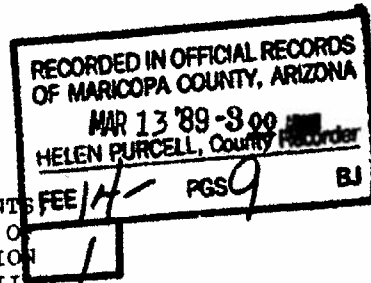


MOD RSTR (DF)

CERTIFICATE OF AMENDMENT  
OF THE DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS OF  
BRIARWOOD PLACE--A SUBDIVISION  
(also known as BRIARWOOD III)



89 113323

The undersigned President and Secretary of THE BRIARWOOD PLACE HOMEOWNERS ASSOCIATION, an Arizona non-profit corporation, having jurisdiction over the property described as BRIARWOOD PLACE--A SUBDIVISION (also known as BRIARWOOD III) according to the plat of record in the office of the Maricopa County Recorder in Book 187 of Maps at Page 20 thereof, hereby certify that they have in their possession instruments signed by owners as defined in said Declaration of more than 60% of the lots (residences) in said sub-division, amending and further amending the Declaration of Covenants, Conditions and Restrictions applicable to said sub-division, as amended and recorded on the 24th day of December, 1976 in Docket 12003, beginning on Page 47 of the records of the Maricopa County, Arizona Recorder as set forth in the attached "Amendments to the Declaration of Covenants, Conditions and Restrictions of Briarwood Place (f.k.a. Briarwood III)" and, therefore, further certify that upon the recording of this certificate, said amendments will become effective and binding on said Briarwood Place (also known as Briarwood III).

DATED this 1st day of March, 1989.

THE BRIARWOOD PLACE HOMEOWNERS  
ASSOCIATION

by

Francis R. Loetterle  
Francis R. Loetterle, President

G. Gayle Warnock  
G. Gayle Warnock, Secretary

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STATE OF ARIZONA     )  
                              ) ss  
County of Maricopa    )

This 1<sup>st</sup> day of March, 1989, before me the undersigned Notary Public, personally appeared FRANCIS R. LOETTERLE and C. GAYLE WARNOCK, President and Secretary respectively of THE BRIARWOOD PLACE HOMEOWNERS ASSOCIATION, an Arizona non-profit corporation, and they as such officers and being authorized to do so executed the foregoing instrument for the purposes therein contained by signing the name of the Association as such officers.

IN WITNESS WHEREOF, I do set my hand and official seal.

  
\_\_\_\_\_  
Notary Public

My Commission Expires Nov. 11, 1992

My Commission expires: \_\_\_\_\_

AMENDMENTS TO THE  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
BRIARWOOD PLACE (f.k.a. BRIARWOOD III)

I (We), the Briarwood Place Homeowners Association, the members of which are the owner(s) of the homes in Briarwood Place, a subdivision, Maricopa County, Arizona, according to the plat of record in the office of the Maricopa County Recorder in Book 187 of Maps at Page 20 thereof, pursuant to the Declaration of Covenants, Conditions and Restrictions of said subdivision, as amended and recorded on the 24th day of December, 1976 in Docket 12003, beginning on Page 47 of the records of the Maricopa County Recorder's Office, Maricopa County, Arizona, hereby amend said Declaration by adding, changing or deleting sections as follows:

Article III is amended by changing the name of the Article to "Membership Meetings and Voting Rights" and by adding the following as Section 3:

"Section 3: Annual Meetings. Effective January 1, 1990 and thereafter, the Annual Meetings of the membership shall be held on the last Monday of the month of January commencing at 7:00 p.m. at such place as may be fixed by the Board of Directors. The Board, for good cause, may alter this date and/or time. Notice of the meeting must be sent to the members at least thirty (30) days prior to the session. Besides setting forth the time, date and place the notice shall contain the following:

1. A statement reminding the homeowner of his/her responsibility to participate as actively as possible in the affairs of the Association; that everyone's presence is requested and that each proxy should be filled out, signed, dated and returned promptly, regardless of whether the member plans to be present at the meeting.
2. A statement stressing the importance of the proxy in that it not only helps to assure a legal quorum to conduct business but provides opportunity for the member to select who shall hold and vote his/her proxy in the event of absence from the entire meeting or from a vote on any one or more issues. The proxy also affords the homeowner the opportunity to record his/her preferences for the new Board of Directors as well as approval or disapproval of special assessments, amendments, etc., as stated in the notice.
3. The names of the two (2) holdover Board members.
4. The slate of four (4) or more candidates recommended by the nominating committee to fill the three or more vacancies on the new Board of Directors.
5. A statement explaining the various items to be voted upon, e.g., assessments, resolutions, propositions, amendments, etc., and the Board's recommendation on each.

Article III., Section 3 continued.

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Accompanying the notice shall be the following:

1. The meeting agenda.
2. An up-to-date roster of the Association membership with addresses and telephone numbers of record.
3. An Association return addressed envelope.
4. Financial Report for the year ending December 31.
5. Income projection and Expense Budget for the following year.
6. Minutes of the last annual meeting of the membership.
7. A proxy which shall:
  - a. give the homeowner the opportunity to select three members, in order of preference, to vote the homeowner's proxy on any ballot or resolution, including motions from the floor, in his/her absence; and
  - b. give the member the opportunity to choose which new Board members he/she wishes to be elected; and
  - c. give the member the opportunity to vote for or against any resolution, amendment, assessment or proposition as set forth in the notice of meeting, without benefit of amendment from the floor; and
  - d. be signed and dated only by a member eligible to vote; and
  - e. be voted only by a member eligible to vote."

Article III should be further amended by adding the following as Section 4:  
"Section 4 - Voting of Proxies. Each proxy, having been received and recorded by the Secretary, shall be given to the member present at the meeting, selected in order of preference, to be voted as dictated by the absentee member. Should the designee member leave the meeting, the proxy must be returned to the Secretary to be granted to the next designee of preference. Should no member be selected by the person submitting the proxy be present, the proxy shall be voted by the Chairman of the meeting unless he/she is a candidate on a particular ballot, in which case, all proxies held by the Chair shall be divided equally between the two holdover Board members to be voted on that particular issue."

Article III should be further amended by adding the following as Section 5:  
"Section 5 - Special Meetings. Special meetings of the membership may be called by the President with the approval of the Board or at the written request of twelve (12) or more members of the Association. Notice of special meetings of the membership must be mailed at least twenty-one (21) days prior to the meeting. The notice shall contain essentially the same information and have similar enclosures as required for the notice of the annual meeting so far as they relate to the limited agenda of the meeting."

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February 19, 1989

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Article IV - Board of Directors, Section 2 - Terms shall be amended to read as follows:

"Section 2 - Terms. The Board of Directors shall consist of five (5) duly elected members, four of whom shall be the officers of the corporation. Two (2) members shall be holdovers from the previous board. Three additional members shall be elected each year at the annual meeting unless an unplanned permanent vacancy exists, in which case the vacancy must be filled by electing the required number of additional directors. The two candidates receiving the highest number of votes shall be elected to serve two-year terms. The candidate having the third highest number of votes shall be elected for a one-year term and the one with the next highest vote total shall be designated as an alternate member. The alternate shall be eligible to attend every Board meeting and shall vote as a regular member in the absence of any one of the five regular members.

If the immediate past President has just completed his/her term as a director, he/she shall serve the coming year as an ex-officio member of the Board in an advisory role, but shall have no vote unless re-elected by the membership for another year as a director."

Article IV - Board of Directors, Section 3 - Vacancies shall be amended to read as follows:

"Section 3 - Vacancies. The Board of Directors is empowered to remove a member of its body for conduct deemed detrimental to the Association or the Board should the vote of four or more of its members support such action. Any vacancy, whether resulting from such termination, from resignation or other reason during the elected term, shall be filled as follows:

The person elected to a one-year term shall serve out the balance of the vacated term and the alternate shall fill any vacancy created by advancement or termination of the one-term member.

In the unlikely event that three (3) Board members are permanently unable to serve, or a quorum is necessary in an extreme emergency, the available Board members shall enlist the services of any past President(s) to fill the vacancies, and should the President and Vice President be unable to serve, the senior elected Board member shall chair the meeting."

Article IV should be amended to add a Section 4 - Officers to read as follows:

"Section 4 - Officers. The first meeting of the newly constituted Board of Directors should be held immediately after adjournment of the annual meeting, but no later than three (3) days following. The Board shall select a President, Vice President, Secretary and Treasurer from their membership, who shall be the officers of the corporation. No individual member shall hold more than one of these offices.

If the immediate past president has completed his/her term as director but is re-elected a director by the membership, or if the immediate past president has one year of his/her term remaining and if in either case the past president is willing to continue to serve as president, he/she may be selected by the Board to succeed himself/herself provided the immediate past Vice President is no longer a member of the board, is ineligible to assume the office, declines the office or the Board prefers another of its members for the post. Subject to the above exceptions the past Vice President shall be the new President.

The Board shall also elect a Vice President, Secretary and a Treasurer and may enlist the services of an assistant to either or both Secretary and Treasurer from among membership volunteers. No member of the Board or the membership may be paid for such services unless expressly approved by the membership at an annual meeting and then for a specific salary and for a limited period of time.

The President shall be the chief executive of the corporation. He/she shall preside at all meetings of the directors and at all meetings of the membership. Meetings shall be conducted in conformance with Robert's Rules of Order insofar as is practical. He/she shall be an ex-officio member of all standing or special committees; shall have general charge of the activities of the corporation; shall sign on behalf of the corporation all contracts and other written instruments to be executed by the corporation; shall see that all resolutions of the Board are carried into effect; and shall, within five (5) working days of assuming office, appoint chairpersons of the following committees: Landscaping/Maintenance, Legal, Audit, Architecture and Social. At least one Board member should be a member of each of these committees. He/she shall also appoint a parliamentarian to serve at all meetings of the Board and the membership."

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Article VI - Assessments, Section 8 - Increase Pursuant to Vote should be amended as follows:

"...the affirmative vote of at least two-thirds (2/3) of the members..." should be amended to read:

"...the affirmative vote of at least thirty two (32) of the members..."

Article VI - Assessments, Section 9 - Special Assessments should be amended as follows:

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"...an affirmative vote of at least two-thirds (2/3) of the Board of Directors..."  
should be amended to read:

"...and affirmative vote of at least 4 of the Board of Directors..."

Article VI - Assessments, Section 10 - Quorum, should be amended as follows:

"...entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum." should be amended to read:

"...entitled to cast twenty nine (29) votes shall constitute a quorum."

Article VI - Assessments, Section 12 - Effect of Nonpayment of Assessments should be amended to read as follows:

"Section 12 - Effect of Nonpayment of Assessments. The Homeowners' monthly payments for rental of the lot and the maintenance assessment are due in the Association's post office box on the first day of each month in advance. Each owner, for himself, his heirs, executors, administrators, successors and assigns, covenants and agrees that any assessments not paid when due shall be deemed delinquent and should a payment be postmarked later than the fifteenth (15th) day of the month due, a late charge of twenty-five dollars (\$25.00) for each month of delinquency shall be added to the payments due to the Association, unless other payment arrangements have been made with the Board and approved in advance. The owner further agrees that he/she shall be liable for the assessment and the late charges thereon together with all costs incurred by the Association in collecting the same, including reasonable attorneys' fees. The assessment lien provided for in Section 1 hereof shall secure the amount of such late charges, costs, attorneys' fees and other penalties assessed, if any."

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Article XIII - Use Restrictions, Section 4 - Signs should be renamed "Sale of Homes - Signs and Nuisance Objects" and amended to read as follows:

"Section 4 - Sale of Homes, Signs and Nuisance Objects.

If a homeowner should decide to sell his home, the Secretary shall, upon request of the Homeowner, advise the membership of the offer to sell and the asking price. If and when a homeowner has agreed to sell his/her home to a specific buyer and is opening an escrow, the homeowner shall so advise the Secretary, who in turn will advise the Board of Directors. The seller is responsible for obtaining all of the documents relating to the transfer of ownership from the Secretary and distributing them to the buyer and title company as necessary. On or before the close of escrow, the seller, or the title company upon the instruction of the seller, shall advise the Secretary the selling price, the name, address and telephone number of the buyer and of the title company and shall furnish Secretary a signed Certificate of Receipt for the documents and signed and notarized copies of the Sub-Lease. Cancellation of Memorandum of Sub-Lease and the Memorandum of Sub-Lease.

Whenever there are one or more homes for sale within Briarwood Place, the Secretary shall place an attractive, weather-proof, easily-erected sign just outside each of the security gates which will so inform the visiting public. The sign will display an appropriate telephone number to call, as specified by the seller, for each property being sold. The telephone information must be readily changeable. Entry to the complex will normally be obtained by the use of the three (3) digit code posted at both entry gates. In the case of an absentee owner or an otherwise vacant home, the real estate broker shall utilize the service entry gate and gain entrance by using the same four (4) digit code utilized by regular service personnel.

'For Sale' signs may not be displayed on any premises, in any window, nor on any vehicle within Briarwood Place. If permission is requested and granted in advance, temporary 'Open House', 'Garage Sale' or 'Estate Sale' signs may be obtained from the Secretary and placed in front of the house and just outside each security gates on the day of the event, but with respect to Open House signs, such promotion is limited to a maximum of four (4) houses on any given day. With respect to Garage and Estate sales, only one of either may be held on any given day.

Aside from the above provisions, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used in any way nor for any purpose which may unreasonably disturb or endanger the health of any resident or guest thereof or any of the Hilton Casitas owners, nor shall any object be placed nor any activity be undertaken on the premises which might adversely affect the overall image or well being of the complex, or of any individual residence within Briarwood Place or within the Hilton Casitas."

Section 13 - Use of Homes should be added to Article XIII - Use Restrictions and should read as follows:

"Section 13 - Use of Homes. Briarwood Place homes are single family residences and are not to be used to conduct a wholesale, retail or manufacturing business. A homeowner may rent his/her home; however, the owner is responsible for advising the Secretary of such action and acquainting the tenant with the Bylaws and the Rules and Regulations of the Association and the importance of conforming to them. The owner is held responsible for the conduct of the lessee, the prompt payment of the monthly rent and assessment, maintenance of the building and back yard, any damage such lessee may inflict upon any property within Briarwood Place, and for any fines levied as a result of violation(s) of the Rules and Regulations of Briarwood Place just as if the owner were guilty of the violations."

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Article XVIII - General Provisions should be amended as follows:

Section 9 - Rules and Regulations should be renumbered as Section 10.

The following should be added as a new Section 9:

"Section 9 - Bylaws. Bylaws for Briarwood Place, which prescribe policy and procedure for the day to day operation of the Association, shall be prepared and adopted by the Board of Directors and approved by the membership. Such Bylaws must conform to this Declaration of C C & R's in all respects. The Board of Directors shall have the power to make, amend or repeal the Bylaws of the corporation by a favorable vote of four (4) of their members, provided that written notice of their intent to consider such changes is given the general membership at least ten (10) days prior to the meeting at which the changes will be considered. Amendments made by the Board shall become effective when made and shall continue in full force and effect until the next annual meeting. Continuance beyond such meeting requires ratification of such changes by a favorable vote of at least 29 members present in person or by proxy. Additional amendments which may be presented from the floor will also require a favorable vote of 29 or more members."