

RESOLUTION OF AMENDMENT OF COVENANTS

BOOK 670 PAGE 199

PURSUANT TO Article XII - General Provisions: Paragraph 2. Termination of Covenants, Elk Run Homeowners Association, Inc., hereby certifies and resolves as follows:

A. Upon notice to all members, a meeting of the Association was held on August 5, 1989.

B. A vote was taken to amend the Protective Covenants recorded in Book 542 at Page 625 and as amended in Book 543 at Page 688 of the Gunnison County records.

C. That amendment is as follows:

See the attached.

D. By vote of more than three-fourths of the votes entitled to be cast, the amendment set forth above was adopted at the membership meeting held August 5, 1989, the Secretary of the Association was instructed to prepare this Resolution and to have it certified and placed of record.

NOW THEREFORE, be it resolved as follows:

The Protective Covenants for the Elk Run Homeowners Association are hereby amended as more fully set forth in Paragraph C. The Protective Covenants recorded in Book 536 at Page 42, Book 542 at Page 625, and as amended in Book 543 at Page 658 of the Gunnison County Records are hereby revoked, repealed, terminated, and replaced by the covenants attached hereto and incorporated herein.

ELK RUN HOMEOWNERS ASSOCIATION,
INC.

By Dick Rice
Its SECRETARY

I hereby certify that the foregoing Resolution duly reflects the action taken by the Elk Run Homeowners Association, Inc., upon a vote of more than three-fourths of the owners entitled so to vote at a meeting of the members on August 5, 1989.

By Dick Rice
Its SECRETARY

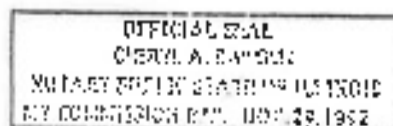
STATE OF)
) ss.
COUNTY OF)

The foregoing was subscribed and sworn to before me this 17 day of August, 1989 by Dick Rice as SECRETARY of Elk Run Homeowners Association, Inc.

Witness my hand and official seal.
My commission expires:

Cheryl Lawson
Notary Public

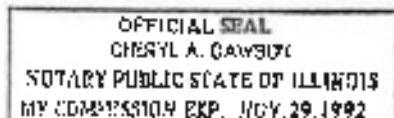
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Cheryl Lawson
Notary Public



DECLARATION OF
AMENDED PROTECTIVE COVENANTS

Chalet Additions 12 and 13
also known as
ELK RUN SUBDIVISION

This document contains the Amended Protective Covenants for all of the lands in the Chalet Additions Numbers 12 and 13, to be known as Elk Run Subdivision, Town of Mt. Crested Butte, County of Gunnison, State of Colorado.

ARTICLE I - PURPOSE OF COVENANTS

1. General Requirements. It is the intention of the undersigned, expressed by execution of this instrument that the lands within the Elk Run Subdivision be developed and maintained as a highly desirable pastoral and forested mountain single family residential area. It is the purpose of these covenants that the present natural beauty, the natural growth, native setting and surroundings of the Elk Run Subdivision shall always be protected insofar as is possible in connection with the uses and structures permitted by this instrument.

It is of primary intent that the seclusion of each home site in the Elk Run Subdivision from neighboring home sites be protected insofar as possible. All of said residential lots will be developed with objectives designated to enhance the value of and to benefit all property within this residential area and to enhance the value of and benefit other real property within the Elk Run Subdivision.

2. Particular Purposes. This Declaration is executed to define and describe certain provisions, covenants, conditions, and restrictions which shall be applicable to all property within said residential subdivision; to provide for homeowner's association to perform certain obligations with respect to some or all property within said residential subdivision and to further the common interests of all owners of property within said residential subdivision.

ARTICLE II - PROPERTY AFFECTED

1. Property Affected. These Amended Protective Covenants shall apply to and be binding upon the following described real property situated in Gunnison County, Colorado:

CHALET VILLAGE ADDITIONS NO. 12 & 13, according to the plat thereof filed July 30, 1979 and bearing Reception No. 241230 of the records of Gunnison County, Colorado.

ARTICLE III - DEFINITIONS

1. Definitions. For the purpose of these Amended Protective Covenants, certain words or phrases shall be defined as follows:

a. Subdivision. Chalet Village Addition No. 12 and 13, Gunnison County, Colorado which shall hereinafter be referred to as the Elk Run Subdivision.

b. Lot. The individual lots as set forth on the plat of the subdivision.

c. Person. Shall include any person, persons, and/or association to include but not to be limited to, any corporation, partnership, venture, fiduciary, or any other entity holding title to any lot under any form or format of fee estate recognized by the State of Colorado less and except for any form or format of time sharing estate with shall be prohibited within this subdivision.

d. Building. A structure having a roof supported by columns or walls to provide shelter, support, or enclosure for protection of persons or property.

e. Dwelling. A building used exclusively for single family residential occupancy.

f. Mobile Home. A detached dwelling designed and manufactured to be transported as a self-contained unit to its site of occupancy on wheels or upon a towed device, any and all of which shall be prohibited in this subdivision.

g. Association. Association shall mean Elk Run Homeowners Association, Inc., a Colorado corporation not for profit, formed and incorporated to be and constitute the Association to which reference is made in this Declaration and to further the common interests of all owners of any real property which may become subject to the provisions, covenants, conditions and restrictions contained in this Declaration.

ARTICLE IV - HOMEOWNERS ASSOCIATION

1. Regular Membership in Homeowners Association. All persons or associations (other than Elk Run Homeowners Association) who own or acquire the title in fee to any of the lands in Elk Run subdivision (other than lands dedicated as public lands), by whatever means acquired, shall automatically become a regular member of ELK RUN HOMEOWNERS ASSOCIATION.

2. Associate Membership in Homeowners Association. All persons and/or associations (other than Elk Run Homeowners Association) being the then holder of any Use and Maintenance Agreement.

3. General Purposes and Powers. Elk Run Homeowners Association, Inc., has been formed and incorporated as a Colorado corporation, to perform functions and hold and manage property as provided in this Declaration and to further the common interests of all owners of property or particular groups of owners of property subject to all of the provisions, covenants, conditions and restrictions contained in this Declaration. The Association shall be obligated to and shall assume and perform all functions and obligations imposed on it or contemplated for it under this Declaration and any similar functions or obligations imposed on it with respect to any property subject to this Declaration. The Association shall have all powers necessary or desirable to effectuate these purposes. It shall not, subject to these exceptions hereinafter specifically set forth, engage in commercial, profit-making activity.

4. Property Maintenance Function. The Association shall be obligated to and shall accept title to any real property or interest therein, including improvements thereon, or to any personal property or equipment and, with respect to any such property and to any other property acquired and held by the Association shall be obligated to and shall pay all taxes and assessments of whatever nature relating to any of said property; provide for the best and highest quality care, operation,

management, maintenance, repair and replacement of the same; remove snow from the same as necessary for their customary use and enjoyment; maintain plants, trees and shrubs provided or existing thereon; and maintain lighting provided or existing thereon; and maintain roads, walks or drives provided or existing thereon.

5. Road and Easement Maintenance Function. The Association shall be obligated to and shall provide for the best and highest quality care, operation, management, maintenance, repair and replacement of all private facilities, roads, streets, lanes, avenues, courts, circles and places; of all public parks, equestrian or other easements (to include but not be limited to, that certain right of way across Lot 26, CVA 11, Town of Mt. Crested Butte, Colorado) established or provided for all owners of any property which may be made subject to this Declaration and/or platted within said Elk Run Subdivision. Maintenance shall include the removal of snow to the extent necessary to assure full use of any drives and all private roads, private circles and places, and public roads located within the subdivision having less than a sixty (60) foot right of way, if any. In this regard, the minimum extent to which said snow shall be removed, shall be equal to the width sufficient to allow the entrance and exit of emergency vehicles to include, but not be limited to fire equipment. These obligations shall be obligations to the Association without regard to whether or not the Association has any right, title or interest in any of the foregoing.

6. Insurance Function. The Association shall be obligated to and shall obtain and keep in full force and effect at all times at least the following insurance coverage. The Association shall obtain casualty insurance with respect to all insurable property of the Association, insuring the full replacement value thereof, including coverage for fire and extended coverage, vandalism and malicious mischief risk coverage, if available and if deemed appropriate by the Association. The Association shall obtain broad form comprehensive liability coverage, covering public liability, with limits not less than \$1,000,000.00 for each person and not less than \$3,000,000.00 for each occurrence and with property damage limits not less than \$500,000.00 for each accident. Such additional insurance shall be acquired and maintained by the Association as it may deem fit and proper. All insurance may contain such deductible provision as good business practice may dictate. All insurance shall name the Association to the extent reasonably possible, cover each owner of property now or hereafter subject to this Declaration without any such owner necessarily being specifically named.

7. Right to Make Rules and Regulations. The Association shall be authorized to and shall have the power to adopt and enforce rules and regulations to regulate use of any and all facilities and property of the Association to assure fullest enjoyment and use by the persons entitled to enjoy and use the same. The Association may provide for enforcement of any such rules and regulations through reasonable and uniformly applied fines and penalties, through exclusion of violators from property and facilities of the Association or otherwise. Each owner of any property which may be made subject to this Declaration, all holders of use and maintenance agreements, and such owner's guests and invitees thereof shall be obligated to comply with and abide by any such rules and regulations.

8. Charges for Use and Facilities. The Association may establish reasonable and uniformly applied charges for use of property and facilities of the Association to assist the Association in offsetting the costs and expenses of the Association attributable thereto.

9. Right to Dispose of Property. The Association shall have full power and authority to sell, lease, grant rights in, transfer, abandon and dispose of any property or facilities owned or held by the Association.

10. Governmental Successor. Any property or facility owned by or held by the Association and any function or activity required to be performed by the Association under the terms of this Declaration may be turned over to a governmental authority which is willing to accept and assume the same upon such terms and conditions as the Association shall deem appropriate.

11. Owner's Enjoyment of Functions and Facilities. Each owner of any property which may be subject to this Declaration as well as any holder of a use and maintenance agreement and such owner's and/or holders guests and invitees shall be entitled to use and enjoyment of all property, property interests, and facilities owned or held by the Association and of all functions and activities undertaken by the Association subject to such reasonable and uniformly applied rules and regulations which the Association may adopt.

12. Implied Rights of Association. The Association shall have and may exercise any right or privilege given to it by the terms and provisions of this Declaration, given to it by law, and shall have and may exercise every other right or privilege of power and authority necessary or desirable to fulfill its obligations under this Declaration, including, without limiting the generality of the foregoing, the right to engage necessary labor and acquire use of or purchase necessary property, equipment or facilities; employ personnel necessary to manage affairs of the Association; and obtain and pay for legal, accounting or other professional services as may be necessary or desirable.

13. Regular Membership. There shall be one (1) Regular Membership to the Association for each lot. The owner or owners of the lot shall be deemed the owner or owners of the Regular Membership appurtenant to that property and title to and ownership of the Membership of that property shall automatically pass upon transfer of fee simple title to that property. Each owner or owners of a lot as aforesaid shall be at all times entitled to the benefits and subject to the burdens relating to the Regular Membership of such property. If fee simple title to a lot, as aforesaid, is held by more than one (1) person or entity, the Regular Membership appurtenant to that property shall be shared by all such persons or entities in the same proportionate interest and by the same type ownership in which fee simple title to that property is held. Membership in the Association shall be limited to the owners of lots.

14. Associate Member. Each holder of a use and maintenance agreement shall be an Associate Member of the Association with all rights and duties incident thereto as set forth herein. Said Associate Membership shall automatically pass upon transfer of fee simple title of that real property to which any use and maintenance agreement shall be applicable. Said Associate Membership shall be nonassignable less and except upon transfer of fee simple title to the appurtenant real property and shall be irrevocable less and except upon terms and conditions applicable to a Regular Membership.

15. Certificate of Incorporation and Bylaws. The purposes and powers of the Association and the rights and obligations inherent in membership set forth in this Declaration may and shall be amplified by provisions of the Certificate of Incorporation and Bylaws of the Association, including any reasonable provisions with respect to establishing a record date

for determination of Members entitled to notice or to vote, with respect to a quorum required at meetings of Members and with respect to other corporate matters, but no such provisions with respect to establishing a record date for determination of Members entitled to notice or to vote, with respect to the quorum required at meetings of Members and with respect to other corporate matters, but no such provisions may be, at any time, inconsistent with any provision of this Declaration.

16. Assessments. The Common Expenses incurred by the Association in its operation shall be borne by the Members (whether Regular or Special) upon an assessment basis. Each Member, by acceptance of a deed therefor, whether or not so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association his respective assessment as herein provided. Each Member shall be responsible for an equal fractional proportion of the total assessment with all the other Members. The assessments made shall be based upon the Association's cash requirement deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time determine is to be paid by all of the Members to provide for the payment of all estimated expenses incurred in connection with the maintenance and operation of the Common Areas and Facilities, which sum may include, but is not limited to, expenses of operation, management, taxes and special assessments until separately assessed, insurance premiums on Common Areas and buildings thereon (including fire insurance with extended coverage, vandalism and malicious mischief insurance, public liability and other insurance), landscaping and care of grounds, repairs and renovations, trash and garbage collections, wages, common water and sewage service operating expenses and other common utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent, or Board of Directors, under or by reason of this Declaration, the payment of any deficit remaining from a previous assessment period, the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the Common Areas and Facilities. The omission or failure of the Board to fix the assessment for any assessment period shall not be deemed a waiver, modification or a release of the Members from their obligation to pay. The assessments for estimated Common Expenses shall be due quarterly in advance. No Member may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his lot.

17. Lien for Assessments. All sums assessed but unpaid for the share of Common Expenses chargeable to any lot shall constitute a lien on such lot superior to all other liens and encumbrances, except for:

a. Tax and special assessment liens on the lot in favor of any assessing unit.

b. All sums unpaid on a first mortgage or first deed of trust of record for the benefit of any lending institution chartered by the United States or the State of Colorado, including all unpaid obligatory sums as may be provided by such encumbrance.

If any assessment shall remain unpaid after fifteen (15) days after the due date thereof, the Board of Directors or Managing Agent may impose a penalty on such defaulting Member in an amount equal to two percent (2%) of such assessment. Likewise, a penalty equal to two percent (2%) of the unpaid assessment may be imposed on the first day of each calendar month thereafter so long as such assessment shall be unpaid.

To evidence the lien as above provided, the Board of Directors or Managing Agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the amount of accrued penalty thereon, the name of the Member of the lot and a description of the lot. Such a notice shall be signed by one of the Board of Directors, officers or Managing Agent, and may be recorded in the office of the Clerk and Recorder of Gunnison County, Colorado. Such lien for assessment shall attach and be deemed perfected from the date of declaration of the assessment by the Board of Directors of the Association. Such lien may be enforced by foreclosure of the defaulting Member's lot by the Association in like manner as a mortgage on real property upon the recording of a notice of claim thereof. In the event of any such foreclosure the Member shall be liable for the amount of unpaid assessments, any penalties thereon, the costs and expenses for filing the notice or claim of lien and court costs and all reasonable attorney's fees incurred in collecting its judgment and foreclosing its lien hereunder. The Association shall have the power to bid on the property at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

18. Personal Obligation of Member. The amount of the common expenses assessed against such lot shall also be a personal obligation of the Member thereof at the time the assessment is due. Suit to recover a money judgment for unpaid assessments, and any penalties thereon shall be maintainable without foreclosing or waiving the lien securing the same.

19. Payment by Encumbrancer. Any encumbrancer holding a lien on a lot may pay any unpaid assessment payable with respect to such lot, and upon such payment such encumbrancer shall have a lien on such lot for the amounts paid of the same priority as the lien of his encumbrance.

20. Liability of Purchasers and Encumbrances. A purchaser or any property subject to this Declaration shall be jointly and severally liable with the seller of the property for all unpaid assessments, charges, fines or penalties with respect to the owner of the property, or the Membership appurtenant thereto which has accrued or were payable at the time of the grant or conveyance of the property to such purchaser, without prejudice to such purchaser's right to recover any of said amounts paid by the purchaser from the seller. No holder of a first lien or encumbrance on any property shall be personally liable for any such assessment, charge, fine or penalty and the lien for such assessments, charges, fines or penalties shall be junior to any first lien or encumbrance of any property taken or acquired in good faith and for value without notice and perfected by recording prior to the time a notice to pay any such amount is recorded in the office of the County Clerk and Recorder of Gunnison County, Colorado, against the property.

21. Estoppel Certificate. Upon payment of a reasonable fee not to exceed \$15.00 upon written request of any person with an interest in any property subject to this Declaration or intending to acquire an interest in such property, the Association shall furnish a written statement setting forth the amount of any unpaid assessments, charges, fines or penalties, if any, with respect to the Owner of the Property or the Membership appurtenant thereto and the amount of the current yearly assessments payable with respect to the property, which statement shall be conclusive upon the Association.

ARTICLE V - ARCHITECTURAL COMMITTEE

1. Architectural Committee. The Committee, the name being hereinafter referred to as "Committee" shall wear a

committee of three (3) appointed by the Board of Directors of ELK RUN HOMEOWNERS ASSOCIATION, as said Board of Directors shall be constituted from time to time in the future. Said Committee shall have and exercise all of the powers, duties, and responsibilities set out in this instrument.

2. Approval by Architectural Committee. No improvements of any kind, including but not limited to dwelling houses, barns, stables, outbuildings, swimming pools, tennis courts, ponds, parking areas, fences, walls, garages, drives, antennae, flag poles, curbs, and side walks shall ever be constructed or altered on any land within Elk Run Subdivision, nor may any vegetation be altered or destroyed or any landscaping performed on any tract, unless the complete architectural plans for such construction or alteration or landscaping are approved in writing by the Committee prior to the commencement of such work. In the event that the Committee fails to take any action within sixty (60) days after complete architectural plans for such work have been submitted to it, then all of such submitted architectural plans shall be deemed approved. In the event the Committee shall disapprove any architectural plans the applicant may appeal the matter to the next annual or special meeting of the members of ELK RUN HOMEOWNERS ASSOCIATION, where a vote of at least two-thirds (2/3) of the votes entitled to be cast at said meeting shall be required to change the decision of the Committee.

3. Variances. Where circumstances, such as topography, location of property lines, location of trees and brush, location of other buildings or other matter require, the Committee may, by a two-thirds (2/3) vote, allow reasonable variances as to any of the covenants contained in this instrument, on such terms and conditions as it shall require, provided that no such variance shall be finally allowed until thirty (30) days after the Committee shall have mailed a notice of such variance to each member of ELK RUN HOMEOWNERS ASSOCIATION. In the event any three (3) members shall notify the Committee in writing of their objection to such variance within said thirty (30) day period, the variance shall not be allowed until such time as it shall have been approved by a vote of at least two-thirds (2/3) of the votes entitled to be cast at an annual or special meeting of the members of ELK RUN HOMEOWNERS ASSOCIATION.

4. General Requirements. The Committee shall exercise its best judgment to see that all improvements, construction, landscaping, and alterations on the land within Elk Run Subdivision conform and harmonize the natural surroundings and with existing structures as to external designs, materials, color, setting, height, topography, grade and finished ground elevations. The Committee shall protect the seclusion of each homesite from other homes insofar as possible.

5. Design Control.

a. Preliminary Approvals. Persons or associations who anticipate constructing improvements on lands within Elk Run Subdivision, whether they already own lands in Elk Run Subdivision or are contemplating the purchase of such lands, shall submit preliminary sketches of such improvements to the Committee for informal and preliminary approval or disapproval based upon the general criteria set forth herein, but the Committee shall never be finally committed or bound by any preliminary approval or disapproval until such time as complete architectural plans are submitted and approved or disapproved.

b. Final Plans. Subsequent to preliminary approval set forth within subparagraph 5(a) above, the plans of the proposed building or structure shall be submitted to the

Committee for approval. The request for approval by the Committee shall have attached to such request the following documents:

1) A plot plan showing the location of any building, structure, access drives, ways, and parking areas, and all trees having a diameter at four (4) feet above ground level of three (3) inches or more with the type, location and size of each tree indicated. All other terrain and structure features, such as large rocks, ponds, patios, fences, utility lines, storage areas, ravines, outcroppings, and usual terrain features should be indicated.

2) Complete architectural plans and specifications for such building or structure. Such plans shall include a sketch plan of the building on the lot and exterior presentations of the building on all sides.

3) Samples of all exterior materials and color schemes to be used in identifying how and where such materials and colors will be used on the building.

4) Landscape plans showing all landscaping of the lots including both the natural landscaping of the lot as it now exists and any proposed changes or additions of such landscaping.

5) The Committee shall consider the suitability of the proposed building, the harmony thereof with the environment, the effect of such building on the utilization and view of the lot upon which the same will be built and the interferences, impairment and/or restriction of view, if any, of adjacent property and the placement of the building with respect to topography, ground elevations and existing natural and terrain features. In this regard, all best efforts will be made to minimize the restriction, impairment and/or interference of view that any one building shall have upon that of all other such existing buildings.

6) The Committee shall within thirty (30) days after receipt of plans for a proposed building or structure, and upon determination that all accompanying data is sufficient, conduct a hearing thereon and shall, in writing, approve, disapprove, or approve with conditions, the construction of the proposed building or structure or any additions or alterations to an existing structure. In the event that the Committee fails to take such action within sixty (60) days after the submission of a complete request for approval, the application shall be deemed to have been approved; provided, however, in no event shall such failure to act in a timely fashion, constitute direct or indirect approval of any violation of the present covenants, or any governmental (federal, state, county or township) laws, ordinance, enactment, code and/or regulatory requirement.

7) The Committee shall give the applicant notice in writing of the hearing date at least ten (10) days prior to such hearing. All meetings shall be public.

8) The Committee shall make such rules and regulations and adopt such bylaws and procedures as are appropriate to govern its proceedings and written minutes of all meetings shall be maintained by the Committee.

9) All applications for approval to the Committee shall be accompanied by a minimum application fee of \$50.00. The Committee may further charge a reasonable fee to cover any actual expense incurred in receiving any application submitted to it.

10) All hearings by the Committee shall be open to the public.

11) No plans shall be finally approved by the Committee until the same have been approved in writing or the required building permit issued therefor by the Town of Mt. Crested Butte, Colorado.

12) Each member of the Committee shall serve a term of three (3) years and may serve successive terms. The initial members of the Committee shall be appointed by the ELK RUN HOMEOWNERS ASSOCIATION. The Association, its successors, and assigns shall continue to appoint the members of the Committee until such time as the Association, its successors or assigns, no longer continues to appoint members, at which time the members of the Committee shall be appointed by the governing body of the Town of Mt. Crested Butte, Colorado.

6. Architectural Plans. The Committee shall disapprove any architectural plans submitted to it which are not sufficient for it to exercise the judgment required of it by these covenants.

7. Architectural Committee Not Liable. The Committee shall not be liable for any damages to any person or association submitting any architectural plans for approval, or to any owner or owners of land within Elk Run Subdivision, by any person or any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such architectural plans. Elk Run Subdivision, or any person or association submitting plans to the Committee for approval, by so doing does agree and covenant that he or it will not bring any action or suit to recover damages against the Committee, its members as individuals, or its advisors, employees, or agents.

8. Written Records. The Committee shall keep and safeguard for a least five (5) years complete permanent written records of all applications for approval submitted to it (including one (1) set of all architectural plans so submitted) and all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument.

ARTICLE VI - GENERAL RESTRICTIONS ON ALL LOTS

1. Zoning Regulations. No lands within Elk Run shall ever be occupied or used by or for any structure or purpose in any manner which is contrary to the zoning regulations of Town of Mt. Crested Butte, Colorado nor the building code validly in force from time to time, except as the same may be allowed under said regulations, as a nonconforming structure or use.

2. No Mining, Drilling or Quarrying. No mining, quarrying, tunnelling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall ever be permitted within the limits of Elk Run Subdivision.

3. No Business Uses. No lands within Elk Run shall ever be occupied or used for any commercial or business purpose nor for any noxious activity and nothing shall be done or permitted to be done on any of said lands which is a nuisance or might become a nuisance to the owner or owners of any of said lands. No store, office or other place of commercial or professional business of any kind; nor any hospital, sanitarium, or other place for the care or treatment of the sick or disabled, physically or mentally; nor any public theater, bar, restaurant, or other public place of entertainment; nor any church; nor any residential building housing more than one family (i.e. duplex or other multi-family structure), shall ever be constructed, altered

or permitted to remain within Elk Run Subdivision; provided, however, that the above and foregoing shall in no way restrict or prohibit the ELK RUN HOMEOWNERS ASSOCIATION from owning, occupying, and/or using any and all land now or hereinafter acquired for the enjoyment of its membership.

4. Signs. With the exception of one "For Sale" sign (which shall not be larger than 20 x 26 inches) and except for one entrance gate sign of a style and design approved by the Committee, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, altered, or permitted to remain on any tract in Elk Run Subdivision.

5. Animals. No animals or poultry shall be kept on any lands in Elk Run except ordinary household pets (not to exceed two (2) in number) belonging to the household. Other animals or poultry may be kept only with the prior permission of the Committee. The Committee may require any owner or lessee of lands within Elk Run Subdivision to remove any animals or poultry, except ordinary household pets, from the premises if in the sole and exclusive opinion of the Committee animals or poultry are inconsistent with the character of Elk Run Subdivision or constitute an annoyance to the owners of neighboring tracts. No horses or cows will be permitted to be kept on any residential tract or pasture tract not having sufficient pasture to maintain them properly. Animals and poultry other than ordinary household pets, must be kept within an enclosed area which must be clean, sanitary, and reasonably free of refuse, insects, and water at all times.

6. No Subdivision. No tract described on the recorded plat of the Elk Run Subdivision shall ever be subdivided into smaller tracts or lots not conveyed or encumbered in any less than the full original dimensions as shown on said recorded plat; provided that conveyance or dedications of easements for utilities or private roads may be made for less than all of one tract.

7. Combining Tracts. If two (2) or more contiguous residential lots are owned by the same owner or owners, they may be combined into one or more larger residential lot or lots by means of a written document executed and acknowledged by all of the owners thereof, approved by the Committee, and recorded in the real property records of Gunnison County, Colorado. Thereafter, the new and larger property shall each be considered as one lot for the purposes of these covenants.

8. Open Air Space. All lots shall have a minimum of fifty percent (50%) of the total lot area devoted to open air space and without a building or structure being constructed thereon.

9. Service Yards and Trash. All trash containers, exercise pens, etc., shall be kept screened by adequate planting or fencing so as to conceal them from the view of neighboring tracts and streets and access roads. All rubbish and trash shall be removed from all tracts in Elk Run Subdivision and shall not be allowed to accumulate and shall not be burned thereon except in burners approved by the Committee as to location, design, materials, and construction, and except at such hours of the day as shall be established by the Committee.

10. Underground Utility Lines. All water, gas, electric, and telephone pipes and lines and all other utility lines within the limits of Elk Run Subdivision must be buried underground and may not be carried on overhead poles nor above the surface of the ground.

11. Maintenance of Property. All property, including Common Areas, and all improvements on any property shall be kept and maintained by the owner thereof in clear, safe, attractive and sightly condition and in good repair. Common Areas shall be so maintained by the Association notwithstanding the fact that the Common Area may not have been conveyed to the Association.

12. No Hazardous Activities. No activities shall be conducted on any property and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property, and no open fires shall be lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace or except such campfires or picnic fires in portions of Common Areas designated for such use or except for such controlled and attended fires required for clearing or maintenance of land.

13. Fences. No fences, walls or barriers of any nature shall be constructed, erected or maintained on any lot, except in compliance with all applicable regulations enacted by the Town of Mt. Crested Butte, Colorado, and as approved by the Committee.

14. Recreational Equipment. No large recreational equipment, such as boats, campers, travel trailers, or other such devices shall be parked, stored or maintained on any lot.

15. Repairs. All structures shall at all times be kept in good and proper repair and in an attractive appearance by the owner thereof.

16. Prefabricated, Log or Log-Type Buildings. No natural log, prefabricated or artificial log resembling a natural log-type of construction shall be allowed on any building or structure within the subdivision.

ARTICLE VII - RESTRICTIONS ON RESIDENTIAL LOTS

1. Number and Location of Building. No buildings or structures shall be placed, erected, altered, or permitted to remain on any residential tract other than:

- a. One detached single-family dwelling house;
- b. One guest or servant house; and
- c. One attached or detached garage.

2. Dwelling House to be Constructed First. No guest house, servant house, or garage, shall be constructed on any residential tract until after commencement of construction of the dwelling house on the same residential lot. All construction and alteration work shall be prosecuted diligently, and each building, structure, or improvement which is commenced on any residential tract shall be entirely completed within eighteen (18) months after commencement of construction.

3. Towers and Antennae. No exterior towers or radio or television antennae shall be erected on any residential dwelling or lot. All towers and antennae must be attached to the dwelling house and contained within the interior structure thereof.

4. Trees and Landscaping. No trees or brush growing on any residential lot shall be felled or trimmed nor shall any natural areas be cleared, or formal lawn areas constructed, or landscaping performed on any residential tract without the prior written permission of the Committee. Any and all removal and/or loss of trees or brush on any residential lot caused by

construction of any dwelling unit shall if so required by the Committee, be replaced upon the remaining area of the applicable lot subsequent to construction. Said replacement of trees and/or brush shall be landscaped with flowers, plants, grasses, shrubs and trees that are indigenous to the mountain valley in which Elk Run Subdivision is situated. All cuts, fills or surface areas disturbed during construction shall be promptly revegetated to their natural condition and the lot owner shall immediately reestablish and replant appropriate vegetation on such disturbed surface area.

5. Tanks. No elevated tanks of any kind shall be erected, placed, or permitted upon any residential tract. Any tank used in connection with any dwelling house or other structure on any residential lot, including tanks for storage of gas, fuel oil, gasoline, oil, or water, shall be buried.

6. Used or Temporary Structures. No used or previously erected or temporary house, structure, mobile home, house trailer, or nonpermanent outbuilding shall ever be placed, erected, or allowed to remain on any residential tract, except during construction periods, and no dwelling house shall be occupied in any manner prior to its completion.

7. Exterior Lighting. All exterior lights and light standards of residential tracts shall be approved by the Committee for harmonious development and the prevention of lighting nuisances of other lands in Elk Run Subdivision.

8. Off-Street Parking. No dwelling house shall be constructed on any residential lot unless there is concurrently constructed on the same tract adequate off-street parking area for at least one (1) automobile per each bedroom within said dwelling; provided, however, that in no event shall more than four (4) off-street parking areas be required for any dwelling.

9. Garbage Disposal and Sanitary Systems. Each dwelling house or other structure containing a kitchen constructed on any residential tract in Elk Run Subdivision shall be equipped with a garbage grinder or garbage disposal unit of a type approved by the Committee. No sewerage disposal system, sanitary system, cesspool, or septic tank shall be constructed.

ARTICLE VIII - BUILDING LOCATION AND CONSTRUCTION

1. Building Code. The construction of any building or structure shall be in accordance with the building code then in effect in the Town of Mt. Crested Butte, Colorado. The quality of workmanship and materials in any building or structure shall be equal to or exceed comparable buildings of the same type in the same general area.

2. Architectural Standards. The following exterior architectural standards shall apply within this subdivision:

a. Exterior building materials should be predominately natural, such as wood siding, shingles and native stone. No exterior paneling shall be used. No more than fifty percent (50%) of any structure shall be constructed in native stone.

b. Roofs shall have a design and be constructed of materials that are harmonious with the surrounding area and are not of reflective type materials.

c. Any accessory building must conform to the architectural style of the principal building on the lot.

d. Earth colors shall predominate.

e. Service or utility areas or yards and garbage cans and trash storage areas shall be screened from view on all sides.

3. Maximum Height. The maximum height of a building or a structure as measured vertically from the average finished grade of a structure to highest point of the structure shall be:

a. Not greater than the maximum height limitation imposed by the Town of Mt. Crested Butte, Colorado.

b. A height that by the placement of the building or structure upon a lot shall not unduly restrict the view of a building on any surrounding or adjacent lots.

c. The Committee, upon application, hearing and written approval, may grant a variance of the height restrictions above set forth upon a determination that such restriction would work an undue hardship upon the owner of a lot and that such variance would not impair, hinder or detract from the sightline of any adjoining party.

4. Construction. The construction of any structure shall be in accordance with the applicable regulations enacted by the Town of Mt. Crested Butte, Colorado.

5. Square Footage. Any dwelling constructed on a lot shall comply with the following standards.

a. Each dwelling shall have a minimum of one thousand two hundred (1,200) square feet of usable living area on a single floor elevation.

b. Each dwelling shall contain a total living area of a minimum of one thousand eight hundred (1,800) square feet, exclusive of garages, porches, patios and accessory buildings.

ARTICLE IX - RESTRICTIONS ON COMMON TRACTS

1. Improvements. No improvements of any kind or nature shall be constructed, erected, or allowed to remain on any common tract except meadows, clubhouses (with or without employee housing units), swimming pools, jacuzzi, tennis courts, lakes and ponds, recreational facilities, bridle paths, or similar improvements for the benefit of or use of all of the Members of ELK RUN HOMEOWNERS ASSOCIATION, and private roads giving access to other lots in Elk Run Subdivision. All such improvements shall be approved by the Committee as elsewhere herein provided, and shall conform and harmonize in appearance, setting, and cost with existing structures on the overall development plans for Elk Run Subdivision.

ARTICLE X - ENFORCEMENT

1. Enforcement and Remedies. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration with respect to the subdivision property of the Association shall be enforceable by the Association or by any owner of property subject to this Declaration by a proceeding for a prohibitive or mandatory injunction. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration with respect to a person or entity or property of a person or entity other than the Association shall be enforceable by the Association by a proceeding for a prohibitive or mandatory.

injunction or by an action to recover damages or to recover any amount due or unpaid or, in the discretion of the Association for so long as any person or entity fails to comply with any such obligation, provision, covenant, restriction or condition, by exclusion of any person or entity and such person's or entity's guests or invitees from use of any property or facility owned or held by the Association and from enjoyment of any function undertaken by the Association.

2. Protection of Encumbrances. No violation or breach of any provision, restriction, covenant or condition contained in this Declaration and no action to enforce the same shall defeat, render invalid or impair the lien of any first mortgage or deed of trust taken in good faith and for value and perfected by recording prior to the time of recording of an instrument giving notice of such violation or breach, or the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchase shall, however, take subject to this Declaration except only those violations or breaches which occur prior to such foreclosure shall not be deemed breaches or violations hereof with respect to such purchaser, his heirs, personal representatives, successors and assigns.

3. Limited Liability. Neither the Association, the Board of Directors of the Association, the Committee or any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

4. Successors and Assigns of Associations. This Declaration shall be binding upon assigns of the Association whether voluntary or involuntary by declaration of law. The successors of the Association shall be bound by this Declaration and any Supplemental Declaration.

ARTICLE XI - GENERAL PROVISIONS

1. Covenants to Run. All of the covenants contained in this instrument shall be a burden on the title to all of the land in Elk Run Subdivision, and the benefits therefrom shall inure to the owners of all of the lands in Elk Run, and the benefits and burdens of all said covenants shall run with the title to all of the lands in Elk Run Subdivision.

2. Termination of Covenants. The covenants contained in this instrument shall terminate July 3, 2019, or at the time of final dissolution of the Colorado corporation not for profit, known as ELK RUN HOMEOWNERS ASSOCIATION. These covenants may be amended at any time, by a vote of three-fourths of the votes entitled to be cast by the members of ELK RUN HOMEOWNERS ASSOCIATION, provided a properly certified copy of the resolution of the amendment be placed of record in Gunnison County. If these covenants are amended, then they shall continue in effect, as amended, for as long thereafter as may be stated in said amendment. Notwithstanding the above and foregoing, no provision herein regarding membership (Regular and/or Associate) or the rights and/or privileges pertinent thereto shall be subject to any amendment absent the express written consent of all members affected thereby.

3. Severability. Should any part or parts of these covenants be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not effect the validity of the remaining covenants.

4. Paragraph Headings. The paragraph headings in this instrument are for convenience only and shall not be construed to be a part of the covenants contained herein.

Theodora L. Feldberg
Dick Rice

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me
this 14th day of August, 1999 by Theodora L. Feldberg

My commission expires: 10-16-91

Witness my hand and official seal.

Mary Frame
Notary Public
Crested Butte, CO



STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me
this 17 day of August, 1989 by Dick Rice

My commission expires:

Witness my hand and official seal.

Cheryl Dawson
Notary Public

