

1. No structure of any kind shall be commenced, placed or architecturally modified in Tonto Hills until the design, location, and the kind of materials to be used therein have been approved by a majority of the Architectural Control Committee of the Tonto Hills Improvement Association, defined below.

a. The owners of property in Tonto Hills shall organize a Tonto Hills Improvement Association (also referred to herein as "the Association") whose membership shall consist of all owners of property in Tonto Hills. The owners shall elect the Board of Directors of the Association and its Architectural Control Committee which will consist of six members. The Architectural Control Committee is an arm of the Association; it shall be accountable to the Board of Directors of the Association and shall not be authorized to obligate funds except for minimal routine operating expenses.

b. Any member in good standing may nominate any member in good standing for any office. The elections will be conducted by mail ballot or mail proxy and/or at a general-membership meeting on the fourth Wednesday of March each year, unless the Board considers it necessary to advance or extend the date for up to one month. All terms of office shall be one year.

c. Written notice of the time and place of all general-membership meetings shall be given by mail, postmarked at least ten (10) days before the date of the meeting, such notice to be signed by any member of the Board of Directors of the Association. It shall be each owner's responsibility to assure that the Association is informed of his current mailing address.

d. The election of each member of the Board of Directors of the Association and each member of the Architectural Control Committee shall be by the greatest number of votes by the owners of record or their proxies allowing one vote for each lot and tract. Co-owners may vote fractional votes if their written agreement on the fractional division is submitted to the Association in advance of the election.

e. The Association shall prepare and maintain published by-laws for conducting business, including procedures to fill any office vacated between annual elections.

f. Annual assessments to support the activities of the Tonto Hills Improvement Association and the Architectural Control Committee shall be levied on each lot and tract effective from the Annual General Meeting of 1988, and each year thereafter. The amount of assessment shall be established by the greatest number of votes by the property owners or their proxies at the annual election meeting, allowing one vote for each lot and tract. Co-owners may vote fractional votes if their written agreement of fractional division is submitted to the Association in advance of the voting. Owners of record will be billed and notified of the payment grace period. The current property owner at any given time is responsible for assessments due or overdue on his property. The Association shall seek property liens to secure all delinquent payments of assessments; any such liens shall, however, be subordinate to existing mortgages. Liens shall bear interest at a rate determined each year by the Board of Directors of the Association.

g. The usage of Association funds accumulated from assessments shall be according to the discretion of the Board of Directors for incidental operation expenses, for projects of direct or indirect benefit to all Tonto Hills owners, and for legal costs in connection with the enforcement of this Declaration of Restrictions.

h. Any owner or co-owner of property for which full payment of assessment is delinquent shall be a member "not in good standing" and shall be denied voting rights.

i. The accounting records, by laws and meeting minutes of the Association shall be reasonably available for examination by any member in good standing.

2. In event of any ambiguity in a provision of these restrictions, the interpretation of the Board of Directors of the Association as to the meaning intended shall prevail.

3. These covenants and restrictions are understood to be for the benefit of all lot and tract owners in Tonto Hills. They may be changed in any way by votes of more than fifty percent (50%) of the property owners in Tonto Hills, allowing one vote for each lot and tract. Co-owners may vote fractional votes if their written agreement on the fractional division is submitted to the Association in advance of the voting.

a. It is to be understood that any person or persons, party or group buying one or more of the Tonto Hills lots or tracts either commercial or residential, shall have no objection to the use of and rezoning of lot number 57 for commercial purposes, including horse stables and training facilities. It is also understood that any future sites for water wells, specified for unsold lots or, on previously purchased lots with current owner's consent and permission, shall be permitted and granted application for rezoning under the classification of "Special Tract."

4. If there shall be a violation or threatened or attempted violation of any of the covenants, conditions, stipulations, or restrictions herein contained, it shall be lawful for the Tonto Hills Improvement Association or any person owning real property situated in Tonto Hills to institute proceedings in a court of competent jurisdiction against any person attempting or threatening to violate any such covenant, condition, restriction or stipulation and either to enjoin the person from doing so or to recover damages therefore. No failure of the trustee or any other person or party to enforce the restrictions, rights, reservations, limitations, covenants, and conditions contained herein shall, in any event, be construed or held to be a waiver thereof or consent to any further or succeeding breach or violation thereof. The violation of any of these restrictive covenants, conditions or stipulations, or any one or more of them, shall not affect the lien of any mortgage now on record, or which hereafter may be placed on record, upon said lots or tracts or any part thereof.

5. The purpose and intention of the said trustee in placing these restrictions of record is that they shall be binding upon all persons acquiring an interest in any lot, tract or parcel of land in Tonto Hills, regardless of whether or not same are referred to in the deed of conveyance for said property.

6. No residence shall be erected which provides less than two thousand (2000) square feet of living space area, exclusive of open porches, pergolas, patios, stables, carports, or garages.

a. No residence shall be erected except by on-site construction; mobile-home or pre-fabricated modules are prohibited.

b. The Architectural Control Committee has the exclusive authority to refuse construction plans for two story homes when such construction, in the opinion of the Committee, will interfere with the view from surrounding homes or from lots where construction is reasonably expected to occur in the future.

7. Nothing contained herein shall be so construed as to prevent the construction on any lot of one guest house, either attached to or separated from the main residence already constructed thereon, provided said guest house shall be for, and only used by, non-paying guests and constructed so as to conform architecturally to the main building providing the guest house shall be limited to three rooms and a bath and a two-car garage.

8. No portion of any residence or any other structure shall be placed or constructed within twenty-five (25) feet of the side line of any lot, except that in construing this restriction two or more lots owned and built upon by a single owner as one unit shall be construed as one lot; provided, however, that the restrictions of this paragraph shall not prevent the erection of garages, or other permitted auxiliary structures, on the rear one fourth of any residential lot, provided the same shall not be closer than four feet to the lot line and does not encroach on any easement.

9. No building of any kind shall be placed, erected, or permitted to exist within fifty (50) feet of the front or street side of any residential lot.

10. No structure shall ever be erected or placed on any residential lot in Tonto Hills which is designed for or adaptable to use as, or actually for, any business purpose whatever, including but not limited to, lodging, rooming, or boarding house, sanitarium, hotel, club, hospital, store, or shop. Provided, however that Tonto Hills has been particularly planned and laid out as a town attractive to artists, and nothing in this paragraph shall be so construed as to prevent any artist from pursuing his artistic calling upon his premises, provided, further, however, that this exception shall not permit advertising or offering for sale artistic products upon residential lots.

11. No temporary building, shack, tent, trailer, or unsightly structure shall ever be erected or maintained in Tonto Hills; provided that nothing herein contained shall prevent the erection of a temporary shop or office structure by a contractor or builder during the actual bona fide construction of a permitted structure upon the premises. No garage, stable, or guest house, shall be commenced or erected on any lot until the construction of the main building complying with these restrictions shall have been started thereon.

12. No billboard, sign board, or advertising of any kind shall be erected, placed, or permitted on any residential lot, except a sign not larger than five (5) square feet advertising that the premises are for rent or sale, and except that a general sale sign shall be permitted on Lots 181, 213, 54 and Tract "E" during the years 1960, 1961 and 1962.

13. No residential lot shall be resubdivided smaller than shown or delineated on the original plat of Tonto Hills, but nothing herein contained shall be so construed as to prevent the use of one lot and a fraction of an adjoining lot as one unit or building site after which time said whole lot or adjacent part of the lot shall, for the purpose of these restrictions, be considered as one lot.

14. No more than four (4) horses shall be maintained on any of said lots at any time and further, all stables and/or corrals shall be located in the rear one-half (1/2) of said lots. Further, all stables, corrals, fencing and/or anything constituting a shelter or enclosure for horses must be built in a workmanlike manner and in such a style and from such materials as will blend with the balance of the construction on said lot. All other pets of any kind whatsoever must have written permission from the Tonto Hills Improvement Association.

15. No fence or wall, other than the wall of the building constructed on any residential lot, shall be more than six (6) feet in height.

16. All public utility lines and wires, desired by the owner of any lot, shall be brought to their place of usage from the place where provided at, or near the lot line, by the utility company, underground and not overhead, except by permission of the Architectural Control Committee.

17. The area of Tonto Hills within the section created by lots 201 and 214 inclusive is designed, planned and laid out as a high class business section and to that end is particularly restricted as to its use and enjoyment as hereinafter set out:

a. No service garage, automobile repair shops or service stations shall be permitted on any lot except lots 211, 212, 213 and 214, provided, however, that this restriction shall not prevent the installation and operation of not to exceed two gasoline dispensing pumps on another business lot as a necessary or desirable adjunct to the principal business conducted thereon, and provided further that such an auxiliary gasoline pump may be placed on Tracts "E", lot 57 and Tract "A".

b. Unless so placed as to be at least fifty (50 feet from the side or rear line of such a lot, no building of wood or frame construction shall be placed or erected on any business lot.

c. No business lot shall be resubdivided into lots, any one of which shall be smaller than the smallest original business lot in Tonto Hills.

d. Immediately following the construction of any business building, there shall be constructed at the rear thereof a fireproof rubbish kiln and garbage container and neither rubbish, waste paper, packing boxes or garbage shall be permitted on any lot, nor in the alley adjacent thereto except in such containers.

e. It shall be the obligation of each business lot owner to maintain his lot and the alley at the rear thereof to the center line in a clean and sanitary manner, and the alley in an unobstructed and easily traversable condition.

f. To the end that the business district will present a pleasing and harmonious appearance, no signs shall be erected which will extend above the building on the lot on which placed, nor which will project at an angle from the building toward the street, but all thereof shall be placed flat against the building unless otherwise approved in writing by the Architectural Control Committee. Furthermore, the Architectural Control Committee may establish a form and type of sign to be used on any block of business lots which will differ from that permitted on any other street or block of lots, and no sign may be erected or painted on any business building until the approval of the Architectural Control Committee thereto has been secured.

g. No business building shall be constructed any portion of which is closer than ten (10) feet to the front lot line.

18. Any and all water, fuel and gas and/or other tanks or receptacles not buried below the surface of the ground shall be completely screened by shrubbery or lattice, excepting Water Company tanks, etc.

19. All garbage, trash or other waste materials shall not be burned or disposed of on said premises.

20. No poultry shall be kept on any of the said lots in Tonto Hills.

21. No lot shall be used or allowed to become in such condition as to depreciate the value of adjacent property.

22. In event any provision hereof shall be held to be void and of no effect, such holding shall not effect the validity of any other provision hereof.

Adopted the 2nd day of May, 1987, by a majority vote of Tonto Hills property owners as certified and recorded in the office of the Maricopa County Recorder.

  
President, Tonto Hills Improvement Association Date Jan. 15, 1988

AMENDMENT TO DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

That LANE TITLE & TRUST COMPANY, an Arizona corporation, as Trustee, being the owner of all of the following described premises, situate within the County of Maricopa, State of Arizona, to-wit:

Lots One (1) through Two Hundred Twenty-three (223), inclusive and Tracts A, B, C, D, E, F, G, H, and J, inclusive, TONTO HILLS, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 93 of Maps, page 5.

And having heretofore placed of record the original Declaration of Restrictions as recorded in Docket 3561, at page 201; and which original Restrictions as applicable to the above described property is now to be amended only in the respects as set forth below.

1. The property description as shown in the original Restrictions is in error, in that said description shows two Tract D's and no Tract E wherein there should be one Tract D and one Tract E and said description should be as hereinabove set forth.

2. The said Declaration of Restrictions are also further amended to include a subparagraph (h) under the main paragraph 17 in the original restrictions and the said subparagraph (h) is to read as follows:

(h) The Sections created by the designated as Tracts F, G, H and J, are particularly restricted for use as driveways and parking areas for use in connection with the lots as follows:

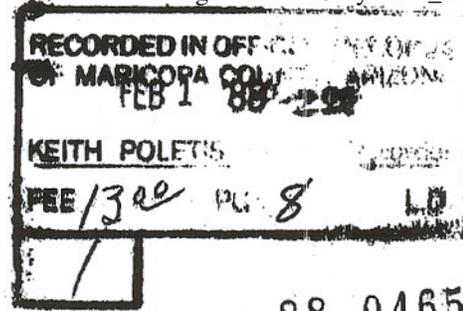
- A. Tract F for Lots 201 through 208 inclusive,
- B. Tract G for Lots 209 through 212 inclusive,
- C. Tract H for Lots 213 through 218 inclusive,
- D. Tract J for Lots 219 through 223, inclusive,

3. All of the other terms and conditions as contained in the said two original Declaration of Restrictions as described more specifically hereinabove shall remain in full force and effect except as to the deletion and additions as provided for in this Amendment to each of those original Declarations.

The foregoing is a copy of the restrictions, conditions and covenants as contained in Docket 3667, page 259, records of Maricopa County, Arizona.

PURSUANT TO SEC. 804 (c), TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968, 42 USC 2501, ET SEQ, RESTRICTIONS HEREIN, IF ANY, BASED ON RACE, COLOR, RELIGION OR NATIONAL ORIGIN ARE DELETED OR OMITTED.

When recorded return to :  
Mr. James F. Skane  
Tonto Hills #23 HCO1  
Cave Creek , Az., 85331



**MOD RSTR (DF)**

88 046577

**AMENDMENT OF DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS**

THIS AMENDMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as the "amendments") is made of the 15th day of January, 1988 by the TONTO HILLS IMPROVEMENT ASSOCIATION, an Arizona Corporation hereinafter referred to as the "association";

WITNESSETH:

Recitals:       A) Lane Title and Trust Company , an Arizona Corporation , was trustee being then owner of all the described premises described in the following, situate within the County of Maricopa, State of Arizona, to-wit:

Lots One through Two Hundred Twenty Three (223) inclusive and Tracts A,B,C,D,G,F,H, inclusive, TONTO HILLS, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, in Book 93 of Maps, page 5.

recorded a Declaration of Restrictions (hereinafter called the "Declaration") in Docket 3561, page 201 and further recorded an Amendment thereto in Docket 3667, page 259, records of Maricopa County.

B) In accordance with paragraph 1 of the Declaration , the Tonto Hills Improvement Association was formed and registered with the Arizona Corporation Commission on September 3, 1980. The Association elected a Tonto Hills Architectural Control Committee in accordance with the same paragraph of the Declaration. This paragraph passed responsibility for the administration of the Declaration of the Association and it's Architectural Control Committee.

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Whereas the Association is responsible for the administration of the Declaration and

Whereas the Association is desirous of amending said Declaration and has obtained the vote necessary to accomplish said desire,

NOW, THEREFORE, declares that the attached Declaration is the amended Declaration as set forward above and becomes effective with registry of this document in the Office of the Maricopa County Recorder.

TONTO HILLS IMPROVEMENT ASSOCIATION

BY: *James F. Skane*  
Director

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STATE OF ARIZONA        )  
                                  ) ss.  
County of Maricopa     )

Before me this   1   day of   Feb.   1988, personally appeared James F. Skane who acknowledged himself to be a director of the TONTO HILLS IMPROVEMENT ASSOCIATION and that he as such officer, being authorized to do so, executed the foregoing instruments for the purposes therein contained by signing the name of the Association by himself as such officer.

*Sherry L Anderson*  
Notary Public

My commission will expire:

My Commission Expires: Dec. 7, 1990

LAWYERS TITLE OF ARIZONA, INC.

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20010617677 07/10/2001 16:17  
71001F-3-1-1--  
ELECTRONIC RECORDING

When recorded return to:  
Louis R. Frederick  
11431 E. Manana Rd.  
Tonto Hills  
Cave Creek, AZ 85331

71001F AMENDMENT OF DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

THIS AMENDMENT OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as the "amendments") is made the 7<sup>th</sup> day of July, 2001 by the TONTO HILLS IMPROVEMENT ASSOCIATION, an Arizona Corporation hereinafter referred to as the "association".

WITNESSETH

Recitals: A) Lane Title and Trust Company, an Arizona Corporation, was Trustee being then owner of all the described premises described in the following, situate within the County of Maricopa, State of Arizona, to-wit:

Lots One through Two Hundred Twenty Three (223) inclusive and Tracts A,B,C,D,G,F,H, inclusive, TONTO HILLS, according to the plat of record in the Office of the County Recorder of Maricopa County, Arizona, in Book 93 of Maps, Page 5.

recorded a Declaration of Restrictions (hereinafter called the "Declaration") in Docket 3561, page 201 and further recorded an Amendment thereto in Docket 3667, page 259, records of Maricopa County.

B) In accordance with paragraph 1 of the Declaration, the Tonto Hills Improvement Association was formed and registered with the Arizona Corporation Commission on September 3, 1980. The Association elected a Tonto Hills Architectural Control Committee in accordance with the same paragraph of the Declaration. This paragraph passed responsibility for the administration of the Declaration of the Association and its' Architectural Control Committee.

C) Paragraph 3 of the Declaration provides the Association with the power to amend Declaration in whole or in part by the written consent recorded, of a majority of the record owners of all lots and tracts in Tonto Hills.

D) On October 8, 2000 the Association addressed to all property

owners of record a revised recommended Declaration of Restrictions and a ballot requesting that each property owner vote on each major proposed change in the original declaration. All ballots which were returned were counted by March 28, 2001. At the time of voting there were property owners of two hundred forty (240) lots. One hundred sixty three (163) votes were returned, properly completed. The ballot was divided into three propositions; the first concerned building heights; the second asked that no auxiliary structure(s) or tower(s) be constructed in Tonto Hills; the third stated that colors on exterior surfaces of all buildings and improvements be muted tones to blend with natural colors of vegetation and mountains as seen from a distance. The first proposition received an affirmative vote of one hundred nineteen (119) or 49.6% of the total lots. Proposition 2 received an affirmative vote of one hundred forty two (142) or 59% of the total lots. Proposition 3 received an affirmative vote of one hundred eighteen (118) or 49.2% of the total lots.

E) Ballots were counted by two Board of Directors of the Association and one person who was not a Director. Completed and counted ballots are held in a safe deposit box and will be held for a period of three years. This box is controlled by the Bank and the Secretary of the Association. It is planned to destroy the ballots in March 2004.

F) The Amendment adopted was:

TOWERS

No auxiliary structure(s) or tower(s) that might interfere with the transmission or reception of any communication device in Tonto Hills will be allowed to be constructed on any lot or location in Tonto Hills.

No auxiliary structure or tower, whether attached to a building on the property or not, shall be constructed on any lot or location in Tonto Hills without the express approval of the Architectural Control Committee.

Whereas the Association is responsible for the administration of the Declaration and

Whereas the Association is desirous of amending said Declaration and has obtained the vote necessary to accomplish said desire,

NOW, THEREFORE, declares that the attached Declaration is the amended Declaration as set forward above and becomes effective with registry of this document in the office of the Maricopa County Recorder.

