

DECLARATION

OF COVENANTS, CONDITIONS and RESTRICTIONS

THIS DECLARATION MADE MAY 1, 1997, AND RECORDED IN THE OFFICE OF MESA COUNTY CLERK AND RECORDER, SUPERSEDES AND NULLIFIES ANY AND ALL PREVIOUSLY RECORDED DECLARATIONS PERTAINING TO THE EASTWOOD HOMEOWNER ASSOCIATION, INC.

THIS DECLARATION pertains to certain property in the County of Mesa, State of Colorado, which is more particularly described as: EASTWOOD, Filing 1, a subdivision in the SW 1/4 NE 1/4, Sec. 8, Township 1 South, Range 1 East, Ute Meridian, Mesa County, Colorado.

NOW THEREFORE, all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1: "Association" shall mean and refer to the Eastwood Homeowners Association, Inc., its successors and assigns.

Section 2: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3: "Properties" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4: "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of conveyance of the first Lot is described as follows:  
Common Tracts A and B EASTWOOD, Filing 1 as recorded in the office of the Mesa County Recorder. This plat of Eastwood Filing 1 has certain areas of land designated as parking areas, walkways and mini-parks intended for use by the Homeowners in Eastwood Subdivision for recreation and other related activities.

Section 5: "Lot" shall mean and refer to any plot of land shown upon any recorded Subdivision map of the Properties with the exception of the Common Area.

ARTICLE II

PROPERTY RIGHTS

Section 1: Owners Easements of enjoyment--Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

{a} the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

{b} the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

{c} the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds {2/3} of the members is recorded.

Section 2: Delegation of Use--Any owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP and VOTING RIGHTS

Section 1: Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership for any lot which is subject to assessment.

Section 2: Members shall be all owners and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessment--Each owner of any lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any deed, is deemed to covenant and agree to pay to the Association:

{1} annual assessments or charges; {2} special assessments for capital improvements; {3} storage fees for unusable recreational and/or motor vehicles illegally placed in storage yard or Common Areas; {4} such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable

attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2: Purpose of Assessments--The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement and maintenance of the underground irrigation system and Common Area.

Section 3: Maximum Annual Assessment--Until January of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be One Hundred Twenty {\$120.00} Dollars per lot.

{a} From and after January 1976 the maximum assessment may be increased each year not more than 5% above the maximum assessment for the pervious year without a vote of the membership.

{b} After January 1976 the maximum annual assessment may be increased above 5% by a vote of 2/3 of the members at a meeting duly called for this purpose.

{c} The Board of Directors may fix the annual assessments at an amount not in excess of the maximum \$120.00.

Section 4: Special Assessments for Capital Improvements--In addition to the annual assessments authorized before, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, also including the underground irrigation system, provided that any such assessment shall have the assent of 2/3rds of the votes of members at a meeting duly called for this purpose.

Section 5: Notice for any Action Authorized under Section 3 and 4--Written notice for any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting.

Section 6: Uniform Rates of Assessments--Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7: The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot have been paid. The properly executed certificate of the Association to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 8: Effect of Nonpayment and Remedies--Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 15% per annum. The Association may bring an action at law against the owner personally obligated to pay the same. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 9: Subordination of the Lien--The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

RULES AND CONTROLS

Section 1: Use of Sites--Use of sites is restricted to high quality, single-family dwellings. No store, office or other place of business of any kind and no hospital, sanitorium or other place for the care or treatment of the sick or disabled, physically or mentally; nor any theater, saloon or other place of entertainment; nor any church, club, fraternity association or other association normally or regularly involving the gathering of people in groups larger than the family; will be erected or permitted upon the site and no business of any kind or character whatever shall be conducted thereon or in or from any building thereon.

{a} There will be only one dwelling per site to be used by one family only.

{b} The following location restrictions shall apply: {1} No building shall be nearer than 15 feet from the front property line. {2} No building shall be nearer than 10 feet from the rear property line. {3} No building shall be nearer than 5 feet from each side property line.

{c} All recreational vehicles {snowmobiles, boats, campers etc.} will be kept in the storage yard provided. No on-street parking is permitted. Garage, storage buildings or similar structure constructed shall be situate on the rear one-half of any privately owned lot and shall be expeditiously completed and immediately painted.

{d} In the case of a mobile home, shirting {metal, masonry or wood} is required. Skirting shall compliment exterior siding of mobile home and will be kept in good repair.

{e} No elevated tanks of any kind {oil, gas, water, etc.} will be permitted at EASTWOOD.

{f} Clothes lines, equipment, garbage cans, service yards or service areas shall be adequately screened by plantings or construction. No structure shall be erected, altered, placed or permitted on the site which exceeds 15 feet in height from the highest finished grade line immediately adjoining the foundation or structure. No radio, shortwave or television antenna over 5 feet above the highest roof line is permitted unless previously approved by the Board.

{g} No obnoxious, offensive or other activity which would constitute a public or private nuisance or annoyance to the neighborhood will be permitted.

{h} Dangerous or wild animals, livestock or poultry will not be kept. Household pets will be permitted so long as they remain in control of the site owner.

{i} No firearms, fireworks, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged inside the subdivision.

{j} No advertising signs, billboards, or unsightly objects shall be maintained or erected. "For Sale" signs may be posted if no larger than those allowed by Mesa County Zoning Resolution.

{k} No junk or trash will be allowed to accumulate, but same shall be regularly removed.

## ARTICLE VI

### GENERAL PROVISIONS

Section 1: Enforcement--The Association, or any owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2: Severability--Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision, which shall remain in full force and effect.

Section 3: Amendments--The covenants and restrictions of this Declaration shall run with and bind the lots and owners. This Declaration may be amended by a 2/3rds vote of the members present at the Annual meeting. Previous notification shall be given in the mailing of the call to that meeting. Any amendments must be recorded.

Section 4: This Declaration made May 1, 1997 and recorded in the office of the Clerk and Recorder of Mesa County, Colorado supersedes and nullifies any and all previously recorded Declaration of Covenants, Conditions and Restrictions pertaining to the Eastwood Homeowners Association, Inc.