

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
FISHER PEAK RANCH**

**THIS DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF
FISHER PEAK RANCH** ("Declaration") is made as of this 10th day of
October, 1996, by Fisher Peak Ranch Company, a Colorado Corporation
("Declarant"), with reference to the following basic facts:

RECITALS

A. Declarant has initiated the development of the real property described in Exhibit A hereto and by this reference made a part hereof ("Property") as a residential project (the "Project").

B. Declarant has partially developed the Project for the purpose of selling residential building lots within the Project.

C. In connection with the transfer of each building lot in the Project, Declarant has included a deed restriction calling for the establishment of an association to manage the upkeep, operation, maintenance and repair of the common roadways within the Project. In accordance with this deed restriction, Declarant desires to establish an association (the "Association") to manage the upkeep, operation, maintenance and repair of the common roadways within the Project.

NOW, THEREFORE, Declarant hereby declares that all of the Property is held and shall be held, conveyed, encumbered and used subject to the following covenants, conditions and restrictions, all of which are hereby declared and established to be in furtherance of the general plan for development of the Property and all of which are declared, established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property.

ARTICLE I

DEFINITIONS

The following terms when used in this Declaration shall have the meaning set forth below:

a. Association: means the association of Owners established pursuant to the terms of this Declaration.

b. Board: means the Board of Directors of the Association established pursuant to his Declaration for the purposes of managing the affairs of the Association

and carrying out the terms of this Declaration.

c. Common Roadways: means the roadways within the Project which have been established and maintained for the purpose of providing ingress and egress through the Project for the benefit of all of the Owners, their guests, tenants and invites.

d. Declarant: means Fisher Peak Ranching Company, a Colorado Corporation, and its successors and assigns, to the extent such successors and assigns acquire all or any portion of the Property for the purpose of development.

e. Declaration: means this Declaration of Covenants, Conditions and Restrictions of Fisher Peak Ranch, as the same may be amended from time to time.

f. Lot: means a residential development lot located within the Project.

g. Owner: means the record owner or owners, if more than one, (including Declarant) of any lot within the Property, excluding those persons or entities having such interest merely as security for the performance of an obligation.

h. Project Roadway Area: means all roadways within the Project which are intended for the common use of all Owners.

ARTICLE II

MEMBERSHIP IN ASSOCIATION

1. Qualifications. Each Owner of a lot, including Declarant, shall be a member of the Association. If a lot is owned by more than one person, all such persons shall be Owners. Ownership is the sole qualification for membership in the Association.

2. Transfer of Membership. The Association membership shall be appurtenant to the lot giving rise to such membership, and shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon the transfer of title to a lot. Any transfer of title to a lot shall operate automatically to transfer the membership in the Association to the new Owner.

ARTICLE III

VOTING RIGHTS

Each Lot, regardless of the number of Owners thereof, shall be represented in the Association by one vote which shall be cast only as a unit by the Owner or Owners. In the event that multiple Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all Owners of such Lot. Cumulative voting shall not be allowed.

ARTICLE IV

RIGHTS IN COMMON ROADWAYS

1. Owners' Easement of Enjoyment. Declarant expressly excepts and reserves for the benefit of the Property, and for the benefit of all of the Owners, non-exclusive reciprocal easements of access to, use and enjoyment of, and ingress and egress through all of the Common Roadways. Such easement may be used by Declarant, its successors and assigns, and all Owners, their guests, tenants and invites for pedestrian access, vehicular access, and such other purposes reasonably necessary to the use and enjoyment of the Lots. Such easements shall be appurtenant to and shall pass with the title to each Lot.

2. Limitations on Easement. The grant of the easement set forth in the foregoing section shall be subject to the following provisions:

a. The right of the Board to establish reasonable and uniform rules and regulation on behalf of the Association pertaining to the use of the Common Roadways, which rules and regulations shall be consistent with the intended use of the Common Roadways for access and recreational purposes.

b. The right of the Board to take all reasonably necessary actions to maintain the Common Roadways and, in connection therewith, to borrow money (with the prior consent of 51% of the Owners) for the purpose of improving the Common Roadways.

c. The right of the Board to suspend the voting rights of an Owner or Owners for the period during which any "Assessment," as defined in Article V, against his Lot remains unpaid and delinquent.

3. Waiver of Use. No Owner may waive or otherwise escape liability for Assessments, as defined in Article V, provided for by this Declaration or otherwise duly and properly levied by the Board in accordance with this Declaration, nor release the lot owned by him from liens and charges hereof, by non-use of the Common Roadways, and the facilities thereon or any part thereof, or by abandonment of his lot.

ARTICLE V

ASSESSMENTS

1. Creation of Lien and Personal Obligation of Assessments. Declarant hereby covenants, and each other Owner, by acceptance of a deed or other conveyance to a Unit, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay the Common Roadway Assessments.

2. Common Roadway Assessments. The Board shall levy against all Lots Common Roadway Assessments. The initial amount of the Common Roadway Assessments to be levied against each lot is \$200.00 per year payable in advance on or before the 31st day of December each year. The amount of the Common Roadway Assessments may be adjusted from time to time by majority vote of the members of the Board. The Common Roadway Assessments collected by the Board are to be used exclusively for the purpose of performing maintenance (including, without limitation, grading and snow removal), repairs and improvements to the Common Roadways, including the establishment of maintenance, repair and improvement reserves as deemed necessary by the Board.

3. Certificate of Payment. The applicable Board shall, upon demand, furnish to any Owner liable for any Common Roadway Assessment a certificate in writing signed by an officer of the Association setting forth whether the Assessment on a specific lot has been paid, and the amount of the delinquency, if any.

4. Maintenance Fund. All Assessments collected shall be properly deposited in a commercial account in a bank selected by the applicable Board, which account shall be clearly designated as a "MAINTENANCE FUND ACCOUNT". Said Board shall have control of such account, and shall be responsible to Owners for the maintenance of accurate records thereof at all times.

5. Default and Remedies. Every Owner, including Declarant, covenants and agrees to the enforcement of Assessments in the manner provided in this Declaration.

a. Delinquency. Any Assessment which is not paid when due shall become delinquent on the date on which such Assessment is due (the "date of delinquency"). A late charge of \$5.00 per each delinquent Assessment shall

be payable with respect to each Assessment not paid within 15 days after the date of delinquency. Assessments not paid within 15 days after the date of delinquency shall thereafter bear interest at the rate of 10% per annum from the date of delinquency and the rate of may, at its option, at any time after this 15 day period, enforce the obligation to pay the Assessment in any manner provided at law or equity, including, without limitation, commencing a suit in the name of the Association against any Owner or recording and enforcing a lien against the delinquent Owner's Lot. Any judgement action shall include the amount of the delinquency, together with interest thereon at the rate of 10% per annum from and after the date of delinquency, late charges as provided in this Declaration, court costs and reasonable attorney's fees to the extent permitted by law. Any enforcement of a lien to collect a delinquent Assessment shall be conducted in accordance with the laws of the State of Colorado. The Board, or its designated representative, on behalf of the Association shall have the power to bid on and purchase the Lot at foreclosure sale and hold, use, lease, encumber and convey same.

b. Notice of Creation of Assessment Lien. Notwithstanding anything contained in this Declaration, no action shall be brought to foreclose any lien created pursuant to the recordation of a notice of assessment, whether judicially, by power of sale or otherwise, less than 10 days after the date that a copy of the notice of assessment, showing the record date thereof, is deposited in the United States Mail, postage and fees prepaid, addressed to each of the Owners as to which the notice of assessment relates.

c. Priorities of Lien. The lien created pursuant to this Declaration upon the recordation of a notice of assessment shall be prior and superior to all liens except (i) all taxes, bonds, assessments and other similar levies which by law would be superior thereto and (ii) any lien or charge of record prior to the recordation of this Declaration.

d. Rights of Board. Each Owner hereby vests in and delegates to the Board or its authorized representatives the right and power to bring all actions at law or lien foreclosures, whether judicially or by power of sale, or otherwise, against any Owner or Owners for the collection of delinquent Assessments in accordance herewith and hereby expressly waives any objection to and enforcement in accordance with this Declaration of the obligation to pay Assessments as set forth in this Declaration.

6. Declarant's Assessment Obligations. Declarant shall be obligated as any Owner thereof to pay Assessments for Lots owned by Declarant, in accordance with this Declaration.

7. Homestead Waiver. Each Owner does hereby waive, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or similar exemption under the laws of the State of Colorado now in effect, or in effect from time to time hereafter.

ARTICLE VI

POWERS AND DUTIES OF ASSOCIATION AND BOARD

1. Administration of Association. The Owners and each of them, together with all parties bound by this Declaration covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles and Bylaws of the Association and such rules and regulation as may be adopted by the Board. In the event of any inconsistency between the provisions of this Declaration and the provisions of any Article, Bylaws or rules and regulation, the provision of this Declaration shall prevail.

2. Organizational Meeting. The members of the Association shall hold an organizational meeting of the Association within 12 months after the date this Declaration is recorded in the official records of Las Animas County, Colorado. Prior to the organizational meeting, the initial board named by Declarant in the Articles of the Association shall manage the affairs of the Association. The initial board named by Declarant in the Articles of the Association shall call the organizational meeting and give notice of the time thereof in the manner set forth in the Bylaws of the Association. The organizational meeting shall be for the purpose of electing members to the Board and conducting such other business as may properly come before the meeting. Thereafter, annual and special meetings of the members of the Association shall be held as provided for by the Bylaws of the Association.

3. Authority of Board. The Board shall be responsible for the management and operation of the Association and carrying out the terms of this Declaration. Without limiting the generality of the foregoing, the Board shall have the following powers and duties:

a. The Board shall maintain or cause the Common Roadways to be maintain and kept in a good state of repair, and acquire for the Association and pay for out of Assessments such services, equipment, maintenance and repair as it may determine are necessary in order to keep and at all time maintain the Common Roadways in a good

state of condition and repair.

b. The Board, at any time and from time to time, may establish such uniform rules and regulations, consistent with this Declaration, as the Board may deem reasonable in connection with the use and maintenance of the Common Roadways.

c. The board shall prepare an annual report of its operations and shall cause the delivery of a copy of such report to each member within 120 days following the end of the Associations fiscal year. The annual report shall consist of a balance sheet as of the end of the fiscal year and an operating (cash flow) statement for the fiscal year.

d. The Board shall have the power to carry out such other acts as may be reasonably necessary to carry out the provisions of this Declaration and to perform its duties and obligations.

4. Other Provisions. No member of the Board, or any officer of the Association or the Declarant shall be personally liable to any Owner, or to any other party, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, and without willful or intentional misconduct. The Board may, at its election, maintain directors' liability insurance for the protection of its members. Neither the Board nor any officers of the Association shall receive any compensation, except reimbursement for expenses incurred in carrying out the business of the Association.

ARTICLE VII

GENERAL PROVISIONS

1. Term. This Declaration shall be and remain in full force and effect for a term of fifty years from the date that it is recorded in the official records of Las Animas County, Colorado.

2. Amendments. This Declaration may be amended only by an instrument executed and acknowledged by at least 75% of the Owners or their respective legally appointed and duly authorized guardian, conservator or administrator.

3. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity

or unenforceability of any of the provisions hereof shall not affect the validity of the remaining provisions.

4. Remedies Cumulative. Each remedy provided for by this Declaration for breach of any of the covenants, conditions, restrictions, reservations, liens or charges contained herein shall be in addition to any other available remedy whether provided at law or in equity, and all of such remedies shall be cumulative.

5. Notices. Any written notice or other documents relating to or required by this Declaration may be delivered personally, by overnight courier service or by certified mail, return receipt requested. Such notices shall be deemed given when received. Notices to be addressed as follows:

a. If to an Owner, other than Declarant, to the address provided by the Owner to Declarant at the time of purchase of such Owner's lot, provided, however, that any Owner may designate a different place for receipt of notice by delivering to the Board a written change of address signed by the Owner or Owners, as the case may be.

b. If to Declarant, whether in its capacity as Owner or in any other capacity:

Fisher Peak Ranching Company
c/o Maurice N. Laderman
1605 Collins Drive
Colorado Springs, CO 80920

c. Prior to the organizational meeting, notices to the Board shall be addressed to the Declarant. Thereafter, notices to the Board shall be addressed to the Secretary of the Association at such address as is provided by the Board to each Owner from time to time.

6. Notification of Sale of Unit. Concurrently with the consummation of the sale of any lot under circumstances whereby the transferee becomes an Owner of the lot or within five business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth (i) the name of the transferee and his transferor, (ii) the street address or lot number purchased by the transferee, (iii) the transferee's mailing address, and (iv) the date of the sale. Prior to receipt of such notification, any and all communications required or permitted to be given by Declarant, the Board, or any other Owner shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor.

7. Joint and Several Liability. In the case of joint ownership of a lot, the liability of each of the Owners thereof in

connection with the liabilities and obligations of Owners set forth in or imposed by this Declaration shall be joint and several.

IN WITNESS WHEREOF, Fisher Peak Ranching Company, a Colorado Corporation, has executed this Declaration of Covenants, Conditions and Restrictions of Fisher Peak Ranch as of the 16th day of October, 1996.

FISHER PEAK RANCHING COMPANY
a Colorado Corporation

By:

Maurice N. Laderman
Its: President

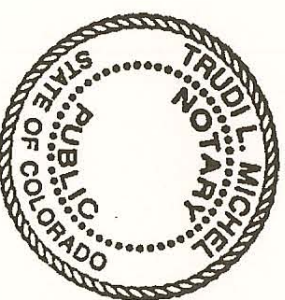
State of Colorado)
) ss.
County of El Paso)

I, the undersigned, a notary public, hereby certify that on October 10, 1996, Maurice N. Laderman personally appeared before me and being first duly sworn declared to me that he is the person who signed the foregoing document as President of Fisher Peak Ranching Company and that the statements herein contained are true.

Witness my hand and official seal.

Frank L. Mitchell
Notary Public

My Commission Expires: April 13, 2000



TOWNSHIP 32 SOUTH, RANGE 64 WEST OF THE 6TH P.M.

- SECTION 15: WEST ½, W1/2 OF THE SE1/4, SE1/4 OF THE SE1/4.
SECTION 22: E1/2, E1/2 OF THE SW1/4.
SECTION 23: SW1/4, NW1/4 OF THE SE1/4.
SECTION 26: W1/2.
SECTION 27: NE1/4, E1/2 OF THE NW1/4, W1/2 OF THE SW1/4, SE1/4 OF THE SW1/4, E1/2 OF THE SE1/4, SW1/4 OF THE SE1/4, NE1/4 OF THE SW1/4, NW1/4 OF THE SE1/4.
SECTION 34: ALL.
SECTION 35: W1/2 OF THE W1/2

TOWNSHIP 33 SOUTH, RANGE 64 WEST OF THE 6TH P.M.

- SECTION 2: SW1/4 OF THE NE1/4, W1/2 OF THE NW1/4, SE1/4 OF THE NW1/4, N1/2 OF THE SW1/4, SE1/4 OF THE SW1/4, W1/2 OF THE SE1/4, SW1/4 OF THE SW1/4.
SECTION 3: N1/2, SW1/4, NW1/4 OF THE SE1/4. E1/2 OF THE SE1/4, SW1/4 OF THE SE1/4.
SECTION 4: E1/2.
SECTION 10: SE1/4 OF THE NE1/4, E1/2 OF THE NE1/4 OF THE NW1/4, N1/2 OF THE NE1/4.
SECTION 11: NW1/4 OF THE NE1/4, N1/2 OF THE NE1/4 OF THE NW1/4, W1/2 OF THE NW1/4, S1/2 OF THE SE1/4 OF THE NW1/4, N1/2 OF THE SW1/4, S1/2 OF THE NE1/4 OF THE NW1/4, N1/2 OF THE SE1/4 OF THE NW1/4.

ALL IN LAS ANIMAS COUNTY, COLORADO