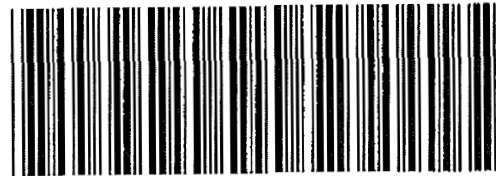


When Recorded Mail To:

HAPPY VALLEY RANCH HOA
c/o TOM HARRIS
25023 N. HORSESHOE TR
SCOTTSDALE, AZ 85255



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL

97-0505712 07/28/97 12:54

IRENE 1 OF 1

CAPTION HEADING: _____

DO NOT REMOVE
This is part of the official document.

In accordance with Arizona Revised Statutes §11-480, Requirements for form of instruments, this instrument should have been rejected for recording for the following reason(s). However, as a courtesy, this cover sheet has been added to allow recording. Future instruments presented for recording that do not comply will be rejected:

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

The first page shall have a top margin of at least two inches which shall be reserved for recording information. The left three and one-half inches of the top margin of the first page or sheet may be used by the public to show the name of the person requesting recording and the name and address to which the document is to be returned following recording. **IF THE FIRST PAGE OF THE INSTRUMENT DOES NOT COMPLY WITH THE TOP MARGIN REQUIREMENTS, A SEPARATE SHEET THAT MEETS THE REQUIREMENTS AND THAT REFLECTS THE TITLE OF THE DOCUMENT AS REQUIRED BY ARS §11-480.A.1, SHALL BE ATTACHED TO THE FRONT OF THE DOCUMENT BY THE PARTY REQUESTING RECORDING.**

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

HAPPY VALLEY RANCH

MARICOPA COUNTY, ARIZONA

THIS DECLARATION, made this 26th day of April, 1997, by HAPPY VALLEY RANCH HOMEOWNERS' ASSOCIATION, an Arizona non-profit corporation. Happy Valley Ranch Homeowners' Association, its successors and assigns, are hereinafter referred to as the "Declarant".

RECITALS

- A. Declarant and its Board of Directors are the governing body for the real property described in Exhibit "A" to this Declaration (the "Subdivision").
- B. Declarant has established and now modifies the covenants, conditions and restrictions upon the Subdivision and each and every Parcel, Lot and portion thereof, which will constitute a general scheme for the development and government of the Subdivision and for the use, occupancy and enjoyment of the Subdivision all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision and enhancing the quality of life within the Subdivision.
- C. Conveyance of title to all of the Subdivision, and each and every Parcel, Lot or portion thereof, shall be subject to certain protective covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of the property described above shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of such property, and all of which are declared to run with the land and, to be binding on all parties having or acquiring any right or title in said property or any part thereof, to be for the benefit of all of the property described above and its owners, their heirs, successors, grantees and assigns.

1. Single Family Residences. All of the lots in the Subdivision shall be known and described as single family residential lots and shall be used for residential purposes only.
2. Approval of Structures. No structure or dwelling of any kind shall be commenced, erected or placed on any of the lots within the Subdivision until the design (including all exterior colors), location and kind of materials to be used in the structure or dwelling have been approved in writing by the Architectural Committee. It shall be the

general purpose of the Architectural Committee to maintain a high standard of architectural design and general construction within the Subdivision in such a manner as to enhance the aesthetic desirability and compatibility and the structural soundness of all structures in the Subdivision. The Architectural Committee's decision to allow or deny the construction of any structure or dwelling shall be final. All structures shall conform to the requirements of any applicable governmental building codes and other regulations of governmental units having jurisdiction over the Subdivision. All requests for Architectural Committee approval shall be submitted in writing, together with the plans, specifications and/or such other information as the Architectural Committee may reasonably request, at least forty-five days prior to the date on which construction is to commence. In administering its duties, the Architectural Committee shall follow a set of Building Guidelines, such Guidelines to be approved and/or amended from time to time by the Board of Directors. The approved Building Guidelines, as well as all subsequent modifications, additions and/or deletions thereto, are hereby incorporated by reference into these Covenants, Conditions and Restrictions, and such Guidelines shall have the same authority as all other provisions contained herein. All permanent structures shall be constructed within the building envelopes as shown on the final recorded plat. In the event the Architectural Committee fails to approve or disapprove the proposed construction within forty-five days after receipt of a written request prepared and submitted in accordance with the requirements hereof, then, in such event, approval shall be deemed to have been given; provided, however, that in no event shall the design, location and kind of materials and the structure to be built on said lots be violative of any of the covenants, conditions and restrictions contained in this Declaration or the Building Guidelines.

3. Architectural Committee. The Architectural Committee shall consist of not less than three members of the Homeowners' Association to be appointed from time to time by the Board of Directors of the Association.

4. Construction Materials. All structures on the lots within the Subdivision shall be of new construction and no building shall be moved from any other location onto any of the lots.

5. Use of Garage as a Residential Structure. No garage or other structure of any type whatsoever shall be erected on any of the lots until a dwelling shall have first been erected on said lot or until a contract with a reliable contractor shall have been entered into for the construction of a dwelling on said lot. No garage or other outbuilding shall be used for residential purposes; provided, however, that this restriction shall not prevent the inclusion of guest or servant quarters in such garage or other outbuilding for the use of actual non-paying guests or for actual servants of the occupants of the main residential building, but no such quarters shall be rented or used for income purposes. Such guest or servant quarters shall be limited to three (3) rooms and bath.

6. Number and Height of Structure. No structure shall be erected, altered, placed or permitted to remain on any of the lots in the Subdivision other than one (1)

detached single family dwelling and a private garage (attached to the dwelling), each structure to be one-story, in height not to exceed 16 feet, 8 inches.

7. Size of Dwelling Structure. No four bedroom dwelling structure having a ground floor area of less than twenty-four hundred (2400) square feet or three bedroom dwelling structure having a ground floor area of less than two thousand (2000) square feet shall be erected, permitted or maintained on any of the lots. All ground floor area measurements shall include the walls proper of the dwelling structure, but shall exclude open porches, pergolas, attached garages or other similar extension or projection. As a rule, the attached garage shall have a floor area of not more than thirty (30) percent of the floor area square footage of the dwelling structure, and no garage shall be designed to store more than four (4) vehicles and/or boats. All exterior designs for all dwelling structure shall be characteristic of one-story Spanish, Southwest Indian or Mexican architecture, except as may otherwise be approved by the Architectural Committee.

8. Construction of Roofs. The roofs of all buildings erected, constructed or maintained on said lots shall be clay tile if sloped, unless otherwise permitted by the Architectural Committee. No roof mounted appliances are permitted. Outdoor antennas must comply with the Telecommunications Act of 1996, and their installation must be approved by the Architectural Committee.

9. Height of Walls and Fences. Any solid wall or fence which shall be constructed or maintained closer to the front street line of any lot than the closest portion of the building erected on such lot shall have a maximum height of 2 1/2 feet, except as may otherwise be approved by the Architectural Committee.

No side or rear fence and no side or rear wall (except that wall of the building constructed on any of said lots), shall be more than six (6) feet in height. No hedge more than three (3) feet in height shall be permitted closer than thirty (30) feet to the front lot line of any lot. All walls and fences shall be either slump block, adobe or cinder block. If slump block or adobe is used, it shall be on the same color and quality as used on the dwelling. If cinder block is used, it shall be stucco-finished to the same color and texture as the dwelling unless otherwise approved by the Architectural Committee.

10. Use Prior to Installation of Sanitary Facilities. None of the lots shall be used for residential purposes prior to installation of water flush toilets in them. All bathrooms, toilets or sanitary conveniences shall be inside the buildings permitted by this Declaration. Until such time as sewers may be available, all bathrooms, toilets or sanitary conveniences shall be connected to septic tanks and cesspools constructed according to applicable governmental specifications; including, but not being limited to, the standard Federal Housing Administration specifications. Cesspools shall be deep enough to prevent water from coming to the surface, and no leach line or disposal fields shall be permitted in connection therewith. When and after sewers are available, all such toilets, bathrooms and sanitary conveniences installed thereafter shall be connected to such sewer systems.

11. Resubdivision. None of the lots in the Subdivision shall be resubdivided into smaller lots nor conveyed in less than the full original dimensions of such lot as shown by the plat.

12. Commercial or Other Purposes. No store, office, hospital, sanitarium or other place for the care or treatment of the sick or disabled, physically or mentally, nor any theater, saloon or other place of entertainment shall ever be erected or permitted upon any of the lots, or any part of the them, and no business of any kind or character whatsoever shall be conducted in or from any residence on the lots.

13. Mobile Homes and Campers. No mobile home or trailer house of any type may be used on the lots either temporarily or permanently. Storage of any type of these vehicles as well as large campers or other recreational vehicles, including boats, must be in an enclosed garage so that it is not visible from any other lot or from the common area.

14. Signs. No advertising signs (except "For Sale" signs), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any of the lots, nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner of any lot in the Subdivision.

15. Easements. No structure of any kind shall be erected, permitted or maintained on the easements for utilities as shown on the plat of Happy Valley Ranch.

16. Landscaping. Inasmuch as it is the intention to preserve, insofar as possible, the present natural desert state existing in the Subdivision, desert growth shall not be destroyed or removed except as it is necessary for the construction of roads, dwelling houses and connecting buildings to the dwelling houses. Happy Valley Ranch was selected for its clean air and dust free environment. All landscaping plans for any lot must be submitted to and approved by the Architectural Committee in the manner provided in Paragraph 2 hereof. The use of any Bermuda grass, organic or allergy producing fertilizers, or allergy producing plants which are identified or defined by local authorities as allergy producing, is not allowed. The Architectural Committee shall have the authority to restrict or prohibit any other activity within the Subdivision which is allergy producing, contributes to odors, or otherwise would be inconsistent with the clean air and natural desert environment of the Subdivision.

17. Large Animals. No poultry, sheep, goats, horses, cattle or other large animals shall be kept on any of the lots.

18. Common Area. The area designated as Tract "A" on the plat map for the Subdivision shall be for the common use and enjoyment of all lot owners within the Subdivision and may be developed for such common recreational purposes as may be determined by the Association.

19. Homeowners' Association. It is understood that the Association oversees (and in the future may construct, place or provide for) certain amenities in the Subdivision of the general nature of (but not necessarily limited to) those described in Subparagraph (b) below, which amenities are for the common use ~~of~~ or enjoyment of all lot owners in the Subdivision; that the owner of each lot should bear a pro rata share of the cost for maintaining said amenities; that each lot should be subject to servitude and lien therefor; and that the Homeowners' Association has been organized to make and enforce assessments therefor and to collect the money to undertake the necessary maintenance and services.

NOW, THEREFORE, it is declared that from the date of this Declaration each and every lot in the Subdivision shall be subject to a continuing servitude and lien, not exceeding \$200 per year, unless increased pursuant to Subparagraph 19(c.) hereof, for the aforesaid purposes, as established and levied against each such lot by the Homeowners' Association, all as more particularly set forth below. It is further declared that all property owners of record shall be members of Happy Valley Ranch Homeowners' Association. This Association shall be maintained as a non-profit corporation pursuant to the laws of Arizona, for the purposes and with such rights and obligations as are set forth below:

(a.) Membership in the Association shall be limited to the property owners of record in the Subdivision. Each owner of record of a lot in the Subdivision shall automatically be a member of the Association. If any lot is owned by two or more persons, they shall designate in writing to the Association one of their number who shall have the power to vote. Membership in the Association further shall be subject to the terms of the Association's Articles of Incorporation and Bylaws (copies of which shall be available for inspection at the office of the Association during all reasonable business hours).

(b.) The Association shall have the power and shall undertake and perform within the Subdivision the following duties and obligations:

(i.) Plant, protect, maintain and otherwise manage the landscaping located in the streets and in any tracts, parks, pathways, walks, trails, playgrounds, recreational areas, common areas or lands to which all the property owners have access in the Subdivision or which are for the common enjoyment and inure to the general benefit of the owners in the Subdivision;

(ii.) Provide for the repair, maintenance, replacement and management of all roads, streets, alleys, pathways, walks, trails, walls, fences, berms, gateways, entrances, entrance markers, ornamental features, parks, playgrounds, swimming pools, recreational areas, lighting systems and other facilities of any nature, to which all owners have access or which are for the common enjoyment and inure to the general benefit of the owners in the Subdivision.

(iii.) Carry out the duties and obligations set forth in the Articles of Incorporation and in this Paragraph and those of the Architectural Committee as set forth above, with the expenses and costs thereof to be paid out of the funds of the Association;

(iv.) Acquire and own such real estate, together with any improvements located thereon, as may be reasonably necessary in order to carry out the purposes of the Association; and pay taxes on such real estate and improvements as may be owned by it; and pay all premiums for property, hazard and public liability insurance;

(v.) Levy and collect the assessments which are set forth below.

(c.) In order to provide funds to enable the Association to perform the obligations and maintain the improvements and render the services provided above, all lots within the Subdivision shall be subject to an annual assessment which shall be fixed and levied in advance by the Association from year to year and shall be paid to the Association annually by the owners of record of each lot in the Subdivision. The Association shall from year to year determine the total amount required to perform its obligations and shall levy and collect an annual assessment not exceeding \$200.00 for each lot within the Subdivision. The assessment for each lot shall include the owner's pro rata share of such sums as the Association shall determine proper for the establishment and maintenance of a reserve for repair, replacement, maintenance and the payment of administration costs, taxes and insurance required by the Association, and shall be in the ratio that one (1) Lot bears to the total number of lots within the Subdivision. The aforesaid maximum assessment to each lot owner may be increased by the Association only with the prior written consent of two-thirds of the lot owners of record by number in said Subdivision.

(d.) The aforesaid assessments for each year shall be fixed, levied and paid at such times and in such manner as may be prescribed in the Bylaws of the Association .

(e.) Each owner of a lot in the Subdivision, for himself, his heirs, executors, administrators, successors and assigns, covenants and agrees, by acceptance of a deed or other instrument (and regardless of whether it is expressed in any such deed or other conveyance, and regardless of whether such owner accepts such deed in writing), that he shall pay to the Association the annual assessments or charges as provided in Paragraph (c.) above. The annual assessments (together with such interest on them, if any such assessments are delinquent, and costs of collection, including reasonable attorney's fees) shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with such interests, costs and attorneys' fees, shall be the personal obligation of the person who was the record owner of such lot at the time when the assessment fell due, but such personal obligation of the owner

shall not be deemed to limit or discharge the charge on the land and continuing lien upon the lot against which such assessment is made. No owner shall escape liability for the assessments which fell due while he was the owner by nonuse of the common facilities or transfer or abandonment of his lot. The owner's personal obligation for assessments which fell due while he was the owner shall not pass to a successor owner unless expressly assumed by that successor owner. The Association, as the agent and representative of the owners of lots in the Subdivision, shall have the right to enforce the provisions of this Declaration. If the owner of any lot fails to pay an assessment when due, the Association may enforce the payment of the assessment, or enforce the lien against the lot, by taking either or both of the following actions, concurrently or separately (and by exercising either of the remedies set forth below, the Association does not prejudice or waive its right to exercise the other remedy):

(i.) Bring an action at law against the owner personally obligated to pay the assessment;

(ii.) Foreclose the assessment lien against the lot in accordance with the then prevailing Arizona law relating to the foreclosure of realty mortgages (including the right to recover any deficiency), and the lot may be redeemed after foreclosure sale as provided by law.

If any lot subject to each assessment lien shall become subject to the lien of a purchase money or construction mortgage, the foreclosure of the assessment lien shall not affect or impair the lien of any such mortgage. The assessment lien shall be junior and subordinate to the lien of any such mortgage, but only as follows, without otherwise affecting or impairing the assessment lien or discharging the land from the servitude. Any such mortgage foreclosure purchaser or any grantee taking by deed in lieu of foreclosure, shall take free of the assessment lien for all charges that have accrued up to the date of issuance of a sheriff's deed or deed given in lieu of foreclosure, but shall take subject to all charges accruing subsequent to the issuance of a sheriff's deed or deed given in lieu of foreclosure.

(f.) At any such time as the aforescribed maintenance and services to be rendered by the Association are available from a public source, including but not limited to a county, municipal or other type of improvement district, the Association, upon an affirmative vote of two-thirds of the property owners of record may elect to have the maintenance and services, or any part of them, provided for in this Declaration assumed and undertaken by this public source if the public source is willing to undertake them.

20. Extension of Declaration. The foregoing covenants, conditions and restrictions run with the land and shall be binding on all persons owning any of said lots in the Subdivision until April, 1999, at which time said covenants, conditions and restrictions shall be automatically extended for successive 2 year periods, unless by a vote of a majority of the then owners of the lots described, it is agreed to change said covenants, conditions or restrictions in whole or in part.

21. Binding Effect. Deeds or other instruments of conveyance of said lots may contain the above covenants, conditions and restrictions by reference to this document, but whether or not such references are made in such deeds or instruments, each and all of such covenants, conditions and restrictions shall be binding upon the respective grantees, their heirs, successors and assigns.

22. Violations. If there shall be a violation or threatened or attempted violation on any of these covenants, conditions or restrictions, it shall be lawful for any person or persons owning real property situated in the Subdivision to prosecute proceedings at law or in equity to enjoin and/or to receive damages for, each and every violation or threatened violation of any of the covenants, conditions or restrictions contained in this Declaration. However, a violation of these covenants, conditions and restrictions, or any one or more of them, shall not affect the lien of any mortgage now on record, or which may hereafter be placed on record upon said lots or any part of such lot. In the event the Declarant deems it necessary to bring any legal proceedings against any lot owner or owners to enforce the provisions of this Declaration, and if the Declarant prevails in such proceeding, such party shall be entitled to recover from the lot owner or owners, and such owner or owners agree to pay, all damages, costs and expenses of such proceeding, including but not being limited to, reasonable attorneys' fees. All such amounts due from and owner or owners shall be a charge upon the land and a continuing lien upon the lot owned by such owner, such lien to be subject to the provisions of Paragraph 19(e.) hereof, the same as if said lien were an assessment lien.

23. Severability. Invalidation of any one or more of these covenants, conditions and restrictions shall in no ways affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, this Declaration has been executed as of the date first hereinabove written.



Cindy E. Hottleman
Maricopa County 7/23/97
2-10-98

HAPPY VALLEY RANCH
HOMEOWNERS' ASSOCIATION

By *Michael Byrne*
President of its Board of Directors