

**DECLARATION OF  
RESTRICTIVE COVENANTS  
OF WHISPERING PINE ESTATES**

KUCERA LIMITED LIABILITY CO., the owner of certain real property located in the County of Las Animas, State of Colorado, legally described on Exhibit A attached hereto and incorporated herein, such property being the real property now duly platted as Whispering Pines Estates, according to the original Plat Map of Whispering Pines Estates, recorded September 30, 1981, in Book 814, Page 952, Amended Filing No. 1, recorded April 20, 1982, in Book 818, Page 599, and Amended Filing No. 2, recorded August 12, 1993, in Book 897, Page 419, of the records in the office of the Clerk and Recorder of Las Animas County, Colorado, makes the following declarations as to limitations, restrictions, and uses to which the lots, tracts or parcels (hereinafter referred to as parcels) constituting such subdivision may be put, and specifies that such declaration shall constitute covenants to run with all the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitation on all future owners in such subdivision, this declaration of restrictions being designed for the purpose of keeping the subdivision desirable, uniform and suitable in use as specified herein:

1. No livestock, including but not limited to horses, cattle, mules, asses, goats, sheep, swine, buffalo and lambs, shall be kept or maintained on any parcel, or any portion thereof, unless the parcel, or portion thereof used for livestock, shall be enclosed by a well constructed fence sufficient to turn ordinary horses and cattle, with all gates equally as good as the fence. Dogs, cats, or other household pets may be kept, provided they are kept under reasonable control at all times.
2. No rubbish, trash or garbage, or other waste material shall be kept or permitted on any parcel, except in sanitary containers located in appropriate areas concealed from public view.
3. No mobile homes, except recreation vehicles, shall be erected, made, established, kept or maintained on any parcel.
4. No obstruction (gates, etc.) shall be allowed across any easement roads servicing any parcel within the subdivision, with the exception of cattle guards.
5. Each property owner shall exercise as much care as is possible to retain natural vegetation, trees, shrubs and other similar growth. There shall be no cutting or removal of living trees from any parcel except for building sites, driveways, or to enhance a view.

6. Access roads are private and will not be maintained by the County or the developers. Therefore, each owner of a parcel is deemed to covenant by acceptance of such owner's deed for such property, whether or not it shall be so expressed in the deed, to pay an annual assessment of One Hundred Dollars (\$100.00) into a fund to be administered by the owners association and used for maintenance of all access roads. Commencing in 1995, such annual assessment shall be due and payable on April 1st of each year and shall be deemed delinquent if not paid by May 30th of that year.

The annual assessment, together with interest, costs and reasonable attorney fees, shall be a charge on the land and a continuing lien on each parcel against which such an assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person or persons who own the parcel at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed.

7. As each parcel is sold, the deed to said property will include a forty (40) foot non-exclusive right-of-way (easement) twenty (20) feet on each side of the centerline, over existing private roads providing access to the parcel and connecting the subdivision with County Road 43.5, Las Animas County as described in Book 749, Page 114, recorded June 8, 1973.

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The deed shall further reserve unto the seller, his successors, assigns and invitees, a twelve (12) foot non-exclusive right-of-way (easement), six (6) feet on each side of the centerline, over the existing private road which crosses parcel thirteen (13) and provides access to public lands. The easement so reserved shall be limited to footpath and horseback access to the public lands, and shall not include the right to use the easement property for any other reason, including the parking of vehicles.

There shall also exist a twenty (20) foot easement along all parcel property lines for installation and maintenance of utilities, ten (10) feet on each side of the centerline.

8. Each owner, by purchasing any parcel in the subdivision, shall automatically become a member of the owner's association, which shall be formed when all of the parcels have been sold by the developers or on or before March 1, 1995, whichever occurs first, and shall be bound by the terms and conditions of this declaration and such rules and regulations as may be promulgated and adopted by the association.

9. This declaration may be terminated or voided by the then owners of seventy-five percent (75%) of the parcels subject, hereto executing and acknowledging an appropriate written agreement or

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do. agreements for that purpose, and filing the same with the office of the Clerk and Recorder, County of Las Animas, state of Colorado.

10. Any owner, or the association may maintain any legal proceedings to compel or enforce any of the terms and conditions of this declaration.

11. Enforcement of the covenants contained herein shall be by proceedings in law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. The successful party in any such court action shall be entitled to recover reasonable attorney fees and costs.

12. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, acting as the manager of Kucera Limited Liability Co. has caused this declaration to be executed at Del Rio, Colorado, this 12th day of October, 1993.

KUCERA LIMITED LIABILITY CO.

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Manager



Whispering Pines Estates Road Association, Inc.  
% Gene Shannon, Registered Agent  
2214 Princeton Way  
Colorado Springs, CO 80909

**Whispering Pines Estates Road Association, Inc.  
Minutes of the Board of Directors Meeting  
January 16, 1999**

The Board of Directors met on a phone conference call of January 16, 1999. Those participating were: Scott Harris, Gene Shannon, Beth Commeser, Titus Yoder and Pat Shannon, Secretary/Treasurer.

At the 1998 Annual Meeting of the Whispering Pines Estates Road Association members expressed approval of the raising of the Association's annual road fees and asked the Board to research the procedure.

The meeting began with Gene Shannon presenting his findings on the legalities and process in raising the Association's yearly assessment. The Board has the authority, according to the By-laws (page 3, Article V, 1., and page 4, Article V, 2.c) to consider this subject and make decisions concerning the amount. A discussion of the road work just completed followed. It was pointed out that now that the common roads are crowned and ditched, it is important to place 4 to 5 inches of road base on the reworked road in order to complete the process and keep the road from deteriorating.

Pat Shannon reported that the Association closed the year with \$1024 remaining after paying for the recent work. More discussion followed.

A motion was made by Titus Yoder as follows: "That the annual road fee for the Whispering Pines Estates Road Association, Inc. be raised to \$200 per year per lot beginning with the present year (1999). Further, that after the roads are well established, the Board will annually review the assessment amount and adjust it accordingly. The motion was seconded and carried.

A motion was made by Gene Shannon as follows: That Titus Yoder and Scott Harris work together to start negotiations for hauling and applying the road base. The motion was seconded and carried. Mike Ferraro was suggested as the contractor.

The Board was also asked at the 1998 Annual Meeting to be considering the possibility of the Association becoming more than a road association to expand the members' authority to address other community concerns such as fencing, community well, etc. This possibility will be a discussion topic for the 1999 Annual Meeting to be held June 20, 1999.

Respectfully Submitted,

Pat Shannon  
Secretary/Treasurer

*copy of minutes where  
change was made in  
assessment.*

NOTE: ENCLOSED YOU WILL FIND YOUR ASSESSMENT FOR 1999 REFLECTING THE ABOVE BOARD ACTION, due before the annual meeting to be held June 20, 1999. The sooner your payment is received by the Treasurer, the quicker we can proceed on setting the road base project in motion.