPANCY OF DWELLING:

8. No lot shall be used for residential purposes prior to the time at least one (1) water flush toilet is installed in the dwelling thereon or prior to the time the dwelling is serviced by water and sewer connections.

DIVISION OF LOTS:

9. No lot shall be subdivided into small lots, nor conveyed or encumbered in less than the full original dimensions of such lot, except for purposes of the installation or maintenance of public utilities. This restriction shall not prevent the division of a lot to increase the size of the lots on either side so long as no new building site is created nor made smaller. Nothing herein contained shall prevent the dedication or conveyance of portions of lots for public utilities, in which event the remaining portion of any such lot shall, for the purpose of this provision, be treated as a whole lot. This restriction or any others contained herein shall not prevent the utilization of two or more contiguous lots having common ownership as a single building site.

PETS:

10. No animals, birds or poultry shall be kept or maintained on any lot, except recognized household pets which may be kept thereon in reasonable numbers as pets for the pleasure and use of the

occupants, and not for any commercial use or purpose. All animal wastes shall be disposed of in accordance with applicable city or county regulations. Any pets permitted out of doors or off any lot must be contained in an enclosure approved by the Architectural Committee or secured on a leash. This restriction shall not prohibit the establishment by Yavapai Hills, Inc., or the Association, of a horse stable or stables for use of members of the Association upon a tract or tracts of land which may be set aside specifically for the purpose.

OBSTRUCTION OF EASEMENTS, DITCHES OR CULVERTS:

11. No dwelling, building or structure of any kind or nature shall be erected, permitted or maintained on, over or across the easements for utilities or drainage as shown on recorded plats of Yavapai Hills. No lot owner, nor anyone acting under his direction, shall cover, bridge or otherwise interfere with drainage or irrigation ditches or culverts now existing or hereafter installed without the prior express written approval of the Committee.

WEEDS, GARBAGE AND TRASH:

12. No weeds, underbrush or other unsightly growths shall be permitted to grow upon any lot. Waste, rubbish and garbage must be kept in suitable containers and must not be allowed to accumulate on any lot and must be removed from each lot in accordance with applicable sanitation regulations. Each lot owner is responsible for the removal of all waste, rubbish or garbage from their lot. Trash containers are to be stored in such manner that they are invisible from adjoining properties, with the provision that they may be placed near the street the morning of collection and must be removed by evening of the same day. No waste, rubbish or garbage shall be

burned or dumped on any lots or any part of Yavapai Hills, Inc. except in such places as may be specifically designated and approved for such purposes by the governmental authorities having jurisdiction thereof. Failure to comply with either this provision 12 or provision 5.2 pertaining to the removal of building debris, automatically grants a right to Yavapai Hills, Inc., its designee, or the Association, to enter upon any lot for purposes of removing waste, rubbish, garbage, or clearing weeds, underbrush or unsightly growth, and all expenses so incurred shall be a charge against the lot, and until paid, shall constitute a lien upon the lot which may be foreclosed pursuant to the procedures outlined in provision 23.

LANDS RETAINED BY YAVAPAI HILLS, INC.:

13. Neither the purchaser of a lot nor any successor in interest thereof shall be deemed to have acquired any proprietary or riparian rights in lands that are retained by Yavapai Hills, Inc., in any improvements on such lands or in any of the lakes, irrigation ditches, or other waterways on such lands.

BUSINESS PROHIBITION AND NUISANCES:

14. No residential lot shall be used in whole or in part for any trade, business or commercial purpose. No residential lot shall be used in whole or in part for the storage of any property or object that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any lot be used in such manner that it will emit foul or obnoxious odors, will cause unreasonable noise, or will cause a nuisance.

FENCES AND HEDGES:

15. Except as may be otherwise required by law, no lot boundary fences or screens of any kind shall be erected or maintained on any



residential lot. Fences for private patios, swimming pools, tennis courts or pet runs must be first submitted to the Architectural Committee for approval but in no case may they project beyond the property line setback for structures. No hedge shall be maintained on any lot which shall unreasonably restrict or block the view from an adjoining lot, or which shall materially impair the continuity of the general landscaping plans of Yavapai Hills, Inc. In no event shall any hedge be maintained which shall exceed four (4) feet in height without the prior approval of the Committee.

SIGNS, MAILBOXES AND YARD LIGHTS:

16. No sign or advertisement of any kind, other than name plate signs not to exceed one (1) square foot in area, shall be erected or maintained on the premises without the written approval of the Committee. All lot owners are to install an electric street lamp and a mailbox. A post type street lamp of not less than four (4) feet or more than six (6) feet in height is to be located not more than ten (10) feet from the street curb. The light is to be activated automatically during the hours between sunset and sunrise by photoelectric cell or equivalent device. A light strength of not less than 25 watts or more than 40 watts incandescent strength, or equivalent, is required. Following installation, the lot owner is required to maintain the lamp in working order. Mailbox designs are to be compatible with the house design.

ANTENNAS, TOWERS, ETC.:

17. There shall be no exterior television antenna, radio antenna, flagpole, mast or tower upon the property without written approval of the Committee. The Committee may approve the temporary installation of a television antenna on a lot during the time Cable

TV facilities are not available at the lot.

RESERVATION AND RIGHT OF ACCESS:

18. Right of access to each lot is hereby reserved to Yavapai Hills, Inc., for general improvements of any person's premises or premises of Yavapai Hills, Inc., but such right of access to any lot shall terminate upon commencement of construction on the lot by the owner.

OFF-STREET PARKING:

19. Lot owners shall be responsible for providing off-street parking for all vehicles owned by the lot owner and guests, insofar as possible, to keep the street lanes clear to the movement of traffic, all in accordance with Paragraphs 3.2 and 3.3 hereof.

SETBACK REQUIREMENTS:

20. All setback requirements for front, back and side yards, and any and all other setback requirements as are now in effect under the provisions of the Planning and Zoning Ordinance of the City of Prescott, adopted February 12, 1951, as amended June 27, 1989, shall be complied with at all times. In the event such Zoning Ordinance is further amended or is superseded by another zoning ordinance or zoning code of The City of Prescott, or any other municipality having jurisdiction thereof, then and in that event the setback requirements of the Planning and Zoning Ordinance of the City of Prescott, adopted February 12, 1951, as amended June 27, 1989, shall continue to be the setback requirements to be complied with to the extent such requirements are more restrictive than the setback requirements of any such further amendments or superseding zoning ordinances or codes. Notwithstanding anything to the contrary herein, the Committee shall have the right to permit reasonable modification of

the setback requirements where, in the discretion of the Committee, strict enforcement of these setback provisions would work a hardship. However, any such modification shall not be contrary and conflict with the setback requirements of the applicable zoning ordinance, code or other law then in effect, unless the person seeking the modification has obtained from the proper authority having jurisdiction thereof a variance from such zoning ordinance, code or other law that would allow such modification by the Committee, or the Committee may grant the modification conditioned upon the obtaining of such variance. Where two or more lots are acquired as a single building site, the side lot lines shall refer only to the lot lines bordering the adjoining property owners.

TANKS:

21. No elevated tanks of any kind shall be erected, placed or permitted upon any lot unless same are kept screened by adequate planting or lattice, which must be approved by the Committee, to conceal the tank from neighboring lots or streets. In no event shall a tank exceed four feet (4') in height.

RECREATIONAL VEHICLES:

22. Boats, campers, motor homes, travel trailers and other recreational vehicles shall be kept in a garage and out of view of neighboring lots or streets.

YAVAPAI HILLS HOME OWNERS ASSOCIATION:

23. For the purpose of construction, maintenance and improvement of Common Areas and Facilities and of any and all common community services of every kind and nature required or desired in areas owned, acquired by, or under the jurisdiction of the Association for the general benefit and use of members, each and

every lot owner, in accepting a deed or contract of purchase for any lot in such premises, agrees to and shall be a member of and be subject to the obligations and duly elected By-Laws and Rules and Regulations of the Association, and to pay an annual assessment and any special assessment levied against each lot to provide the necessary funds for the aforesaid purposes. Such assessment shall be paid within thirty (30) days of the due date. Any part of an assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid. The assessment lien on each respective lot shall be prior and superior to all other liens except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Such lien, when delinquent, and after notice of such delinquency has been given to the property owner without the delinquency having been cured within the thirty (30) days of receipt of such notice, shall be treated as a deed of trust in the amount of the delinquency with the property owner as trustor, Capital Title Agency, Inc., as Trustee, and the Association as beneficiary, the Association being authorized to sell or foreclose upon the property pursuant to Arizona Revised Statutes Section 33-807, et. seq. or in any other manner permitted by law, however, the right to sell or foreclose upon the property shall be in addition to and not in substitution of all of the rights and remedies which the Association and Board may have in accordance with the provision of this Amended Declaration or otherwise. The Association, acting on behalf of the

-18-

BOOK 2335 PAGE 903



lot owners, shall have the power to bid for the lot at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties and may temporarily suspend the Association membership rights of a lot owner who is in default after a hearing held in accordance with the By-Laws. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area and Facilities or abandonment of his lot.

**VIOLATION OF COVENANTS, CONDITIONS & RESTRICTIONS:**

24. The covenants, conditions and restrictions contained herein shall run with the land and shall be binding on all persons purchasing or occupying any lot in the subdivision after the date on which the instrument is recorded. In the event of any violation or attempted violation of these covenants, conditions and restrictions, they may be enforced and an action may be brought by the Architectural Committee, Association, or by the owner or owners (not in default) of any lot or lots in the subdivision at law or in equity. Such remedies shall include but not be limited to damages, court costs, and attorneys' fees, injunctive relief and/or any and all other rights or remedies pursuant to law; restrictions, 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 such land, and each and all of these covenants, conditions and restrictions shall be binding upon and effective against any owner of a lot whose title thereto is acquired by foreclosure, trustee's sale or otherwise; and provided also that the breach of any

said covenants, conditions and restrictions may be enjoined, abated or remedied by appropriate proceedings, notwithstanding the lien or existence of any such mortgage or deed of trust. Failure by the Architectural Committee, Association or by the owner or owners (not in default) to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

All instruments of conveyance of an interest in all or any part of the premises shall contain (and if not, shall be deemed to contain) reference to this instrument and shall be subject to the covenants, conditions and restrictions 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. No private agreement of any adjoining property owners shall modify or abrogate any of these restrictive covenants, conditions or restrictions.

INVALIDITY AND SEVERABILITY:

25. Invalidity of any one or more of these covenants, conditions and restrictions or any portion thereof by judgment of court order in no way affects the validity of any of the other provisions and the same shall remain in full force and effect. No provision hereof shall be considered invalid if any reasonable construction of Declarant's intent can give effect to any such provision.

DURATION OF DECLARATION OF RESTRICTIONS:

26. The aforesaid provisions, covenants, conditions and restrictions, and each and all thereof, shall run with the land and every part thereof, and shall be binding upon the owner or owners of any lot until twenty (20) years from the date of recording of the Second Amended Declaration, after which they shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the then owners of the lot has been recorded agreeing to amend or terminate the same in whole or in part.

DEEDS OF CONVEYANCE:

27. Deeds of conveyance of a lot or lots, or any part of a lot, may contain the above covenants, conditions and restrictions by reference to this Amended Declaration, but whether or not such reference is made in such deeds, or any thereof, each and all of such covenants, conditions and restrictions shall be binding upon the respective grantees, their heirs, successors and assigns.

ABSENCE OF OBLIGATION:

28. Anything herein contained to the contrary notwithstanding, it is understood and agreed that Capital Title Agency, Inc., an Arizona corporation, shall have no obligation to see to the performance or non-performance of any of the covenants herein contained and shall not be personally liable for any action or non-action taken in violation of any of the covenants herein.

DATED this 4 day of March, 1991.

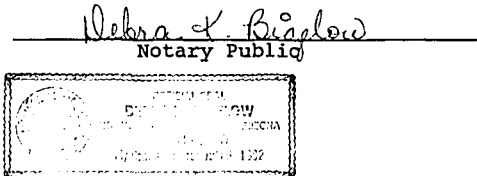
CAPITAL TITLE AGENCY, INC., as Trustee  
and not personally under Trust  
No. 1017

By John J. Vallino  
Its Vice President / So Trust Officer

STATE OF ARIZONA )  
County of Yavapai ) ss.

Personally appeared before me this 4 day of March,  
1991, JoAnn Juliana, who acknowledged him/herself to  
be the Vice President of Capital Title Agency, Inc. and  
he/she as such executed, being authorized so to do,  
executed the foregoing instrument for the purposes therein contained  
by signing the name of the corporation as Trustee, by him/herself as  
such officer.

My Commission Expires:  
July 6, 1992



APPROVED:

YAVAPAI HILLS, INC., a corporation

By Michael J. Klein, Sr.  
President

STATE OF ARIZONA )  
County of Yavapai ) ss.

The foregoing instrument was acknowledged before me this 4 day

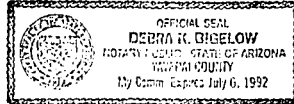


of Marake, 1991, by Michael J. Klein, Sr., President of  
Yavapai Hills, Inc., a corporation, on behalf of the corporation.

Debra K. Bigelow  
Notary Public

My Commission Expires:

July 6, 1992



(agree/1 yavapai.ccr)