

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR LOTS
25E THROUGH 31E, BLOCK A, AND OPEN SPACE AREA 1,
MOORE FAMILY P.U.D.**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 10th day of AUGUST, 1998, by JAMES E. MOORE FAMILY PARTNERSHIP LLLP, a Colorado limited liability limited partnership, its successors and assigns ("Declarant").

WHEREAS, Declarant is the owner of certain real property situated in the County of Pitkin, State of Colorado, known as Moore Family Planned Unit Development, a Planned Community ("Moore Family PUD") according to the Plat thereof recorded on AUGUST 10, 1998, in Plat Book 45 at Page 81 in the office of the Clerk and Recorder of Pitkin County, Colorado ("Plat"); and

WHEREAS, Declarant proposes to construct certain single-family employee housing units in the Moore Family PUD ("Units") on Lots 25e through 31e, Block A ("Lots"), as shown on the Plat; and

WHEREAS, the Units will be located in the vicinity of the Pitkin County real property owned by Linda Joy Wachner ("Wachner"), the legal description of which is set forth on the attached Exhibit "A" ("Wachner Property"); and

WHEREAS, a portion of Open Space Area 1, Moore Family PUD ("Open Space Area 1"), is located between the Units and the Wachner Property. The Units, their underlying Lots, and the Open Space Area 1, as shown on the Plat, are collectively referred to as the "Property"; and

WHEREAS, the Declarant desires to subject and place upon the Property certain covenants, conditions, restrictions, and other charges more specifically set forth herein for the purpose of restricting the number and certain uses of the Units, and for the purpose of protecting, benefitting, and enhancing the Wachner Property.

NOW, THEREFORE, the Declarant hereby declares that all of the Property shall be held, used, sold, and conveyed subject to the following covenants, conditions, restrictions, and other charges set forth herein, which shall run with the Property and be binding on all parties having any right, title, or interest in the Property, or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the



benefit of the owner of the Wachner Property, her heirs, personal representatives, successors and assigns.

ARTICLE I
RESTRICTIONS

1. The area of individual Lots 25e through 31e, Block A (hereinafter called a "Lot" or "Lots") may not exceed 15,000 square feet per Lot.
2. The maximum number of Units within 800 feet of the Wachner Property is seven, and those Units can only be located on the Lot locations depicted on the Plat.
3. The maximum height of the Units is sixteen feet (16'), measured in accordance with the height definition in the Pitkin County Land Use Code in effect on June 1, 1993 (the "Code").
4. The principal access to the Units will be only from High School Road and Bus Barn Lane as shown on the Plat, and the portion of each Unit facing that street shall be designated as the front of the Unit.
5. The Units on each of the Lots may not be occupied by more than one family, as defined in the Code.
6. Neither the sides nor rear of a Lot may be used for the open storage of trash, rubbish, refuse, or debris, for temporary structures, antennae, or satellite dishes (which are not exempt by the Code). No maintenance or storage of boats, trailers, or vehicles shall be permitted at the rear of any of the Lots. The northeasterly sides, as well as the rear, of Lots 27e and 28e, Block A, may not be used for the maintenance or storage of boats, trailers, or vehicles, or for clothes or fabric lines, or for dog or other animal runs or enclosures. No parking shall be permitted on the Northeasterly side of Lot 28e, Block A, or on the Easterly sides of Lots 25e, 26e, or 27e, Block A.
7. Picnics, barbecues, and organized recreational activities are prohibited in that portion of Open Space Area 1 between the Wachner Property and Block A, as shown on the Plat.
8. The color of the Units may only be of earth tones, and no reflective materials may be used on or as part of the Units; provided, however, that skylights shall be permitted.
9. The Declarant shall plant up to three mature evergreens, at least 15 feet in height, and with a caliper of at least six inches, between the Units and the Wachner Property at



locations designated by Wachner. In addition, Wachner has the right, at her expense, to plant additional indigenous trees or vegetation between the Wachner Property and the Units at locations which do not interfere with the construction or use of the Units, in the area designated on the drawing attached hereto as Exhibit "B" and made a part hereof, for a period of five (5) years after execution of this Declaration.

10. No fences, walls, or other artificial barriers in excess of six feet shall be permitted on the Lots.

11. No noxious, offensive, unsafe, or hazardous activity may be carried on upon the Lots, no refuse may be burned outdoors, and no use of the Units that will generate a light, odor, or level of noise which interferes with the reasonable, undisturbed, or quiet enjoyment of the Wachner Property, shall be permitted. Normal single-family residential use shall not violate the terms of this paragraph.

ARTICLE II
ENFORCEMENT; ADDITIONAL PROVISIONS

1. **Binding Effect.** This Declaration will be recorded in the Pitkin County Real Property records. This Declaration is intended to and shall bind all future owners and other parties having any interests in the Property. Upon the sale or conveyance of the Property, Declarant's obligations under this Declaration will terminate. The covenants, conditions, restrictions, and other charges described herein shall be deemed to be covenants running with land, and shall serve to burden the Property and benefit the Wachner Property. The covenants, conditions, restrictions and other charges described herein may be amended, modified or terminated only upon the express written consent of the owner of the Wachner Property.

2. **Attorneys' Fees.** If any litigation is brought by any person or entity whose property is burdened or benefitted by this Declaration with respect to the enforcement, interpretation, or construction of this Declaration, the prevailing party in such action shall be entitled to recover his, her, or its reasonable attorneys' fees, as well as all out-of-pocket costs incurred in the prosecution or defense of such action.

3. **Term.** The covenants, conditions, restrictions, and other charges described herein are intended to be permanent in nature and shall remain in full force and effect, unless they are amended or revoked by an agreement of the owner of the Wachner Property. To the extent any term or provision of this Declaration is determined to be subject to the Rule Against Perpetuities, then such term or provision shall be considered to



be effective for a period extending until twenty-one years after the death of the last survivor of the now living descendants of Thomas A. Moore.

4. **Severability.** If any term or provision of this Declaration shall be invalid or unenforceable, the remainder of the Declaration and the terms and provisions hereof shall not be affected thereby, and all other terms and provisions of this Declaration shall be valid and enforceable to the full extent permitted by law.

5. **Captions.** The headings and captions contained in this Declaration are inserted for the convenience of reference only, and are not to be deemed a part of, nor to be used in construing this Declaration.

6. **Waiver.** No failure on the part of any party affected by this Declaration to give notice of default or to exercise or delay in exercising any right or remedy hereunder, shall operate as a waiver of the right to give notice of such default, or to exercise any right or remedy hereunder as to the same or any subsequent or different default.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand as of the day and date first above written.

DECLARANT:

JAMES E. MOORE FAMILY PARTNERSHIP, LLLP,
a Colorado limited liability limited partnership

By Thomas A. Moore
Thomas A. Moore, General Partner

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me this 10th day of August, 1998, by Thomas A. Moore, as a General Partner of JAMES E. MOORE FAMILY PARTNERSHIP, LLLP, a Colorado limited liability limited partnership.

Witness my hand and official seal.
My commission expires: 4/15/2000.

JANICE L. JOHNSON
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 4/15/2000

Janice L. Johnson
Notary Public

EXHIBIT "A"

WACHNER PROPERTY

Lot 12, MEADOWOOD SUBDIVISION, Filing No. 2, according to the recorded Plat thereof in the office of the Clerk and Recorder of Pitkin County, Colorado.



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5 of 5 R 28.00 D 0.00 N 0.00 PITKIN COUNTY CO

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