

DECLARATION OF PROTECTIVE COVENANTS

HENDRICK RANCH P.U.D.

WHEREAS, Hendrick Ranch Associates is the owner of the real property situate in the Town of Carbondale, County of Garfield and State of Colorado, described as Lots 1 - 63, Hendrick Ranch P.U.D.; and,

WHEREAS, Hendrick Ranch Associates, being desirous of protecting property values and protecting the health, convenience and welfare of the owners of the lots in the subdivision, does hereby publish and declare that the following terms, covenants, conditions, restrictions, uses, limitations and obligations shall be deemed to run with the land located within the subdivision and shall be a burden upon and a benefit to any person or persons acquiring or owning an interest in the subdivision, their grantees, successors, heirs, executors, administrators, devisees and assigns.

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1. Use of Lots: All lots within the subdivision shall be used for residential purposes and each lot shall be limited to one (1) single family dwelling, multi-family dwelling and such accessory structures as are allowed by P.U.D. Plan for the Hendrick Ranch Subdivision and any amendments thereto.

2.1 Architectural Committee: No building, structure or improvement including any fence, hedge or wall exceeding four (4) feet in height, shall be erected, placed or altered on any lot unless four (4) complete sets of architectural plans and specifications for such construction or alteration are submitted to and approved by the Architectural Committee prior to the commencement of such construction. All decisions of the Architectural Committee shall be in writing.

2.2 Architectural plans and specifications submitted shall show the nature, kind, shape, height, materials, floor plans, location, exterior color scheme, alterations, grading and all other matters necessary for the Architectural Committee to properly consider and make a determination thereon. The Architectural Committee shall disapprove any architectural plans and specifications submitted to it which are insufficient for it to exercise the judgment required of it by these covenants.

2.3 The Architectural Committee shall exercise its best judgment to see that all structures and all alterations thereof conform and harmonize with the natural surroundings and with the existing structures as to external design, materials, color, siding, height, topography, grade and finished ground elevation.

2.4 The Architectural Committee shall not be liable in damages to any person or association submitting any architectural

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plans and specifications or to any owner by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove any such architectural plans and specifications. Any owner submitting or causing to be submitted any plans and specifications to the Architectural Committee agrees and covenants that he will not bring an action or suit to recover damages against the Architectural Committee, its members, individually or its advisors, employees or agents.

2.5 The Architectural Committee shall keep and safeguard for at least five years complete permanent written records of all applications for approval submitted to it including one set of all architectural plans and specifications so submitted and of all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument.

2.6 The Architectural Committee shall consist of three to five members who shall be appointed by the undersigned declarant until the declarant owns five or less lots within the subdivision, whereupon the three to five members of the Architectural Committee shall be selected by a majority vote of the property owners in the subdivision on an annual basis. The members of the Architectural Committee may or may not be Owners and may include one or more professionals such as an architect paid by the Homeowner's Association to perform such services. The Architectural Committee may at the expense of the Homeowners Association hire any professionals or a secretary or other personnel to perform professional, clerical and other functions.

2.7 An Owner must have written approval from the Architectural Committee prior to submitting plans to the Town of Carbondale for issuance of a building permit.

2.8 All plans and specifications shall be delivered to the Architectural Committee at the location designated by the Developers, Hendrick Ranch Associates, or the Architectural Committee.

3. New Construction: All construction shall be new construction and, no previously erected building, structure or improvement shall be moved and set upon any lot from any other location.

3.1 Fencing: All fencing four (4) feet or greater in height must have approval of the Architectural Committee prior to construction. No chain link fencing shall be permitted in Hendrick Ranch Subdivision.

3.2 Building Orientation: Preferred orientation of building is to maximize views and southern exposure. Homeowners are encouraged to utilize both passive and active energy savings methods. All buildings shall comply with the requirements of Solar

Access Zone I as set forth in Sections 17.96.03 and 17.96.040 of the Carbondale Municipal Code so long as such code provisions or any amendments thereof remain in effect.

3.3 Roof Design: Pitched roofs shall have pitches not less than 6:12 and not greater than 12:12. 4:12 roof pitches will be acceptable for attached shed roofs or secondary roof planes. Other roof pitches may be considered depending on location. Roof materials may include wood shingles, composition shingles, slate, or dark, non-reflective materials. Roof color values and hues will match the darkest values.

3.4 Exterior Walls and Surfaces: Allowed exterior materials include painted, stained, or natural wood, stucco, stone, shingles, log and brick. No vinyl or plastic or T-111 or other plywood siding will be permitted.

4. Minimum Footprint: Each house constructed on a lot shall have a minimum footprint of 1300 square feet, including garage.

5. Garage Requirement: Each house constructed on a lot shall have a two car attached garage.

6. Signs: No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising property for sale or rent, or signs used by builders to advertise the property during construction and sale.

7. Animals: No animals, livestock or poultry, of any kind, shall be raised, bred or kept on any lot, provided however, dogs and cats as household pets may be kept, provided they are not kept, bred or maintained for commercial purposes.

8. Temporary Structures: No structure of a temporary nature, trailer, tent, shack, garage, or other building shall be used on any lot at any time as a residence, either temporarily or permanently.

9. Nuisances: No noxious or offensive trade or activity shall be conducted upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers and such containers shall be kept in a clean and sanitary fashion.

10.1 Enclosure of Unsightly Facilities and Equipment: All unsightly facilities, equipment, and other items, including but not limited to those specified below, shall be enclosed within a covered structure. Any motor home, trailer, boat, truck, tractor, garden equipment, and any similar items shall be kept at all times,

except when in actual use in an enclosed garage. Any refuse or trash container, utility meters or other facility, service areas, or storage piles shall be enclosed within a structure or appropriately screened from view by planting or fencing approved by the Architectural Committee and adequate to conceal the same. No lumber, metals, boat materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any lot except building materials during the course of construction and only for such reasonable period of time as is necessary prior to their collection or disposal.

10.2 Recreational Vehicles: No vehicles, boats, campers, trailers, snowmobiles, or other such recreational vehicles or devices shall be stored or permitted to remain for more than three continuous days on any lot, except within rear or side yards back of the front line of the main residence structure situate thereon and shall be adequately screened from view.

11. Lot Maintenance: The owner of each lot shall maintain their lot in a manner to ensure an overall attractive appearance. Such maintenance shall include maintaining the exterior of all structures and any lot in good quality repair, including painting and staining as necessary, consistent with standards established by the Architectural Committee. The entirety of the yard area on any lot shall be landscaped and maintained and all landscaping shall be completed within nine (9) months of the issuance of a Certificate of Occupancy for any residence constructed on a lot.

12. Irrigation Easement: Fences shall be permitted in the areas of private property depicted as utility and irrigation easements on the plat for the Hendrick Ranch Subdivision, provided however that any section of a fence that crosses an Irrigation Easement must be removable for purposes of facilitating maintenance and repair. This paragraph grants no other rights of access over any other property except as described herein to any person.

13. Homeowners Association: A nonprofit corporation will be created to further the interests of the property owners of Hendrick Ranch Subdivision to assume the responsibility of architectural control upon delegation of such authority by Owner and to regulate, manage and maintain the secondary water irrigation system in Hendrick Ranch Subdivision. The owners of all parcels shall be members and shall be required to maintain membership in such Association and shall be entitled to one (1) vote for each unit (a unit is either one vacant lot or a residential dwelling unit, including multi-family units, constructed on a lot). All lot and unit owners shall be obligated to pay any assessments lawfully imposed by the Board of Directors of the Association. Assessments shall be made on a unit basis (i.e. undeveloped lot = 1 unit, single family improved lot = 1 unit, and multifamily improved lot = 1 unit for each residence). The per unit assessment is determined by dividing the total assessments by the number of

units. Also assessed by the Board of Directors, including without limitation, the share of common expense assessments chargeable to any lot or unit or any other item chargeable as set forth in this Declaration of Protective Covenants, shall constitute a lien against such lot or units superior (prior) to all other liens and encumbrances excepting only:

- a) Special assessment liens on the lot or unit in favor of any government assessing unit; and
- b) all sums not paid on a first mortgage of record including any unpaid obligatory sums as may be provided by encumbrance.

If any assessment shall remain unpaid after twenty (20) calendar days after the due date thereof, such unpaid sums shall bear interest from and after the due date thereof at the maximum rate of interest permitted by law, or at such rate as is determined by the Board of Directors, and the Board of Directors may impose a late charge on such defaulting owner in any amount not exceeding one hundred fifty dollars (\$150.00) to cover the extra costs and expenses involved in handling such delinquent assessments. In addition, the Board of Directors shall be entitled to attorneys' fees incurred in connection with any demands for payment and/or collection of delinquent assessments. To evidence such lien the Board of Directors shall prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of the Lot or Unit and its legal description. Such a notice shall be signed by one of the Board of Directors and shall be recorded in the office of the Clerk and Recorder of the County of Garfield, Colorado. Such lien may be enforced by foreclosure of the defaulting owner's Lot by the Association in like manner as a mortgage on real property, upon the recording of a notice of lien thereof. In any such foreclosure the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorneys' fees. The owner shall also be required to pay to the Association any additional assessments against the Lot during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same. The Board of Directors, for the Association, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. The Association, at its election, and in addition to any other remedies it may have at law or in equity, may also sue an Owner personally to collect any monies owed the Association.

c. Each owner hereby agrees that the Association's lien on a Lot\Unit for assessments as hereinbefore described shall be superior to the Homestead Exemption provided by Colo. Rev. Stst. Ann. Section 38-41-201, et seq. (1973, as amended) and

each owner hereby agrees that the acceptance of the deed or other instrument of conveyance in regard to any Lot within Hendrick Ranch shall signify such grantee's waiver of the homestead right granted in said section of the Colorado statutes.

d. Any recorded lien for non-payment of the common expenses may be released by recording a release of lien executed by a member of the Board of Directors.

14. Enforcement Actions: The Association, acting by and through its Board of directors, shall have the right to prosecute any action to enforce the provisions of all of these covenants by injunctive relief, on behalf of itself and all or part of the owners of the lands with the Hendrick Ranch. In addition, each owner or land within the Hendrick Ranch, including the Association, shall have the right to prosecute any action for injunctive relief and for damages by reason of any violation of these covenants. The prevailing party in any enforcement action shall be entitled to an award of its reasonable costs and attorneys' fees.

15. Covenants to Run: All of the covenants contained in this instrument shall be a burden on the title to all of the lands in the Hendrick Ranch, and the benefits thereof shall inure to the owners of the lands in the Hendrick Ranch and the benefits and burdens of all said covenants shall run with the title to all of the lands in the Hendrick Ranch.

16. Termination of Covenants: In the event these covenants have not been sooner lawfully terminated pursuant to any applicable laws of the State of Colorado and Garfield County, Colorado, and the provisions herein contained, these covenants may be terminated on January 1 of the year 2040 by a vote of eighty percent (80%) of the votes entitled to be cast by the members of the Association. If these covenants are not so terminated then they shall continue to be in full force and effect for successive twenty-five (25) year periods unless, at the close of a twenty-five (25) year period, the covenants are terminated by a vote of eighty percent (80%) of the votes entitled to be cast by the members of the Association at a meeting of the members duly held. In the event of any such termination by the members a properly certified copy of the resolution of termination shall be placed on record in Garfield county, Colorado, not more than six (6) months after the meeting at which such vote is cast.

17. Amendment of Covenants: Commencing on the date of recording hereof and continuing until the closing (i.e., recording of the deed) on the sale of the first twenty five (25) lots, Hendrick Ranch Associates shall have the absolute right to amend any provision of the Declaration, except as limited by these covenants provided that such amendment shall not adversely effect marketability of title to any lot. After the expiration of the

period described in the preceeding sentence or earlier written relinquishment by Hendrick Ranch, if any, this declaration may be amended by a vote of eighty (80%) percent of the votes entitled to be cast by the members of the Association. Except as provided in these covenants, consent of Mortgagees shall not be required in order to amend this Declaration.

18. Duration of Covenants: These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded, after which time such covenants shall be automatically extended for successive periods of ten years, unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.

19. Enforcement: The Architectural Committee, or any owner of any land within the subdivision, shall have the right to enforce by any proceeding at law or equity, all covenants herein contained. Failure of the Architectural Committee or any owner to enforce any covenant or any restriction shall not be deemed a waiver of the right to do so thereafter. The party bringing any action for enforcement of these covenants shall be entitled to recover all court costs including reasonable attorney's fees incurred.

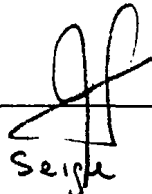
20. Severability: Should any part or parts of these covenants be declared invalid or unenforceable by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining covenants.

21. Amendment and Termination: The provisions of these protective covenants shall remain in full force and effect until January, 1, 2050, and from year to year thereafter until amended or terminated by a written instrument executed by the owners of a majority of the units in Hendrick Ranch Subdivision then existing.

Executed this 14th day of November, 1994.

HENDRICK RANCH ASSOCIATES, LLC

By: _____

 - MAUNSEN
Jon Seig

STATE OF COLORADO)
County of ~~Pitkin~~ ^{Garfield}) ss.

Subscribed and sworn to before me this 14th day of November, 1994, by Jan Seigle as Manager of Hendrick Ranch Associates, LLC.

Witness my hand and official seal.

My commission expires: May 22, 1997

Suzanne E. Celine
Notary Public

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