

DECLARATION OF PROTECTIVE COVENANTS

FOR CUERNO VERDE "THE PINES"

A REAL ESTATE SUBDIVISION

DIVERSIFIED MANAGEMENT, INC., ("Grantor") a Colorado corporation, is the owner of all that real property within the subdivision named Cuerno Verde "The Pines" in Custer County, Colorado.

Grantor hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants shall remain in effect.

1. GENERAL PURPOSES: These covenants are made for the purpose of creating and keeping the subdivision, insofar as possible, desirable, attractive, beneficial and suitable in architectural design, materials and appearance; all for the mutual benefit and protection of the owners of lots in the subdivision.

2. USES: Exclusive of one or more plots reserved for commonly owned recreational facilities, each lot in the subdivision shall be used for one single family residence according to plat and covenant restrictions. Density shall be no greater than one single family residence per lot. No structures whatever, other than one private single family dwelling together with a private garage and servants' quarters or guest facilities, and approved barn or shed for horses, for use in connection with said single dwelling, shall be erected, placed or permitted to remain on any plot or lot.

3. APPROVAL OF CONSTRUCTION PLANS: No building or other structure shall be constructed, erected or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until the complete plans and specifications (including, but not limited to, the floor, elevation, plot and grading plans; the specifications of principal exterior materials, color schemes and the location, character and method of utilization of all utilities) have been submitted to the Grantor and/or Architectural Control Board and by it or them approved in writing. At the time plans and specifications are submitted to Grantor and/or Architectural Control Board for its/their approval, the person or persons submitting such plans and specifications shall also submit to Grantor/Board evidence satisfactory to Grantor/Board that the Public Health Department of the State of Colorado or the appropriate official of Custer County, Colorado, or any other appropriate governmental agency has approved his sanitary sewage disposal system. Sewage shall be disposed of only by and through a septic system of adequate dimensions and capacity and of a type approved by the Board of Health of the State of Colorado and/or the County of Custer. No septic tank or field system shall be nearer than fifty feet to any building or plot line except with the consent of the appropriate health officials of the County and/or State, and no sewage, waste water, trash, garbage or debris shall be emptied, discharged or permitted to drain into any body of water, or watercourse, in or adjacent to the subdivision. All toilet facilities must be part of the residences or garage and shall be of a modern flush type and connected with a proper septic tank system. Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

In passing upon all such plans and specifications, Grantor/Board shall take into consideration the suitability of the proposed building or other structure and the materials of which it is to be built to the lot upon which it is to be erected, the harmony thereof with the surroundings and concept of the development, and the effect of the building or other structure, as planned, on the outlook from adjacent or neighboring lots. Grantor/Board agrees to use reasonable judgment in passing upon all such plans and specifications, but Grantor/Board shall not be liable to any person or persons for Grantor's/Board's actions in connection with submitted plans and specifications unless it be shown that Grantor/Board acted with malice or wrongful intent.

4. FENCE: No fence, wall or similar type barrier of any kind shall be constructed, erected or maintained on any lot without the approval of design and materials by the Grantor/Board. No fences are to be built which would encroach upon public easements as provided.

5. **EASEMENTS:** Easements and rights-of-way are hereby reserved as shown or described on the recorded plat of the subdivision and for any public or quasi-public utility service purpose, together with the right of ingress and egress at any time for the purpose of further construction and repair. Unless permission is obtained from the individual property owners, trespassing by pedestrians, equestrians, hikers, over-snow or off-road vehicles, et al. on privately owned property (at places other than within the easements provided) is prohibited. **DRIVEWAYS:** No trees may be cut or grading accomplished on any lot without the owner's obtaining prior written approval of the Grantor/Board. It is intended that driveways be kept to a minimum and be so located and constructed as to minimize dangerous intersections and to minimize the retention of the natural character of the area. Proper drainage facilities, including culverts may be designated by the Grantor/Board as a condition for approval hereunder and will be provided by the owner at his expense. Minimum interference with the pedestrian and equestrian movements will be practiced.

6. **SIGNS:** No signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any lot for any purpose whatsoever, except such signs as have been approved by Grantor/Board for identification of residences; one sign of not more than eight square feet advertising the property for sale or rent; and signs used by the Grantor for selling the subdivision.

7. **WATER AND SEWER:** Each structure designed for occupancy or use by human beings shall connect to an approved domestic water source and approved sewage disposal system. The owner shall install and use a domestic well and septic system. Such well and sewage disposal system must have all necessary public regulatory and governmental permits and approvals.

If and when a water and/or sanitation district is formed for the purpose of providing central water and/or sewage disposal services, by whatever authorized agency or municipality, the owner hereby consents to the forming of such district or districts and shall cooperate in the formation of such a district or districts and shall abide by all the rules, regulations and requirements of such a district or districts, including the abandoning of any and all domestic wells and/or septic systems, or other private facilities installed by the owner and the utilization of facilities provided by the district or districts as may be required by the district or districts.

8. **TRASH:** No trash, ashes, garbage, debris or other refuse shall be thrown or dumped on any land within the subdivision. There shall be no burning of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.

9. **LIVESTOCK:** No animals or poultry shall be allowed either temporarily or permanently, except the following: horses, dogs, cats and other usual and suitable household pets. A maximum of four (4) horses per five acre plot will be allowed, and four (4) adult dogs and/or cats per household. The above exceptions are for household enjoyment only and shall not be raised, bred or boarded for any commercial purposes.

If horses are kept, facilities shall be kept clean and odor free. In order to prevent overgrazing horses shall be kept in a small corral not to exceed 25 percent of the lot size and only allowed to occasionally graze in remaining native grass area owned and fenced by owner. No stallions are to be kept, except by written permission of the Grantor/Board.

10. **TREES:** Living trees naturally existing upon a lot, except to the extent necessary for construction purposes, shall not be cut, trimmed or removed from the properties, except that Grantor/Board may approve some thinning or trimming if it seems desirable.

11. **LANDSCAPING:** All surface areas disturbed by construction shall be returned promptly to their natural condition and replanted in native grasses; but, if owner desires further landscaping to change the character of the lot, he shall submit landscaping plans to Grantor/Board for approval. Grantor/Board may approve construction of gardens, lawns and exterior living areas.

12. **SET-BACK REQUIREMENTS:** No building or structure shall be constructed within 50 feet of the center line of any public street or roadway or property line. The only exception to this shall be fences. The maximum building height not to exceed 25 feet. All buildings of a principal nature shall also be set back a minimum of 75 feet from the center of any stream bed, whether or not such stream bed be of a permanent or temporary nature.

13. **TEMPORARY STRUCTURES:** No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any lot as a family dwelling, either temporarily or permanently. This does not apply to suitable motor homes, camping trailers, etc., which may be permitted on a short term basis of up to one month. However, this covenant shall not restrict a building contractor or the Grantor from maintaining a temporary office, trailer office, tool shed, lumber shed and/or sales office for the purpose of selling lots or erecting and selling dwellings.

14. **PRINCIPAL DWELLING:** The principal dwelling shall have a minimum fully enclosed ground floor area devoted to living purposes, exclusive of porches, terraces and garage of 750 square feet, except that where the said principal dwelling is a one and one-half or two story dwelling, the minimum may be reduced to 450 square feet of ground floor area, providing that the total living area of the one and one-half or two floors is not less than 750 square feet. All principal dwellings equipped with fireplaces shall have an approved fire screen located within the flue, such approval to be given in writing by the Grantor/Board.

15. **COMMERCIAL ACTIVITY:** No store, office or other place of business of any kind shall be erected or permitted upon any of the residential lots or any part thereof and no commercial activity shall be permitted.

16. **CONTINUITY OF CONSTRUCTION:** All structures commenced in the subdivision shall be prosecuted diligently to completion and shall be completed within 180 calendar days of commencement subject only to delays caused by inclement weather, Act of God, strike, or unless some other exception is granted in writing by Grantor or his assigns.

17. **RESUBDIVISION:** No lot may be resubdivided by an owner.

18. **NUISANCE AND FIREARMS:** No noxious, dangerous or offensive activity shall be carried on within the subdivision; nor shall anything be done or permitted which shall constitute a public nuisance therein; nor shall any hunting, trapping or other activities be carried on which requires the use of any type of lethal or dangerous weapon.

19. **EFFECT AND DURATION OF COVENANTS:** The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each tract in the subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 1999, at which time they shall be automatically extended for five successive terms of ten years each.

20. **AMENDMENT:** The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be waived, abandoned, terminated or amended except by written consent of the owners of 75% of the privately owned land included within the boundaries of the subdivision.

21. **ARCHITECTURAL CONTROL BOARD:**

(a) **MEMBERSHIP.** The initial Architectural Control Board is composed of:

Larry Topless	1450 South Havana Street Aurora, Colorado 80010
Arthur Parker	2015 Eaton Edgewater, Colorado 80214
Charles V. Adams	290 Fillmore, Suite 200 Denver, Colorado 80206

A majority of the Board may designate a representative to act for it. In the event of death or resignation of any member of the Board, the remaining members shall have the full authority to designate a successor. Neither the members of the Board nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time after five years from the date of the recording of these covenants, the then record owners of seventy-five percent of the sites in Cuerno Verde "The Pines" shall have the power through a duly recorded instrument to change the membership of the Board or to withdraw from the Board or restore to it any of its powers and duties.

(b) Procedure. The Board's approval or disapproval as required in these covenants shall be in writing. In the event the Board, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

22. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for any person or persons owning real property in the subdivision or any duly elected or appointed official of Custer County, to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violations.

23. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment, court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

DIVERSIFIED MANAGEMENT, INC.

By Eugene De Witt  
EUGENE DE WITT  
President

ATTEST:

Reinhold Stepanow  
REINHOLD STEPANOW  
Secretary

STATE OF COLORADO       )  
                                  ) ss.  
CITY AND COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 20th day of March, 1973, by Eugene DeWitt, President, and Reinhold Stepanow, Secretary of DIVERSIFIED MANAGEMENT, INC., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 12-24-76.

Ernest E. Brown  
NOTARY PUBLIC



AMENDMENT TO  
DECLARATION OF PROTECTIVE COVENANTS  
FOR  
CUERNO VERDE "THE PINES"  
A REAL ESTATE SUBDIVISION

Whereas, Gramar, Ltd., a Colorado Corporation, is the owner of all the real property described as Cuerno Verde Pines, Filings 1, 2 and 3 and

Whereas, the property was previously owned by Diversified Management, Inc. and

Whereas, the parties hereto wish to amend the Declaration of Protective Covenants as recorded in Book 167 at Page 541.

Now, therefore, the said Declaration of Protective Covenants are amended as follows:

- 1) The Cuerno Verde Pines Filings 1, 2 and 3 are hereby made subject to the Declaration of Protective Covenants recorded at Book 167, Page 541.

This amendment made this 2nd day of December, 1974.  
City and County of Denver

ATTEST:

Bill S. Butler

GRAMAR, LTD.

BY:

J. E. McDonald, Jr.  
J. E. McDonald, Jr., Lienholder

ATTEST:

[Signature]

ATTEST:

[Signature]

DIVERSIFIED MANAGEMENT, INC.

BY:

[Signature]  
Lienholder

The foregoing signatures were acknowledged by me on the 2nd day of December, 1974.

Witness my official hand and seal.

My commission expires: My Commission expires May 22, 1975

Notary Public

ATTEST:

[Signature]

CENTURY BANK AND TRUST

BY:

[Signature]  
Lienholder

The foregoing signatures were acknowledged by me on the 12 day of December, 1974.

Witness my official hand and seal.

My commission expires: 12/27/74

Betty M. Bronger  
Notary Public

My Commission expires Aug. 29, 1976

State of Colorado)  
 County of Custer, ) ss  
 Exec for Record at 10<sup>55</sup> o'clock  
 A. H. Murphy 12 19 75  
 and duly recording in Book 170  
 Page 906  
Mary Hatching Recorder.  
 By John Hatching Deputy.



## DECLARATION OF PROTECTIVE COVENANTS

### FOR CUERNO VERDE "THE PINES"

#### A REAL ESTATE SUBDIVISION

Cuernio Verde Inc. ("Grantor"), a Colorado corporation, is the owner of all the real property within the subdivision named Cuerno Verde "The Pines" in Custer County, Colorado. This Declaration of Protective Covenants is as recorded in the records of Custer County. This Declaration applies to the entire subdivision known as Cuerno Verde "The Pines".

Grantor hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants shall remain in effect.

1. **GENERAL PURPOSES:** These covenants are made for the purpose of creating and keeping the subdivision, insofar as possible, desirable, attractive, beneficial and suitable in architectural design, materials and appearance; all for the mutual benefit and protection of the owners of lots in the subdivision.

2. **USES:** Exclusive of one or more plots reserved for commonly owned recreational facilities, each lot in the subdivision shall be used for one single family residence according to plot and covenant restrictions. Density shall be no greater than one single family residence per lot. No structures whatever, other than one private single family dwelling, together with a private garage and servants' quarters or guest facilities, and approved barn or shed for horses, for use in connection with said single dwelling, shall be erected, placed or permitted to remain on any plot or lot.

#### 3. APPROVAL OF CONSTRUCTION PLANS:

No building or other structure shall be constructed, erected or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until the complete plans and specifications (including, but not limited to, the floor, elevation, plot and grading plans; the specifications of principal exterior materials, color schemes and the location, character and method of utilization of all utilities) have been submitted to the Grantor and/or Architectural Control Board and by it or them approved in writing. At the time plans and specifications are submitted to Grantor and/or Architectural Control Board for its/their approval, the person or persons submitting such plans and specifications shall also submit to Grantor or Board evidence satisfactory to Grantor/Board that the Public Health Department of the State of Colorado or the appropriate official of Custer County, Colorado, or any other appropriate governmental agency has approved his sanitary sewage disposal system. Sewage shall be disposed of only by and through a septic system of adequate dimensions and capacity and of a type approved by the Board of Health of the State of Colorado and/or the County of Custer. No septic tank or field system shall be nearer than fifty feet to any building or plot line except with the consent of the appropriate health officials of the County and/or State, and no sewage, waste water, trash, garbage or debris shall be emptied, discharged or permitted to drain into any body of water, or watercourse, in or adjacent to the subdivision. All toilet facilities must be part of the residences or garage

and shall be of a modern flush type and connected with a proper septic tank system. Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

In passing upon all such plans and specifications, Grantor/Board shall take into consideration the suitability of the proposed building or other structure and the materials of which it is to be built to the lot upon which it is to be erected, the harmony thereof with the surroundings and concept of the Development, and the effect of the building or other structure, as planned, on the outlook from adjacent or neighboring lots. Grantor/Board agrees to use reasonable judgment in passing upon all such plans and specifications, but Grantor/Board shall not be liable to any person or persons for Grantor's/Board's actions in connection with submitted plans and specifications unless it be shown that Grantor/Board acted with malice or wrongful intent.

4. FENCE: No fence, wall or similar type barrier of any kind shall be constructed, erected or maintained on any lot without the approval of design and materials by the Grantor/Board. No fences are to be built which would encroach upon public easements as provided.

5. EASEMENTS: Easements and rights-of-way are hereby reserved as shown or described on the recorded plat of the subdivision and for any public or quasi-public utility service purpose, together with the right of ingress and egress at any time for the purpose of further construction and repair. Unless permission is obtained from the individual property owners, trespassing by pedestrians, equestrians, hikers, over-snow or off-road vehicles, et al. on privately owned property (at places other than within the easements provided) is prohibited. DRIVEWAYS: No trees may be cut or grading accomplished on any lot without the owner's obtaining prior written approval of the Grantor/Board. It is intended that driveways be kept to a minimum and be so located and constructed as to minimize dangerous intersections and to minimize the retention of the natural character of the area. Proper drainage facilities, including culverts may be designated by the Grantor/Board as a condition for approval hereunder and will be pro-

vided by the owner at his expense. Minimum interference with the pedestrian and equestrian movements will be practiced.

6. SIGNS: No signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any lot for any purpose whatsoever, except such signs as have been approved by Grantor/Board for identification of residences: one sign of not more than eight square feet advertising the property for sale or rent; and signs used by the Grantor for selling the subdivision.

7. WATER AND SEWER: Each structure designed for occupancy or use by human beings shall connect to an approved domestic water source and approved sewage disposal system. The owner shall install and use a domestic well and septic system. Such well and sewage disposal system must have all necessary public regulatory and governmental permits and approvals.

If and when a water and/or sanitation district is formed for the purpose of providing central water and/or sewage disposal services, by whatever authorized agency or municipality, the owner hereby consents to the forming of such district or districts and shall cooperate in the formation of such a district or districts and shall abide by all the rules, regulations and requirements of such a district or districts, including the abandoning of any and all domestic wells and/or septic systems, or other private facilities installed by the owner and the utilization of facilities provided by the district or districts as may be required by the district or districts.

8. TRASH: No trash, ashes, garbage, debris or other refuse shall be thrown or dumped on any land within the subdivision. There shall be no burning of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.

9. LIVESTOCK: No animals or poultry shall be allowed either temporarily or permanently, except the following: horses, dogs, cats and other usual and suitable household pets. A maximum of four (4)

horses per five acre plot will be allowed, and four (4) adult dogs and/or cats per household. The above exceptions are for household enjoyment only and shall not be raised, bred or boarded for any commercial purposes.

If horses are kept, facilities shall be kept clean and odor free. In order to prevent overgrazing horses shall be kept in a small corral not to exceed 25 percent of the lot size and only allowed to occasionally graze in remaining native grass area owned and fenced by owner. No stallions are to be kept, except by written permission of the Grantor/Board.

10. TREES: Living trees naturally existing upon a lot, except to the extent necessary for construction purposes, shall not be cut, trimmed or removed from the properties, except that Grantor/Board may approve some thinning or trimming if it seems desirable.

11. LANDSCAPING: All surface areas disturbed by construction shall be returned promptly to their natural condition and replanted in native grasses; but, if owner desires further landscaping to change the character of the lot, he shall submit landscaping plans to Grantor/Board for approval. Grantor/Board may approve construction of gardens, lawns and exterior living areas.

12. SET-BACK REQUIREMENTS: No building or structure shall be constructed within 50 feet of the center line of any public street or roadway or property line. The only exception to this shall be fences. The maximum building height not to exceed 25 feet. All buildings of a principal nature shall also be set back a minimum of 75 feet from the center of any stream bed, whether or not such stream bed be of a permanent or temporary nature.

13. TEMPORARY STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any lot as a family dwelling, either temporarily or permanently. This does not apply to suitable motor homes, camping trailers, etc., which may be permitted on a short term basis of up to one month. However, this covenant shall not restrict a building contractor or the Grantor from maintaining a temporary office, trailer office, tool shed, lumber shed and/

or sales office for the purpose of selling lots or erecting and selling dwellings.

14. PRINCIPAL DWELLING: The principal dwelling shall have a minimum fully enclosed ground floor area devoted to living purposes, exclusive of porches, terraces and garage of 750 square feet, except that where the said principal dwelling is a one and one-half or two story dwelling, the minimum may be reduced to 450 square feet of ground floor area, providing that the total living area of the one and one-half or two floors is not less than 750 square feet. All principal dwellings equipped with fireplaces shall have an approved fire screen located within the flue, such approval to be given in writing by the Grantor/Board.

15. COMMERCIAL ACTIVITY: No store, office or other place of business of any kind shall be erected or permitted upon any of the residential lots or any part thereof and no commercial activity shall be permitted.

16. CONTINUITY OF CONSTRUCTION: All structures commenced in the subdivision shall be prosecuted diligently to completion and shall be completed within 180 calendar days of commencement; subject only to delays caused by inclement weather, Act of God, strike, or unless some other exception is granted in writing by Grantor or his assigns.

17. RESUBDIVISION: No lot may be resubdivided by an owner.

18. NUISANCE AND FIREARMS: No noxious, dangerous or offensive activity shall be carried on within the subdivision; nor shall anything be done or permitted which shall constitute a public nuisance therein.

19. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each tract in the subdivision, and each owner of property therein, his successors,

representatives and assigns and shall continue in full force and effect until January 1, 1999 at which time they shall be automatically extended for five successive terms of ten years each.

20. AMENDMENT: The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be waived, abandoned, terminated or amended except by written consent of the owners of 75% of the privately owned land included within the boundaries of the subdivision.

21. ARCHITECTURAL CONTROL BOARD:

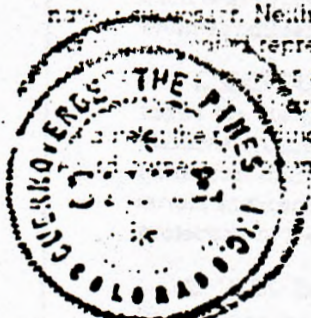
(a) MEMBERSHIP. The initial Architectural Control Board is composed of:

A. L. Wainwright  
1776 S. Jackson, Suite 1101  
Denver, Colorado 80210

Wm. R. Mowery  
1776 S. Jackson, Suite 1101  
Denver, Colorado 80210

Von Wigley  
Cuerno Verde Ranch  
Route 1, Box 35  
Westcliffe, Colorado

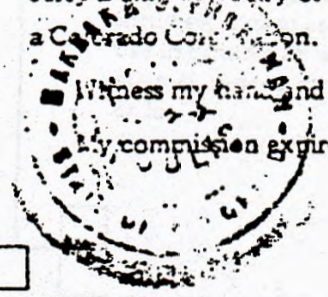
A majority of the Board may designate a representative to act for it. In the event of death or resignation of any member of the Board, the remaining members shall have the full authority to designate a replacement. Neither the members of the Board nor any representative shall be entitled to compensation for services performed pursuant to this instrument at any time after five years from the date of the adoption of these covenants, the then owners of the property owning five percent of the sites in



The foregoing instrument was acknowledged before me this 16 day of July 1975, by William R. Mowery, President, and Jerry R. Dunn, Secretary of CUERNO VERDE, INC., a Colorado Corporation.

Witness my hand and official seal.

My commission expires: May 15, 1978.



Cuerno Verde "The Pines" shall have the power through a duly recorded instrument to change the membership of the Board or to withdraw from the Board or restore to it any of its powers and duties.

(b) Procedure. The Board's approval or disapproval as required in these covenants shall be in writing. In the event the Board or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

22. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for any person or persons owning real property in the subdivision or any duly elected or appointed official of Custer County, to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages actual and punitive, together with reasonable attorneys' fees, for such violations.

23. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment, court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

CUERNO VERDE, INC.

By William R. Mowery  
WILLIAM R. MOWERY  
President

ATTEST:

Jerry R. Dunn  
JERRY R. DUNN  
Secretary  
STATE OF COLORADO  
CITY AND COUNTY OF DENVER

ss.

Barbara S. Friedman

STATE OF COLORADO) Filed for  
 COUNTY OF CUSTER )  
 Reception No. 124184

June 23 - 30 - 9:00 a.m. 1974  
 178 - 271-280

Maud Kelling Recorder  
 by Kay Schulte Deputy

AMENDMENT TO  
DECLARATION OF PROTECTIVE COVENANTS  
FOR CUERNO VERDE PINES SUBDIVISION

Cuerno Verde "The Pines", Inc., a Colorado corporation ("Grantor"), is the owner and developer of all the real property within the subdivision named Cuerno Verde Pines, in Custer County, Colorado. The Grantor has recorded the Declaration of Protective Covenants in the records of Custer County on April 18, 1973, in Book 167 at Page 541, and as amended on December 23, 1974, in Book 170 at Page 487. This Amendment to the Declaration applies to the entire subdivision known as Cuerno Verde Pines.

Grantor hereby makes and declares the following Amendment to the Declaration previously recorded and shall restrict the uses of such real property through the following restrictive and protective covenants.

1. GENERAL PURPOSES: These covenants are made to create and preserve the subdivision in a desirable, attractive and beneficial condition, suitable in architectural design, materials and appearance; all for the mutual benefit and protection of the owners of lots in the subdivision.

2. USES: Exclusive of one or more plots reserved for commonly owned recreational facilities, each lot in the subdivision shall be used for one single family residence according to plat and covenant restrictions. No structures whatever, other than one private single family dwelling, together with a private garage and servants' quarters or guest facilities, and approved barn or shed for horses, for use in connection with said single family dwelling, shall be erected, placed or permitted to remain on any plot or lot.

3. APPROVAL OF CONSTRUCTION PLANS: No building or other structure shall be constructed, erected or maintained on

any lot, nor shall any addition thereto or change or alteration therein be made, until the complete plans and specifications--including, but not limited to, the floor, elevation, plot and grading plans, the specifications of principal exterior materials and color schemes, and the location, character and method of utilization of all utilities--have been submitted to the Grantor and/or Architectural Control Board and by it or them approved in writing. Each building or other structure shall then be constructed, erected and maintained in strict accordance with the approved plans and specifications. At the time plans and specifications are submitted to Grantor and/or Architectural Control Board for approval, the person or persons submitting such plans and specifications shall also submit to Grantor/Board evidence satisfactory to Grantor/Board that the Public Health Department of the State of Colorado or the appropriate official of Custer County, Colorado, or any other appropriate governmental agency, has approved his sanitary sewage disposal system. Sewage shall be disposed of only by and through a septic system of adequate dimensions and capacity and of a type approved by the Board of Health of the State of Colorado and/or the County of Custer. No septic tank or field system shall be nearer than fifty (50) feet to any building or plot line, except with the consent of the appropriate health officials of the County and/or State, and no sewage, waste water, trash, garbage or debris shall be emptied, discharged or permitted to drain into any body of water, or water-course, in or adjacent to the subdivision. All toilet facilities must be part of the residence or garage and shall be of a modern flush type and connected with a proper septic tank system.

In passing upon all such plans and specifications, Grantor/Board shall take into consideration the suitability of the proposed building or other structure, including the materials of which it is to be built, to the lot upon which it is to be

erected, the harmony of the structure with the surroundings and concept of the subdivision, and the effect of the building or other structure on the outlook from adjacent or neighboring lots. Grantor/Board agrees to use reasonable judgment in passing upon all such plans and specifications, but Grantor/Board shall not be liable to any person or persons for Grantor's/Board's decisions in connection with submitted plans and specifications unless it be shown that Grantor/Board acted with malice or wrongful intent.

4. WATER AND SEWER: Each structure designed for occupancy or use by human beings shall connect to an approved domestic water source and approved sewage disposal system. The owner shall, at his expense, install and use a domestic well and septic system. Such well and sewage disposal system must have all necessary public regulatory and governmental permits and approvals.

The individual lot owner's water supply in all lots in Filings 3, 4, 5 and 6 shall be subject to the terms and conditions of the Decree in Case No. 79CW152, in the District Court for Water Division No. 2, Pueblo, Colorado. Before a lot purchaser can construct a well on his property, he must obtain a well permit from the Colorado State Engineer's Office in Denver, Colorado. Those lot owners obtaining well permits on the subdivision shall use such water solely for domestic, in-house use in a single-family dwelling and occasional livestock water, and then only as permitted under the plan of augmentation described in the above Decree. Irrigation and all other uses not specifically permitted under the Decree shall be prohibited.

Due to the climatic conditions that prevail in Custer County, Colorado, and based upon certain terms and conditions in the water augmentation plan, evapotranspiration sewage effluent disposal systems will not be allowed in this subdivision. Only sand filtration (engineered specifications which preclude evaporation at the surface) or acceptable

absorption disposal systems shall be permitted in the subdivision. Each lot owner must obtain State and, if applicable, County Health Department approval for the installation and use of an on-site sewage disposal system.

If and when a water and/or sanitation district is formed for the purpose of providing central water and/or sewage disposal services, by whatever authorized agency or municipality, the owner hereby consents to and shall cooperate with the formation of such district or districts and shall abide by all the rules, regulations and requirements of such district or districts, including the abandonment of any and all domestic wells and/or septic system or other private facilities installed by the owner and the utilization of facilities provided by the district or districts, as may be required by the district or districts..

5. FENCE: No fence, wall or similar barrier of any kind shall be constructed, erected or maintained on any lot without the prior approval of design and materials by the Grantor/Board. No fences are to be built which would encroach upon public easements as provided.

6. EASEMENTS: Easements and rights-of-way are hereby reserved as shown or described on the recorded plat of the subdivision and for any public or quasi-public utility service purpose, together with the right of ingress and egress at any time for the purpose of further construction and repair. Unless permission is obtained from individual property owners, trespassing by pedestrians, equestrians, hikers, over-snow or off-road vehicles, etc., on privately owned property (other than within the easements provided) is prohibited.

7. DRIVEWAYS: No trees may be cut or grading done on any lot without the owner's obtaining prior written approval of the Grantor/Board. It is intended that driveways be kept to a minimum and be so located and constructed as to minimize

dangerous intersections and retain the natural character of the area. Proper drainage facilities, including culverts, may be designated by the Grantor/Board as a condition for approval hereunder and will be provided by the owner at his expense. Minimum interference with pedestrian and equestrian movements will be observed.

8. SIGNS: No signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any lot for any purpose whatsoever, except such signs as have been approved by Grantor/Board for identification of residences; also, one sign of not more than eight (8) square feet advertising the property for sale or rent and signs used by the Grantor for selling the subdivision will be allowed.

9. TRASH: No trash, ashes, garbage, debris or other refuse shall be thrown or dumped on any land within the subdivision. There shall be no burning of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.

10. ANIMALS, PETS: No animals or poultry shall be allowed either temporarily or permanently, except the following: horses, dogs, cats and other usual and suitable household pets. A maximum of four (4) horses per five acre plot will be allowed, and four (4) adult dogs and/or cats per household. The above exceptions are for household enjoyment only and shall not be raised, bred or boarded for any commercial purposes.

If horses are kept, facilities shall be kept clean and odor free. To prevent overgrazing, horses shall be kept in a small corral not to exceed 25 percent of the lot size and shall only be allowed to graze occasionally in any remaining native grass area owned and fenced by owner. No stallions are to be kept, except by written permission of the Grantor/Board.

11. ANIMALS, PET CONTROL: Domestic animals may be kept, but shall not be left unattended. Pets shall not be permitted to run at large outside the confines of each owner's lot, neither elsewhere in the development nor on adjacent lands. Furthermore, animals must be kept within the "positive control" of their owner at all times. Positive control shall mean that the pet, when on the property of the owner, must be within the sight and earshot of an adult person on the property who is capable of summoning and controlling the pet, and when off the property (within the development or on adjacent lands) must be tethered with a leash no longer than ten (10) feet, one end of which shall be held by a person capable of controlling the pet. No tethered pet shall be left unattended off of the owner's property.

12. TREES: Living trees naturally existing upon a lot, except to the extent necessary for construction purposes, shall not be cut, trimmed or removed from the properties, except that Grantor/Board may approve some thinning or trimming if it seems desirable.

13. LANDSCAPING: All surface areas disturbed by construction shall be restored promptly to their natural condition and replanted in native grasses; but, if owner desires further landscaping to change the character of the lot, he shall submit landscaping plans to Grantor/Board for approval.

14. SET-BACK REQUIREMENTS: No building or structure shall be constructed within 50 feet of the center line of any public street or roadway or property line. The only exception to this shall be fences. The maximum building height shall not exceed 25 feet. All buildings of a principal nature shall also be set back a minimum of 75 feet from the center of any stream bed, whether or not such stream bed be of a permanent or temporary nature.

15. TEMPORARY STRUCTURES: No structure of a temporary or unsuitable character, such as a trailer, basement, tent, shack, garage, barn or other out-building, shall be used on any lot as a family dwelling, either temporarily or permanently. This does not apply to suitable motor homes, camping trailers, etc., which may be permitted on a short-term basis of up to one (1) month. However, this covenant shall not restrict a building contractor or the Grantor from maintaining a temporary office, trailer office, tool shed, lumber shed and/or sales office for the purpose of selling lots or erecting and selling dwellings.

16. PRINCIPAL DWELLINGS: The principal dwelling shall have a minimum fully enclosed ground floor area devoted to living purposes, exclusive of porches, terraces and garage, of 750 square feet, except that where the said principal dwelling is a one and one-half or two story dwelling, the minimum may be reduced to 450 square feet of ground floor area, providing that the total living area of the one and one-half or two floors is not less than 750 square feet. All principal dwellings equipped with fireplaces shall have an approved fire screen located within the flue, such approval to be given in writing by the Grantor/Board.

17. CUERNO VERDE OWNERS ASSOCIATION: The purchaser of tracts in the subdivision, upon taking title to property in the subdivision, automatically becomes a member of the Cuerno Verde Owners Association, hereinafter referred to as the "Association". Purchasers understand and agree, by taking title, that membership in and full support of the Association is an absolute requisite for every purchaser and owner of a tract or tracts in the subdivision. The purposes of the Association are to assume ownership and control of, and responsibility for, the common areas within the subdivision, to provide surveillance over the property, including, but not limited to, maintenance of signs and enforcement of protective covenants,

administration of the water augmentation plan, and to attend to such other matters as may be determined necessary by the Association's Board of Directors. Purchasers understand and agree that payment of dues to the Association and full cooperation with the Association's decisions and policies are requirements concomitant with tract purchase and ownership; that periodic dues and/or fees will be required which must be promptly paid; and that nonpayment of such dues and/or fees will cause a recorded lien for the arrearages of such dues and/or fees to be placed against the defaulting member's tract or tracts.

The Association will operate as a non-profit organization. Its books may be examined at any reasonable time by property owners, and copies of rules and Bylaws separate from these protective covenants will be provided to each purchaser upon request. The Association will not create any unreasonable burden, requirements or costs for property owners in the subdivision. Examples of the Association's responsibilities, for purposes of illustration only, and not as any limitation of the Association's rights and duties, include the following: the regulation and enforcement of the terms and conditions of the water augmentation plan and court decree concerning the water rights obtained by the Subdivider to provide well permits for the subdivision; payment of taxes on community areas; maintenance of community areas and community area equipment, such as the clubhouse, tennis courts, barn stables, corral and maintenance of common drinking water sources; enforcement of protective covenants; surveillance over property to prevent theft or vandalism; repainting or replacement of signs; surveillance over adjacent development and new county or state laws in order to maintain property owners' rights and uphold values.

The Subdivider may retain control of and responsibility for all or some of the above functions for a period of

three (3) years from the date of the first sale, or until thirty percent (30%) of the lots in the entire subdivision are sold, whichever first occurs.

18. COMMERCIAL ACTIVITY: No store, office or other place of business of any kind shall be erected or permitted upon any of the residential lots or any part thereof, and no commercial activity shall be permitted.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the subdivision shall ~~be~~ prosecuted diligently to completion and shall be completed within 180 calendar days of commencement, subject only to delays caused by inclement weather, Act of God, strike, or unless some other exception is granted in writing by Grantor or its assigns.

20. RESUBDIVISION: No lot may be resubdivided by an owner.

21. NUISANCE AND FIREARMS: No noxious, dangerous or offensive activity shall be carried on within the subdivision; nor shall anything be done or permitted which shall constitute a public nuisance therein. No hunting or discharge of firearms shall be allowed within the subdivision.

22. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each tract in the subdivision, and each owner of property therein, his successors, representatives and assigns, and shall continue in full force and effect until January 1, 1999, at which time they shall be automatically extended for five (5) successive terms of ten (10) years each.

23. AMENDMENT: The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be waived, abandoned, terminated or amended except by written consent of the owners of 75% of the privately owned land included within the boundaries of the subdivision.

24. ARCHITECTURAL CONTROL BOARD: Cuerno Verde Owners Association will have a specific committee designated by the Board of Directors as the Architectural Control Board. Each person wishing to erect a structure on his property shall submit his plans and specifications to the Architectural Control Board for approval before commencing construction.

25. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for the Association or any person or persons owning real property in the subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violations.

26. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment, court order or decree shall in no wise affect any of the other provisions, which shall remain in full force and effect.

CUERNO VERDE "THE PINES", INC.,  
a Colorado corporation

By: Archie L. Wainwright  
Archie L. Wainwright, President

ATTEST:


Jerry R. Dunn  
Jerry R. Dunn, Secretary

STATE OF COLORADO )  
CITY AND ) ss.  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this day of \_\_\_\_\_, 1980, by Archie L. Wainwright as President, and Jerry R. Dunn as Secretary, of Cuerno Verde "The Pines", Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 4.31.80

Shirley M. O'Brien  
Notary Public  
-10-  


AMENDMENT TO  
DECLARATION OF PROTECTIVE COVENANTS  
FOR CUERNO VERDE "THE PINES"

Page 2

ATTEST:

CUERNO VERDE LAND & CATTLE CO.

BY: *Mel Smuckler*  
Mel Smuckler, Lienholder

The foregoing signatures were acknowledged by me on the *3rd*  
day of *November*, 1974.  
Witness my official hand and seal.  
My commission expires: *My Commission expires Mar. 12, 1977*

*[Signature]*  
Notary Public

