DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
for
Mill Iron 5 Ranch Estates Subdivision

June 15, 2000

ARTICLE I - PREAMBLE

Declarant is the owner of that certain real property situate in the Town of Milliken, Weld County, Colorado, described on Exhibit A hereof ("the Property"). The Property has been platted as Mill Iron 5 Ranch Estates Subdivision by a Plat ("the Plat") recorded simultaneously with this Declaration.

Declarant desires to develop the Property for residential purposes. Declarant deems it desirable to subject the Property to the covenants, conditions, and restrictions set forth in this Declaration in order to preserve the values of the individual lots and to enhance the quality of life for all owners of such lots.

Declarant therefore declares that all of the Property is and shall be held, transferred, sold, conveyed and occupied subject to the terms, restrictions, limitations, conditions, covenants, obligations, liens, and easements which are set forth in this Declaration, all of which shall run with the Property and shall inure to the benefit of, and be binding upon, all parties having any right, title, or interest in the Property or any portion thereof, and such person's heirs, grantees, legal representatives, successors and assigns.

ARTICLE II - DEFINITIONS

2.1 General. The words and terms defined in this Article shall have the meanings herein set forth unless the context clearly indicates otherwise.

2.2 “Association" shall mean and" refer to Mill Iron 5 Ranch Estates Subdivision Homeowner's Association, a Colorado Non-Profit Corporation, established pursuant to Article VI of this Declaration.

2.3 "Architectural Review Board" shall mean and refer to the Architectural Review Board created pursuant" to Article V- of this Declaration,

2.4 "Common Facilities" shall refer to the ditches, common open space, the entrance area (including a sign and landscaping), and the landscaping and fence and other commonly owned real property and improvements thereon as located and shown on the Plat.

The Association shall maintain, repair, and replace the Common Facilities, after each such facility has been installed by the Developer.

2.5 "Declarant" or "Developer" shall mean James T. McDowell, Jr., his successors and assigns.

2.6 "Detached Single Family Dwelling" shall mean an independent structure designed and occupied as a residence for a single family.

2.7 "Lot" shall mean a Lot as platted and designed on the plat of Mill Iron Five Ranch Estates Subdivision, Milliken, Colorado, as the same may be amended from time to time; provided that, if any Lot has been divided so that a portion of the Lot is owned by a person in conjunction with all or a portion

of an adjoining. Lot and the other portion of the Lot is owned by another person separately or in conjunction with all or a part of the other adjoining Lot, then the entire property so held under one ownership shall be the Lot for the purpose of this Declaration.

2.8 "Subdivision" shall mean Mill Iron 5 Ranch Estate Subdivision, a Subdivision within the Town of Milliken, Weld County, Colorado.

2.9 Other Terms. Other terms may be defined in specific provisions contained in this Declaration and shall have the meaning assigned by each such definition.

ARTICLE III - USE AND OTHER RESTRICTIONS

3.1 Land Use and Building Types. No Lot shall be used except as the site of a detached single family dwelling. Said dwelling shall include an attached private garage for at least two (2) cars.

All improvements on each Lot shall meet the requirements of Article IV, "Architectural Standards" of this Declaration, including, but not limited to the Guidelines and Rules referred to in Section 4.2 hereof.

Modular and mobile homes are prohibited. All residences shall be built on site.

3.2 Building Locations. No building, fence, barn, corral, paddock, or other permanent structure shall be located on any Lot without first obtaining the written consent of the Architectural Review Board, approving the proposed location.

3.3 Easements. Easements for the installation and maintenance of utilities, landscaping, drainage facilities and any Common Facilities are reserved as shown on the Plat, or as may be recorded at a later date. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or other Common Facilities, which may change the direction of flow of drainage channels in the easements which adversely affects landscaping installed by the Developer. If any landscaping or structure is installed which violates such requirements, the Association may give the property owner written notice to remove such landscaping or structure within no less than fifteen (15) days after such notice is given, and if the owner fails to move the landscaping or structure within that time, the Association may have such work' done at the expense of the owner of the Lot. If the work is done by the Association at the owner's expense, the owner shall pay for such work within thirty (30) days after notice is given in writing to the owner as to the cost of such work. 'In the event of failure to pay within that time and if the Association thereafter incurs any attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association..

The easement area of each Lot and all improvements on it shall be maintained continuously by the owner of the Lot, except for those improvements or landscaping for which the Association, a public authority or utility company is responsible.

3.4 Maintenance of Vacant Lots. The owner of each Lot shall plant and maintain grass on it periodically mow such grass and other vegetation; and remove any trash or other debris. If an owner fails to maintain a vacant Lot in accordance with such requirements, the Association shall have the right to plant and maintain grass on it, periodically mow such grass, and other vegetation; and remove any trash or other debris. The Association may establish and charge reasonable fees to the owners of such vacant lots, for such services. Such services shall not be common expenses but shall instead be deemed a service charge

from the Association made solely to the owners of each of such vacant lots. The owner shall be liable for reasonable attorneys, fees and costs incurred by the Association in collecting such service charge.

3.5 Maintenance of Landscaping: Within six (6) months after issuance of a Certificate of Occupancy for a residence on each Lot, the owner of such Lot shall plant at least ten (10) trees. Five (5) of such trees must have trunks that are at least one and one/half (I 1/2) inches in diameter, when planted, and at least five (5) of such trees shall be evergreens. Commencing as to each Lot when a certificate of occupancy has been issued for a residence on such Lot, the landscaping on each Lot shall be maintained by the owner, subject however, to the right of the Association to perform any maintenance deemed necessary, or desirable to maintain the standards established for the Subdivision and to assess such owner for such required maintenance. If any owner fails to maintain landscaping on such owner's Lot in accordance with such requirements, the Association may give the property owner written notice to perform necessary maintenance within no less than fifteen (15) days after such notice is given, and if the owner fails to perform such maintenance work within that time, the Association may have such work done at the expense of the owner of the Lot. If the work is done by the Association at the owner's expense, the owner shall pay for such work within thirty (30) days after notice is given in writing to the owner as to the cost of such work. If the owner fails to pay within said time and the Association thereafter incurs reasonable attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner to the Association.

3.6 Maintenance of Exteriors of Residences and other Buildings. The exteriors of all residences, barns, sheds, and other buildings within the Subdivision shall be maintained in good, attractive condition by the owners thereof, and all residences shall be repainted or re-stained periodically as needed. The Association may require an owner to paint or stain his or her residence and other buildings, and upon such owner's failure to do so, the Association may cause such residence or other buildings to be painted or stained and to assess such owner for the costs incurred thereby. If any owner fails to maintain the exterior of a building on such owner's Lot in accordance with the foregoing requirements, the Association may give the owner written notice to perform such work within no less than fifteen (15) days after such notice is given, and if the owner fails to perform such work within that time, the Association may have such work done at the expense of the owner. If the work is done by the Association at the owner's expense, the owner shall pay for such work within thirty (30) days after notice is given in writing to the' owner as to the cost of such work. If the owner fails to pay within that time and if the Association thereafter incurs reasonable attorney's fees and costs in collecting such amount from the owner, all such attorney's fees and costs incurred shall likewise be a debt owing by the owner (0 the Association.

3.7 Title to Common Facilities. The Developer may retain legal title to all or part of the Common Facilities until such time as, in the opinion-of the Developer, the Association is able to maintain the same. However, the Developer shall convey the Common Facilities to the Association not later than thirty (30) days after the date when the Developer is fee simple owner of less than 10% of the land area within the Subdivision, exclusive of the Common Facilities and dedicated streets and easements.

3.8 Extent of Members' Rights to Use the Common Facilities. The rights to use and enjoy the Common Facilities shall be subject to the following:

A. The right of the Association, as provided by its Articles or Bylaws, to suspend the enjoyment rights of any member for any period during which any assessment remains unpaid; and for any, period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

B. The right of the Association to sell to a private party or to dedicate or transfer all or any part of the Common Facilities to any public agency, authority, or utility for such purposes, and subject to such conditions, as it may agree to, provided that no such dedication or transfer, determination as

to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by the members entitled to cast two-thirds (2/3's) of the votes has been flied with the Association, agreeing to such dedication, transfer, purpose or condition, and unless written notice of a proposed agreement and action thereunder is sent to every member at least ninety (90) days in advance of any action; and

C. The right of the Association to limit the number of guests of members and the circumstances under which guests may use the Common Facilities.

3.9 Nuisances. No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

3.10 Temporary Structures. No structure of a temporary character, trailer, basement, tent, storage shed or shelter, garage, barn or other outbuilding shall be permitted on any Lot at any time, either temporarily or permanently, except by the Developer during the process of construction, or as approved by the Architectural Review Board. ,

3.11 Animals. Except as set forth in this Section, no animals, including without limitation, horses, livestock, cattle, birds, poultry or fowl of any kind shall be raised, bred or kept on any Lot, except that no more than three (3) dogs and no more than three (3) cats and other indoor household pets not to exceed three in number may be kept if they are not kept, bred or maintained for any commercial purpose. Under no circumstances are snakes and reptiles permitted. The Association shall promulgate rules and regulations concerning animals. Pets may be walked on the Common Facilities only when attached by a leash to an owner's hand and 'when the owner carries a device for the immediate removal of its pet's feces. Any pet constituting a nuisance may be ordered by the Association to be kept within the enclosed portion of its owner's Lot. .

3.12 deleted (reference to trails)

3.13 Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs site lines at elevations between 2 and 6 feet above the roadway shall be placed or permitted to remain on any corner Lot- within- the triangular area- formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within 10 feet from the intersection of a street property line within the edge of a driveway pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight line.

3.14 Grazing Prohibited. No grazing shall be allowed on any Lot.

3.15 Aerials-Antennas. No television antenna, radio antenna, aerial or similar equipment of any design shall be mounted on the exterior of any building or erected on any other portion of any Lot. No activity shall be conducted on any Lot which interferes with television or radio reception on any other Lot. Satellite dishes may be installed and maintained if screened from the view .of other owners and occupiers of lots. The location and screening method for each satellite dish must be approved in advance by the Architectural Review Board.

3.16 Fencing. No fence shall be erected on any Lot within the Subdivision except as approved in advance by the Architectural Review Board.

For perimeter fences that border on a street, the fence shall be three (3) rails, white vinyl. No barbed wire fence shall be allowed anywhere within the Subdivision.

No fence more than six feet in height shall be allowed within an area defined by extending the front building line of the residence, to each side boundary of the Lot, then forward to the front boundary of the Lot.

Perimeter fences shall be of a type approved in advance by the Architectural Review Board from time to time and shall be painted a color approved in advance by the Architectural Review Board from time to time. Privacy and other fences shall not exceed six feet in height and shall be of a solid fence design (different from that of perimeter fences) approved from time to time by the Architectural Review Board.

3.17 Wind or Solar-Powered Generators. No wind-powered or solar-powered generator or pump may be installed on any Lot, unless its location and design is approved in advance by the Architectural Review Board.

3.18 Unsightly Uses. All lots shall at all times be maintained in a clean and sanitary condition, and no litter or debris shall be deposited or allowed to accumulate on any Lot. All landscaping, including grass, shall be irrigated, trimmed and maintained in good condition at all times. Refuse piles and other unsightly objects or materials shall not be allowed to be placed or to remain upon any Lot. Trash containers shall be placed on the curb and returned from the curb only on pickup days. Nothing unsightly shall be hung from windows, railings, or fences. No clothesline or other device for hanging clothes in the open air shall be allowed on any Lot.

3.19 Trash Removal. All residents within the Subdivision shall have their trash picked up by the same trash-hauling company, on the same day of the week. At each annual meeting of the Association, the Association shall pick the trash-hauling company and the day of the week for the upcoming year. Nothing in this Section shall prohibit a resident within the Subdivision from hauling trash or debris for himself or herself. Each resident within the Subdivision shall be separately liable for the trash- hauling charges attributable to his or her Lot.

3.20 Mineral Exploration. Within the Property, there shall be no exploration for or removal of any oil, gas, gravel, or minerals of any sort.

3.21 Home Occupations. The conduct of a home occupation within a residence on a Lot shall be considered accessory to the residential use and not a violation of these Covenants provided that the following requirements are met:

> 3.21.1 Such home occupation shall be conducted only within the interior of the dwelling and shall not occupy more than twenty-five percent (25%) of the floor area within the dwelling.
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> 3.21.2 The home occupation shall be conducted only by the residents of the dwelling, and no nonresidents shall be employed in conjunction with the home occupation carried on in the dwelling.
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> 3.21.3 No retail sales shall be conducted on any Lot.
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> 3.21.4 The conduct of such home occupation must be of a type permitted under the zoning ordinance of the Town of Milliken.
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> 3.21.5 No evidence of a home occupation shall be visible from outside the dwelling unit.
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> 3.21.6 The use by Developer of a residence or any other dwelling or structures within the Subdivision as a show home, whether in connection with Developer's development activities

within the Subdivision, or elsewhere, shall not be deemed a home occupation hereunder and shall be allowed.

3.22 Disabled Vehicles. Disabled automobiles shall not be stored on streets, driveways, or lots within the Subdivision. No person shall repair or rebuild any vehicle within the Subdivision, except within a garage. Cars allowed on the streets and driveways in the Subdivision must at all times be operable, currently licensed, and maintain a current inspection sticker (if such inspection is required by a governmental entity).

3.23 Restrictions on Leasing of Residences. An owner may lease his residence subject only to the following restrictions:

A. No Lot owner may lease less than the entire residence.

B. Any lease agreement shall be required to provide that the terms of this lease shall be subject in all respects to the provisions of this Declaration, and the Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease.

C. All leases shall be in writing and for a term not less than thirty (30) days.

3.24 Trees and Ground Cover. No living tree, shrub or bush may be removed except pursuant to a landscaping plan approved by the Architectural Review Board or otherwise with the approval of said Architectural Review Board. Said prohibition extends to naturally existing trees, shrubs and bushes and to trees, shrubs and bushes planted by owners. No grading or other soil or earthwork shall be performed on a Lot until plans for placing improvements on such Lot have been properly approved by the Architectural Review Board, and then only to the extent contemplated by such approved plan. After completion of each set of improvements on a Lot, the ground shall be restored, as nearly as possible, to its original contours and appearance. Contour changes of more than one foot from existing grades shall require the approval of the Architectural Review Board. The natural groundcover of a Lot shall not be disturbed unless approved by the Architectural Review Board.

3.25 Hazardous Materials. Storage, use or disposal of hazardous or radioactive materials within the Property is prohibited, except for customary household uses in accordance with' applicable law unless specifically approved in advance by the Architectural Review Board.

3.26 Solar Devices. The utilization of passive or active solar energy devices is encouraged. However, all solar devices must either be architecturally and aesthetically: integrated into the structure they serve or be screened from the view of the street and adjacent lots and' streets. All solar devices and their placement must be approved by the Architectural Review Board.

3.27 Commencing and Finishing Construction. Construction on any Lot shall commence within two years after conveyance of the Lot from Developer to the Owner. Once construction of any structure is commenced on any Lot, with the prior approval of the Architectural Review Board, such structure must be diligently continued and completed in accordance with the plans and specifications approved by the Architectural Review Board, within one (1) year of commencement, or such longer time as the Architectural Review Board has reasonably consented to in writing, in light of the nature of the project or other factors. Commencement of construction shall be deemed to commence with the first substantial construction activity (including, without limitation, earth work).

3.28 Rebuilding. Any structure which is destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt, or all debris must be removed and the Lot restored to a sightly condition, within six months of the time the damage occurs.

3.29 Vehicle Restrictions. No trucks, trail bikes, motorcycles, recreational vehicles, snowmobiles, A TVs, campers, trailers, boats, boat trailers, vehicles, Other than passenger vehicles, or pickup or sport utility trucks shall be parked, stored or otherwise kept on any Lot or street within the Subdivision unless kept in a closed garage. No ski mobile, snowmobile, or other recreational vehicle powered by an internal combustion engine may be operated within the Property except for purposes of ingress and egress. The foregoing restrictions shall not be deemed to prohibit commercial and construction vehicles from making deliveries or otherwise providing services to the lots, in the ordinary course of their business.

3.30 Outside Lighting. No exterior lighting shall be installed or maintained on any Lot except as approved by the Architectural Review Board.

3.31 No Subdivision. No Lot shall be subdivided or utilized for more than one detached single family dwelling (with associated outbuildings and structures). Boundary adjustments between neighboring lots shall be allowed, subject to the reasonable approval of the Architectural Review Board and applicable legal requirements so long as the total number of lots within the Subdivision is not thereby increased.

3.32 Sales Offices. Management Offices and Models. Developer reserves the right to maintain sales offices, management offices and models in the Subdivision. Developer shall promptly remove every such sales or management office from the Subdivision, at such time as Developer ceases to own any Jots in the Subdivision. Developer and residential builders to whom Developer has sold lots may construct and maintain model residences within the Subdivision. Such model residences shall not exceed five at any point in time, and no such model residence shall exceed 10,000 square feet in finished space. Such sales offices, management offices, and model residences may be located on any Lot or lots within the Subdivision, and their location may be changed from time to time to other lots within the Subdivision. Developer may maintain advertising signs on the Common Facilities within the Subdivision, subject to state laws and local ordinances.

3.33 Entranceways. The owner of each Loc shall install a concrete or asphalt apron in conformance with Town of Milliken standards and shall include a culvert as needed or required.

3.34 Ditches. Developer shall install a water conveyance system for the purpose of delivering irrigation water to the Common Facilities and to private lots if such water is available. Developer shall also transfer and assign _____ shares of stock in the _____ to the Association. The costs incurred by the Association relative to irrigation water and the maintenance of the carrier ditch system shall be borne by the owners of all lots. The Association shall be solely responsible for the repair, maintenance, alteration, enlargement, replacement, or improvement of the carrier ditch system. The costs of purchasing, installing, operating, repairing, and the like of any pumps, power sources, hoses, holding boxes, pipelines, or related equipment to provide the distribution of irrigation water from the carrier ditch onto each Lot shall be the sole responsibility of the owner of each such Lot. The Association's Board of Directors or any agents appointed by it shall determine the schedule for the Association's calling upon its water supply, and for the availability of irrigation water to each Lot. The Association shall indemnify the Developer against, and hold it harmless from, any liability whatever for any personal injury or property damage claim relating to the condition of said irrigation system, arising from any circumstance or incident occurring after the system is installed and ownership transferred to the Association. Lot owners shall retain the right to rent or purchase additional water (above that supplied by the Association), in their own names and the Association shall cooperate with each such owner of additional water in scheduling the call of water and in allowing such owners to use the carrier ditch system to receive such additional water. The

Association's Board of Directors shall have the right to make reasonable rules and regulations from time to time regarding the use of water and of the irrigation system which rules and regulation shall be binding upon the owners forthwith after notice to them of their adoption. The Association shall have the right to recover damages and/or reasonable penalties from Lot owners who waste the supply of water or otherwise exceed their water allotment, to the detriment of the Association and other owners within the Subdivision. The Association may refuse to allow water to be supplied to any Lot owner who is six (6) months or more delinquent in the payment of assessments to the Association, or who repeatedly and flagrantly wastes water. Each Lot within the Subdivision shall be subject to the rights of the Developer and the Association to enter upon such Lot with such agents and equipment as may be necessary or desirable for the purposes of installing, maintaining, repairing, altering, enlarging, replacing, inspecting, or improving such irrigation system. Any owner who installs any pump, power source, hose, holding box, pipeline, or related equipment shall have no right whatever to affect adversely the flow of water and convenient use of the irrigation system for any other Lot within the Subdivision. The provisions of this Section 3.34 may be enforced by any affected Lot owner(s) and/or the Association.

ARTICLE IV - ARCHITECTURAL STANDARDS

4.1 Restrictions. No building, barn, corral, shed, storage structure, awning, fence or any other structure shall be erected, placed or altered on any Lot, nor shall there be any external modifications to any such structure, until the plans and landscaping specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in advance to the Architectural

Review Board in writing. No landscaping shall be installed on any Lot, or altered thereafter, unless a landscaping plan showing the nature, type, height, and location of the proposed landscaping improvements has been submitted to and approved in advance by the Architectural Review Board, in writing. Without limiting the generality of the foregoing, prior approval of the Architectural Review Board must be obtained for any of the following: (i) attachments to the exterior of a structure, (ii) installation of greenhouses, (iii) installation of patio covers, landscaping, screening, trellises and the like, (iv) change in exterior paint colors, (v) installation of any barn, corral, shed, or storage building and (vi) any other exterior change, including cosmetic changes such as garage doors, shutters and the like. The authority of the Architectural Review Board shall extend to the quality, workmanship and materials for any structure proposed; conformity and harmony of exterior design and finish with existing structures within the Subdivision; location of all structures with respect to the existing buildings, topography and finished ground elevation; and all other matters required to assure that such structures enhance the quality of the Subdivision and are erected in accordance with the plan for the Subdivision. No metal buildings shall be permitted unless the Architectural Review Board approves.

4-.2 Guidelines and Rules: The Architectural Review Board shall adopt Guidelines and Rules governing the type of structures to be permitted in the Subdivision, permitted construction materials and the like. These Guidelines and Rules are made for the purpose of creating and keeping the Subdivision, so far as possible, desirable, attractive, beneficial, uniform, and suitable in architectural design, materials, and appearance; limiting the use of lots to single family residential buildings; guarding against unnecessary interference with the natural beauty of the Subdivision; locating structures on lots so as to minimize to the extent reasonably possible, the obstruction of views of other Lot owners and prohibiting improper uses of adjoining properties in the Subdivision, all for the mutual benefits and protection of all owners.

4.3 Size. The dwelling space of a single story residence, exclusive of the garage, shall contain a minimum of 2,000 square feet of finished living space on a Lot. A multiple story home shall contain a minimum of 2,500 square feet of finished living space. No building shall exceed 40 feet in height as measured from

_____ and no building shall exceed two stories and a loft as viewed from the street side. One lower level is allowed and may be exposed to daylight provided it does not face the street. Earth sheltered homes shall not be permitted. All dwellings must be constructed on site.

4.4 Garages and Parking. Each dwelling on a Lot shall include an attached garage having space for not less than two automobiles. An additional garage may be constructed if approved by the Architectural Review Board. Each Lot must have provision for off street parking for at least two automobiles, exclusive of garage space, and said off-street parking shall be provided in such a manner as to not block or impair garage access to and from the street

4.5 Materials and Workmanship. All improvements shall be constructed of good and suitable materials, and all workmanship shall result in first class construction and shall be accomplished in a good and workmanlike manner. All dwellings shall include dimensional (i.e. shake shingle appearance), tile or other decorative roof, which shall be subject to the approval of the Architectural Review Board. Actual wood shake shingles are prohibited.

4.6 Accessory Buildings. Barns, as well as small sheds for storage of lawn furniture, yard equipment, gardening equipment, and similar type items, which are well constructed and neat of appearance, shall be permitted, providing the size, design, and location of said structure shall be subject to prior approval by the Architectural Control Committee.

4.7 Setbacks. Each single family detached dwelling shall be located no closer than 75 feet to the front of the Lot; 50 feet to the back of the Lot, and 15 feet to the boundary of the nearest adjacent Lot. Accessory detached buildings shall be no closer than 75 feet to the front of the Lot and 25 feet from all other property lines. Anything here notwithstanding the Architectural Review Board shall have the right to allow or require adjustments to these setbacks to carry out as it sees fit, the purposes of this Declaration.

ARTICLE V - ARCHITECTURAL REVIEW BOARD

5.1 Establishment and Membership of Architectural Review Board. An Architectural Review Board has been established by Developer. The Architectural Review Board shall continue until such time as the Association may be dissolved. The Architectural Review Board shall initially consist of three (3) members, being James T. McDowell. Jr., (_____) and (_____). Until all lots within the Subdivision have been sold by the Developer, the Developer shall appoint the Architectural Review Board, including replacement members for any person who retires, resigns, or otherwise becomes unavailable for service as a member or alternate member of the Architectural Review Board. The Association shall name the members of the Architectural Review Board, once the Developer's exclusive right to do so ceases.

Members' of the Architectural Review Board appointed by Developer may be removed at any time by Developer and shall serve until they resign or are removed by Developer. Members of the Architectural Review Board appointed by the Association may be removed at any time by the Association, and shall serve for such term as may be designated by the Association or until they resign or are removed by the Association.

5.2 Professional Builder. The owner of each Lot shall retain a qualified, professional contractor to construct the residence and all significant improvements on such owner's Lot.

5.3 Address of Architectural Review Board. The address of the Architectural Review Board shall be at the principal office of the Association.

5,4 Submission of Plans. Prior to commencement of work within the Subdivision to accomplish any proposed improvement to property, the person proposing to make such improvement to property ("Applicant") shall submit to the Architectural Review Board at its offices such descriptions surveys, plot plans, drainage plans, elevation drawings, landscaping plans, construction plans, specifications and samples of materials and colors as the Architectural Review Board shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed improvement to property. The Applicant shall be entitled to receive a. receipt for the same from the Architectural Review Board or its authorized agent. The Architectural Review Board may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed improvement to property: Until receipt of the Architectural Review Board of all required materials in connection with the proposed improvement to property, the Architectural Review Board may postpone review of any materials submitted for approval

5.5 Criteria for Approval. The Architectural Review Board shall approve any proposed improvement to property only if it deems in its reasonable discretion that the improvement to property in the location indicated will not be detrimental to the appearance of the surrounding areas of the development as a whole; that the appearance of the proposed improvement to property will be in harmony with the surrounding areas of the Subdivision; that the improvement to property will not detract from the beauty, wholesomeness and attractiveness of the Subdivision or the enjoyment thereof by Owners; and that the upkeep and maintenance of the proposed improvement to property will not become a burden on the Association. The Architectural Review Board may condition its approval of any proposed improvement to property upon the making of such changes therein as the Architectural Review Board may deem appropriate.

5.6 Architectural Review Board Guidelines or Rules. The Architectural Review Board shall issue guidelines or rules relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed improvement to property.

5.7 Architectural Review Fees. The Architectural Review Board may, in its guidelines or rules, provide for payment of fees to accompany each request for approval of any proposed improvement to property. The Architectural Review Board may provide that the amount of such fees shall be uniform for similar types of any proposed improvement to property, or the fees may be determined in any other reasonable manner, such as based upon the reasonable cost of the proposed improvement to property.

5.8 Decision of Architectural Review Board. The decision of the Architectural Review Board shall be made within thirty (30) days after receipt by the Architectural Review Board of all materials required by the Architectural Review Board. The decision shall be in writing and, if, the decision is not to approve a proposed improvement to property, the reason therefore shall be stated. The decision of the Architectural Review Board shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Architectural Review Board.

5.9 Failure of Architectural Review Board to Act on Plans. The Architectural Review Board shall attempt to review plans submitted to it within thirty days (30) after receipt of all required materials. However, failure to approve or disapprove said plans within such time frame shall not affect the right of the Architectural Review Board to render a decision on said plans thereafter.

5.10 Notice of Completion. Promptly upon completion of the improvement to property, the applicant shall give written notice of completion [0 the Architectural Review Board and, for all purposes hereunder. the

date of receipt of such notice of completion by the Architectural Review Board shall be deemed co be the date of completion of such improvement to property.

5.11 Inspection of Work. The Architectural Review Board or its duly authorized representative shall have the right to inspect any improvement to property prior to or after completion. The right of inspection shall terminate thirty (30) days after the Architectural Review Board shall have received a notice of completion from the applicant provided that the Architectural Review Board is given full access and opportunity to undertake such inspection. Failure to allow such inspection shall extend the time frame to complete the inspection as the Architectural Review Board may reasonably require.

5.12 Notice of Noncompliance. If, as a result of inspections or otherwise, the Architectural Review Board finds that any improvement to property has been done without obtaining the approval of the Architectural Review Board or was not done in substantial compliance with the description and materials furnished by the Applicant to the Architectural Review Board or was not completed within one year after the date of approval by the Architectural Review Board, the Architectural Review Board, or was not commenced within two years of the conveyance of the Lot to the Lot owner, the Architectural Review Board may notify the applicant or Lot owner in writing of the noncompliance. The notice shall specify the particulars of the noncompliance and shall require the applicant to take such action as may be necessary to remedy the noncompliance.

5.13 Failure of Architectural Review Board to Act after Completion. Upon receipt by the Architectural Review board of a written notice of completion from the applicant, the Architectural Review Board shall attempt to inspect the property and advise the applicant of any noncompliance within thirty (30) days, but failure to do shall not affect the Architectural Review Board's right to thereafter give a notice of noncompliance.

5.14 Correction of Noncompliance. If the Architectural Review Board determines that a noncompliance exists, the applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of receipt by the applicant of the ruling of the Architectural Review Board. If the applicant does not comply with the Architectural Review Board's ruling within such period, the matter may be referred to the Association, and the Association may, in its discretion, record a notice of noncompliance against the real property on which the noncompliance exists, may institute judicial proceedings to allow it to remove the noncomplying improvement, or may otherwise remedy the noncompliance, and the applicant shall reimburse the Association, upon demand, for all expenses incurred therewith. If such expenses are not promptly repaid by the applicant or owner to the Association, the Association may levy a reimbursement assessment against the owner for such costs and expenses. The right of the Association to remedy or remove any' noncompliance shall be in addition to all other rights and remedies which the Association may have at Jaw, in equity, or under this Declaration.

5.15 No Implied Waiver or Estoppel. No action or failure to act by the Architectural Review Board or by the Association shall constitute a waiver or estoppels with respect to future action by the Architectural Review Board or the Association with respect to any improvement to property. Specifically, the approval by the Architectural Review Board of any improvement to property shall not constitute approval of, or obligate the Architectural Review Board to approve, any similar proposals, plans, specifications or other materials submitted with respect to any other proposed improvement.

5.16 Architectural Review Board Power to Grant Variances. The Architectural Review Board may authorize variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, undue hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and shall become

effective when signed by at least a majority of the members of the Architectural Review Board. If any such variance is granted, no violation of the provisions of this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration or any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of a variance affect in. any way the owner's obligation to comply with all governmental laws and regulations affecting the Property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

5.17 Compensation of Members. Members of the Architectural Review Board shall receive no compensation for services rendered, except for its professional members, who shall be reasonably compensated for their services. All members shall receive reimbursement of out of pocket expenses incurred by them in the performance of their duties hereunder.

5.18 Meetings of Architectural Review Board. The Architectural Review Board shall meet from time to time as necessary to perform its duties hereunder. The Architectural Review Board may, from time to time, by resolution in writing adopted by a majority of the members, designate a Architectural Review Board Representative (who may, but need not, be one of its members) to take any action or perform any duties for or on behalf of the Architectural Review Board, except the granting of approval to any improvement to property and granting of variances. The action of such Architectural Review Board Representative within the authority of such Architectural Review Board Representative or the written consent or the vote of a majority of the members of the Architectural Review Board shall constitute action of the Architectural Review Board.

5.19 Records of Actions. The Architectural Review Board shall report in writing to the Association's Board of Directors all final actions of the Architectural Review Board and the Architectural Review Board shall keep a permanent record of such reported actions.

5.20 Estoppel Certificates. The Association shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Review Board, furnish a certificate with respect to the approval or disapproval of any improvement to property or with respect to whether any improvement to property was made in compliance herewith. Any person without actual notice to the contrary shall be entitled to rely on said certificate with respect to all matters set forth therein.

5.21 Nonliability for Architectural Review Board Action. None of the Architectural Review Board, any member of the Architectural Review Board, any Architectural Review Board Representative, the Association, any member of the Association's Board of Directors or Developer shall be liable' for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Architectural Review Board unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter: the Architectural Review Board shall not be responsible for reviewing, nor shall its approval of, an improvement to property be deemed approval of the improvement to property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

ARTICLE VI - THE ASSOCIATION

6.1 Articles of Incorporation and Bylaws. The interests of all Lot owners shall be governed and administered by the Articles of Incorporation and Bylaws of the Association and by this Declaration. In

the event of a conflict between the provisions of this Declaration and the Articles of Incorporation or the Bylaws of the Association, the terns of this Declaration shall be controlling. .

6.2 Membership. Each owner of a Lot, upon becoming an owner, shall be a member of the Association and shall remain a *member* for the period of such owner's ownership.

6.3 Examination of Books by First Mortgagee. The holder of any recorded first mortgage or deed of trust on a Lot in the Subdivision will, upon request, be entitled to;

A. inspect the books and records of the Association during normal business hours; and

B. receive an annual financial statement of the Association within ninety (90) days following the end of each fiscal year of the Association; and

C. receive written notice of all meetings of the Association and designate a representative to attend all such meetings.

6.4 Powers. The Association shall be granted all of the powers necessary to govern, manage, maintain, repair, administer and regulate the Common Facilities and to perform all of the duties required of it. Notwithstanding the above, unless at least seventy-five percent (75 %) of the first mortgagees of lots (based upon one vote for each first mortgage owned or held) have given their prior, written approval, the Association shall not be empowered or entitled to; .

A. by act or omission seeks to abandon or terminate the Declaration;

B. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Facilities; or

C. use hazard insurance proceeds for loss to the Common Facilities improvements for other than repair, replacement or reconstruction of such improvements.

6.5 Common Facilities Maintenance and Operation. The maintenance and operation of the Common Facilities shall be the responsibility and the expense of the Association, and the costs therefore shall be common expenses of all the Lot owners. Said expenses shall include without limitation, all expenses incurred by the Association to own, operate, manage maintain, repair, and replace the water rights and the system of irrigation carrier ditches which shall serve all lots. Developers shall initially install the system of irrigation ditches; thereafter, the cost of maintaining, repairing and replacing such systems shall be borne by the Association as set forth herein. There shall be no additions, alterations or improvements of or t6 the common facilities by the Association requiring an assessment in excess of *$100.00* per Lot in any 'one calendar year without the prior approval of a majority of the members of the Association voting in accordance with the quorum. Voting provisions of the Bylaws of the Association in a special or regular meeting of the Association Members. Such expenditures shall be a common expense.

6.6 Formula for Determining Assessments. Declarant shall pay all common expenses through December 31. 2000. Commencing for calendar year 2000 and subsequent years, assessments shall be made no less frequently than annually and shall be based upon a budget adopted no less frequently than annually by the Association. The assessments shall be apportioned equally among a1l10ts within the Subdivision. The owners of each Lot on which a Certificate of Occupancy has been issued for a residence by October I, of such preceding year shall pay assessments that are double the assessments for lots on which no such completed residence exists as of said date. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment. Anything herein

notwithstanding the annual average common expense liability of each Lot, exclusive of optional user fees and any insurance premiums paid by the Association or the successor statute thereto, and the Association shall be exempt from the provisions of the Colorado Common Interest Ownership Act, as amended from time to time, to the degree permitted by law, except as specifically set forth 10 the contrary in this Declaration may not exceed $400_00 as adjusted pursuant to the formula set forth in C.R.S. §38-33.3-116(3).

6.7 Based Upon Budget. Assessments shall be based upon the budget which shall be established by the Board of Directors at least annually, which budget shall be based upon the cash requirements 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 Lot owners to provide for the payment of all expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Facilities, which sum may include, but not be limited to the following expenses of management; taxes and special assessments unless separately assessed; premiums for insurance, landscaping and care of grounds; common lighting and heating; repairs and renovations; wages; common water and sewer charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Association or any of its agents or employees on behalf of the Lot owners under or by reason of this Declaration and the Articles of Incorporation and Bylaws of the Association; for any deficit remaining from a previous period; for the creation of reasonable Contingency reserve, working capital and sinking funds as well as other costs and expenses relating to the Common Facilities- and for maintaining a reserve fund for replacement of Common Facilities, which shall be funded by regular monthly payments rather than special assessments- The Association shall comply with the requirements of Section 38-33.3-303(4) of the Colorado Common Interest Ownership Act, relative to the proposal and adoption of such budget.

6.8 Assessments for Other Charges. The Association shall have the right to charge Lot owners for special services provided by the Association to such owner including, but not limited 10, those matters set forth in Sections 3.4, 3.5, and 3.6 of this Declaration; that is, such services shall be deemed to have been provided for the exclusive benefit of such Lot owners. The Association shall also have the right to charge a Lot owner for any common expense caused by the misconduct of such Lot *owner,* in which event such expense may be assessed exclusively against such owner. The Association shall have the right to impose a lien for any such special service charges or charges due to misconduct that are not paid when due. Said lien shall include court costs and-reasonable attorneys'-fees incurred-by the Association in collecting said charges

6.9 No Other Common Facility Liens. No additional liens, other than mechanics liens, assessment liens or tax liens, may be obtained against the Common Facilities, and no other assessments, debts or other obligations are assumed by Lot owners, other than as set forth herein.

6.10 Assessments. The amount of the common expenses and special service and misconduct charges assessed against each Lot shall be the personal and individual debt of the owner thereof. No owner may exempt himself or herself from liability for contribution towards the common expenses by waiver of the use or enjoyment of any of the Common Facilities or by abandonment of said Owner's Lot. An owner's loss of a Lot by foreclosure or by proceedings in lieu of foreclosure shall not cancel or terminate such owner's liability for assessments and changes accrued prior to the date hereof. The Association shall have the authority to take action to collect any unpaid assessment or special service charge which remains unpaid for more than thirty (30) days from the due date for payment thereof In the event of default in the payment of a special service charge or assessment, the Lot owner shall be obligated to pay interest at the rate of eighteen percent (18 %) per annum on the amount of the assessment from due date thereof, together with all expenses, including reasonable attorneys' fees, incurred together with such late charges

as are provided by the Bylaws or Rules of the Association. Suit to recover a money judgment for unpaid special service charges or assessments shall be maintainable without foreclosing the lien described in Section 6.12 below and such suit shall not be or construed to be a waiver of lien.

6.11 Notice of Lien. All sums assessed but unpaid for the share of common expenses chargeable [0 any Lot and all sums for special services provided by the .Association and charges due to misconduct that are not paid when due shall constitute the basis for a lien on such Lot superior to all other liens and encumbrances, except only for tax and special assessment liens on the Lot in favor of any governmental assessing entity, and all sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Association shall prepare a written notice of Hen assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the Lot and a description of the Lot. Such notice of lien shall be signed by one of the officers of the Association on behalf of the Association and shall be recorded in the office of the County Clerk and Recorder of Weld County, Colorado. Such lien shall attach and be effective from the due date of the assessment until all sums, with interest and other charges thereon shall have been paid in full.

6.12 Enforcement of Lien. Such lien may be enforced by the foreclosure of the defaulting owner's Lot by the Association in like manner as a mortgage on real property upon the recording of the above notice of lien. In any such proceedings, the owner shall be required to pay the costs, expenses and attorneys, fees incurred for filing the lien, and in the event of foreclosure proceedings, all additional costs, all expenses and reasonable attorneys' fees incurred. The owner of the Lot being foreclosed shall be required to pay to the Association any assessment or special service charge whose payment becomes due for the Lot during the period of foreclosure, and' the Association shall be entitled to a receiver during foreclosure. The Association shall have the power to bid on the Lot at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, conveyor otherwise deal with the same upon acquiring title to such Lot.

6.13 Report of Default. The Association, upon request, shall report in writing to a first mortgagee of a Lot any default in the performance by any Lot mortgagor of any obligation under the Declaration which is not cured within sixty (60) days.

6.14 Release of Lien. The recorded lien may be released by recording a Release of Lien signed by an officer of the Association on behalf of the Association.

6.15 Lien Subordinate to First Mortgage - Limitations. The lien for special service charges and assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now hereafter placed upon the Lot subject to assessment; PROVIDED, HOWEVER, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall cause such Lot and grantee hereunder to be relieved of liability for such prior assessments but shall not relieve such Lot or grantee from liability from any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

6.16 First Mortgage Foreclosure. Notwithstanding any of the terms or provisions of this Declaration, in the event of any default on the part of an owner under any first mortgage or first deed of trust which entitles the holder thereof to foreclose the same, any sale under such foreclosure, including the delivery of a deed in lieu to such first mortgagee, .shall be made free and clear of all then due and owing assessments. No first mortgagee shall be liable for any unpaid common expense assessments accruing prior to the time such mortgagee receives a deed to a Lot.

6.17 Statement of Association. Upon payment to the Association of a reasonable fee not to exceed Twenty-Five Dollars ($25), and upon the written request of any owner or any mortgagee or prospective owner of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject Lot, the amount of the current monthly assessment and the date that such assessments becomes due, credit for any advanced payments of common assessments, for prepaid' items, such as' prepaid' items', such as insurance premiums, bur not' including accumulated" amounts for reserves or sinking funds, if any, which statements shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. The provisions set forth in this Section shall not apply to the initial sales and conveyances of the lots made by Declarant, and such sales shall be free from all common expenses to the date of conveyance.

6.18 Mortgagees - Priority. Each owner of a Lot shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a Lot may create junior mortgages, liens or encumbrances on the following conditions: (1) that any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations. obligations, lien for unpaid assessments, and other obligations created by this Declaration, the Articles of Incorporation and the Bylaws of the Association; and (2) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgages premises, all of his right, title and interest in and to the proceeds under all insurable policies upon said premises held by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if such request is not granted, such release may be executed by the Association as an attorney-in-fact for such junior mortgage.

6.19 Professional Management. Professional management is anticipated for the project and any agreement which may be entered into with regard to professional management or any other contract for providing of services by Declarant or Developer shall be for a term of not more than one (1) year and shall be terminable on thirty (30) days' written notice, without cause and without payment of a termination fee.

ARTICLE VII - GENERAL PROVISIONS

7.1 Duration. Subject to the provisions of Section 7.3 of this Article, this Declaration shall remain in full force and effect, shall run with the land and shall be binding on all persons having any interest in any Lot in the Subdivision for a period of twenty (20) years from the date this Declaration is recorded and thereafter shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-owners of a majority of lots in the Subdivision has been recorded agreeing to change or terminate the Declaration in whole or in part.

7.2 Amendments. This Declaration, or any portion thereof, may be amended or revoked at any time by an instrument in writing signed by the owners of at least seventy-five percent (75 %) of the lots in the Subdivision and one hundred percent (100%) of the holders of recorded first mortgages or deeds of trust. Any amendment shall be effective only upon the recordation of the written amendment or ratification thereof containing the necessary signatures of Lot owners and encumbrance holders. No amendment to this Declaration may be made which conflicts with any of the laws of the State of Colorado, or ordinances of the Town of Milliken. Any amendment or revocation must be approved in advance by and consented to by Declarant or any successor Developer in writing as long as Declarant or such successor Developer owns any lots within the Subdivision.

7.3 Severability. Any provision of this Declaration invalidated in any manner whatsoever shall not be deemed to impair or affect in any manner the validity, enforcement or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

7.4 Disclaimer. No claim or cause of action shall accrue in favor of any person in the event of the invalidity of any covenant or provision of this Declaration or for the failure of the Architectural Review Board or Declarant to enforce any covenant or provision hereof. This Section 7.4 may be pleaded as a full bar to the maintenance of any such action or arbitration brought in violation of the provisions of this Article.

7.5 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated -or waived by reason of any failure LO enforce the same, regardless of the number of violations or breaches which may occur.

7.6 Captions. The captions herein are inserted only as a matter of convenience -and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

7.7 Construction. The use of the masculine gender in this Declaration shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and vice versa, when the context so requires.

7.8 Notices. Notices required or permitted by this Declaration shall be made in writing. Notice to a member of the Association shall be sufficient if sent by United States mail, sufficient postage prepaid, to the latest address given by such member to the Secretary of the Association. In such event, notice shall be deemed effective three (3) days after such deposit into the United States mail. Notices may also be given by certified or registered mail, or by hand delivery. If hand delivered, notice shall be effective on the date that delivery is' accomplished. If sent by registered or certified mail, notice shall be deemed effective three (3) days after deposit into the United States mail, sufficient postage prepaid.

7.9 Colorado Common Interest Ownership Act. This Declaration is not intended to subject the Property and/or the Association to the Colorado Common Interest Ownership Act except to the extent required by law or as specifically set forth in this Declaration.

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IN WITNESS WHEREOF, the undersigned being the Owner of all lots in Mill Iron 5 Ranch Estates Subdivision has executed this Declaration as of the date and year first written above .

DECLARANT:

James T. McDowell, Jr.

8/2/99
Date

ATTEST: _____

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this 2nd day of August, 1999, by James T. McDowell, Jr., owner of the real property subject to said Declaration.

Witness my hand and official seal.

My commission expires: 8-15-2000.

NOTARY JACQUELINE E. BOEDEKER STATE OF COLORADO

Jacqueline E. Boedeker
Notary Public