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RECEPTION NO. 456867 HARRIET BEALS Harriet Beals SEVERE

BOOK 3065 PAGE 554

DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS;  
FOR COACHMAN TOWNHOMES SUBDIVISION  
COLORADO SPRINGS, COLORADO

THIS DECLARATION, made this 17<sup>th</sup> day of July, 1978  
by R & B Investment Company, a General Partnership in the State of  
Colorado, hereinafter referred to as "Developer", its successors  
and assigns":

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described  
and platted as Block 2, Coachman Townhomes Subdivision, City of  
Colorado Springs, El Paso County, Colorado, and desires to create  
thereon a residential community with common facilities for the bene-  
fit of said development; and

WHEREAS, Developer will convey the said properties, subject to  
certain protective covenants, conditions, restrictions, reservations,  
as hereinafter set forth to provide for the preservation of the values  
and amenities in said development for the maintenance of common areas  
and facilities together with such additions as may hereafter be made;  
and

WHEREAS, Developer has incorporated under the Laws of the State  
of Colorado, as a non-profit corporation, the Coachman Townhome Asso-  
ciation, for the efficient preservation of the values and amenities  
in the subdivision and has delegated and assigned the powers of main-  
taining and administering the common properties and facilities and  
administering and enforcing the covenants and restrictions and collect-  
ing and disbursing the assessments and charges hereinafter created:

NOW THEREFORE, Developer hereby declares that all of the proper-  
ties described above shall be held, sold and conveyed subject to the  
following easements, restrictions, covenants and conditions which are  
for the purpose of protecting the value and desirability of, and which  
shall run with, the real property and be binding on all parties having  
any right, title or interest in the described properties or any part  
thereof, their heirs, successors and assigns, and shall inure to the  
benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

Section 1. "Association" shall mean and refer to Coachman  
Townhome Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner,  
whether one or more persons or entities, of a fee simple title to  
any lot which is a part of the properties, including contract sellers,  
but excluding those having such interest merely as security for the  
performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain  
real property hereinabove described as Block 2, Coachman Townhomes  
Subdivision, City of Colorado Springs, and such additions thereto  
as may hereafter be brought within the jurisdiction of the Associa-  
tion.

Section 4. "Common Area" shall mean all real property owned  
by the Association for the common use and enjoyment of the Owners  
The common area to be owned by the Association at the time of the  
conveyance of the first lot is described as follows:

All the land in Block 2, Coachman Townhomes Subdivision, except Lots 1 through 26, Lots 29 through 45 and Lots 48 through 54, in the City of Colorado Springs, County of El Paso, State of Colorado.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 6. "Developer" shall mean and refer to R & B Investment Company, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the subdivider for the purpose of development, including any construction lender taking under foreclosure or deed in lieu of foreclosure.

Section 7. "General Common Elements" shall mean any common foundations, columns, girders, beams, supports or other structural components of the buildings. General common elements shall also mean any common lobbies, stairs, stairways, parking or driveway areas, swimming pool, putting green, horseshoe courts, and any and all other portions of the common properties and the subdivision except the lots and townhouse units.

Section 8. "Limited Common Elements" shall mean those common elements set aside and reserved for use by fewer than all of the lot owners, as described, located or shown by the subdivision map or plat or contained with any deed or deeds conveying the property to the Owner.

Section 9. "Common Expenses" means and includes expenses of administration and operation of the general and limited common elements, the common area and all other common properties, and the expenses of maintenance, repair or replacement of any of the common properties; expenses designated as common expenses by the provisions of this declaration and/or the By-Laws of the Association; all sums lawfully assessed against the townhome units and the general common elements and areas; and any expenses agreed upon as common expenses by the Owners.

Section 10. "Building" or "Buildings" means any of the improvements located on any lot on or below the surface of the land.

Section 11. "Property" means the land and buildings and all appurtenant rights thereto created by this Declaration.

Section 12. "Map" means and includes the engineering survey or surveys of the land, locating thereon the townhome buildings, the floor plans and other drawings and diagrammatic plans, including without limitation, charts or schedules depicting all or part of the improvements on the land. The map will be filed for record in the office of the Clerk and Recorder of the County of El Paso, State of Colorado.

Section 13. "Board" or "Board of Directors" means the governing body of the Association.

Section 14. "Managing Agent" means the person or firm to which any of the duties, powers and functions of the Board of Directors may be delegated or are delegated, pursuant to this Declaration.

#### ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the common

areas which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- a. The right of the Association to charge a reasonable admission and other fees for the use of any recreational facility situated upon the common area and to limit the number of guests of members of Owners and members of the Association.
- b. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- c. The right of the Association, in accordance with its Articles and By-Laws to borrow money for the purpose of improving the common area and facilities and in aid thereof to mortgage said property and the rights of such mortgagees in said properties shall be subordinate to the rights of the Owners.
- d. The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to such dedication or transfer has been recorded.
- e. The right of the Association to separately assess the Owners who are also users of limited common areas, for the upkeep of such limited common areas including the repair, replacement and any other maintenance or expenditures as are necessary for such common areas.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, or these Covenants, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Developer hereby covenants for itself, its heirs, successors and assigns, that it will convey fee simple title to the common area to the Association, in phases of construction and that as each phase is completed to the point lots can be sold at the time the first lot of each phase is sold, title will be conveyed free and clear of all encumbrances and liens. The common area shall remain undivided, and shall at all times be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the common area.

Section 4. Easements for Encroachments. If any portion of the common elements now encroaches upon any townhome unit, or if any townhome unit now encroaches upon any other townhome unit or upon any portion of the common elements, as a result of the construction of the buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of the buildings, or for any other reason, a valid easement for the encroachment and for the maintenance of the same so long as the buildings stand shall exist. In the event any of the buildings, or any adjoining common element shall be partially or totally destroyed as a result of casualty or condemnation or eminent domain proceedings,

and then rebuilt, encroachments of parts of the common elements upon any townhome unit or upon any portion permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand. The foregoing encroachments shall not be considered to be or construed to be encumbrances affecting the marketability of title to any unit.

Section 5. Parking Rights. Ownership of each lot shall entitle the Owner or Owners thereof to the use of assigned parking spaces, together with the right for vehicular and pedestrian traffic of ingress and egress across the common streets and walkways for each lot and parking area to a public way. Any other parking desired by Owners or their visitors shall be controlled by the Board of Directors.

#### ARTICLE III MAINTENANCE RESPONSIBILITY AND ASSESSMENTS

Section 1. Interior Maintenance. All Owners shall be responsible for the interior maintenance of the individual townhome unit, and shall keep such unit in good order, condition, and repair and shall pay such assessments as are required by the Association for maintenance of the general and limited common areas and for the area generally.

Section 2. Alterations. An Owner may not alter or fix anything to, in, or on any common element without the written consent and approval of the Association. An Owner shall reimburse the Association for any expenditure incurred for the replacing of any common element or facility damaged through fault of an Owner, or such Owner's guest, invitees or tenants, and the Association shall be entitled to assess such Owner for such amount which shall be payable, collectible and enforceable in the same manner as hereinafter provided.

Section 3. Standards of Maintenance. The Association shall be entitled to adopt such standards for the maintenance and upkeep of the exterior of each Owner's premises, including painting, maintenance, repair replacement of shingles, and other maintenance as is necessary to maintain the units in good order, condition and repair, and to make such repairs as are necessary or are deemed necessary by the Board of Directors of the Association. Each Owner shall promptly report to the Association any defect or need for repairs or maintenance necessary or required to the unit or to the common area.

#### ARTICLE IV COVENANT FOR MAINTENANCE AND ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Developer, for each lot owned within the properties, hereby covenants and each Owner of any lot by acceptance of deed therefor, whether or not it shall be so expressed in any deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) Monthly assessments or charges; (2) special assessments to be fixed, established and collected from time to time by the Association as hereinafter provided. The monthly and special assessments, together with such interest thereon and costs of collection thereof, including a reasonable attorney's fee, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, cost and reasonable attorney's fees shall be the personal obligation of the person who was the Owner of such property at the time when the assessment was levied. The personal obligation for assessments shall not pass to the successors in title of any Owner, unless expressly assumed by such successor.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of the maintenance, repair, upkeep and general condition and appearance of the properties; of promoting the recreation, health, safety, and welfare of the residents of the properties and in particular for the improvement and maintenance of the property, services and facilities devoted to this purpose and related to the use and enjoyment of the common area and of the homes situated upon the property. Assessments shall include, but are not limited to, funds for the actual cost of the Association, of all taxes, insurance, repair, replacement and maintenance of the common area and the maintenance of the exteriors of the lots or townhomes as may from time to time be authorized by the Board of Directors, and other facilities and activities including but not limited to, mowing grass, caring for the grounds, sprinkler system, landscaping, all recreational facilities, roofs and exterior walls of the townhomes, and other charges required by this Declaration of Covenants, conditions and restrictions or that the Board of Managers of the Association shall determine to be necessary to meet the primary purposes of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein.

**Section 3. Basis and Maximum of Monthly Assessments.** Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum monthly assessment shall be \$48.00 per lot.

a. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum monthly assessment may be increased effective to the first of each year without a vote of the membership as may be established by the Board of Directors, taking into consideration increase in taxes, costs of maintenance and upkeep of the units, common areas and facilities and the purposes for which assessment is established, and the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding year.

b. From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum monthly assessment may be increased above that established by the Board, using the above formula by the vote of the members for the next succeeding year and at the end of such year, for each succeeding year thereafter, provided that any such change shall have the assent of two-thirds of the vote of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

**Section 4. Special Assessment.** In addition to the additional assessment authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement or major item of equipment upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of each class of members who are voting in person or by proxy at a meeting duly called for that purpose, written notice of

which shall be sent to all members not less than fifteen (15) nor more than thirty (30) days in advance of the meeting setting forth the purpose of the meeting. The voting requirement of members shall not apply to emergency requirements for the repair or replacement of equipment necessary to the continued operation of the common areas or common recreational facilities.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than fifteen (15) nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be the same as the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all lots and may be collected on a periodic basis with each lot owner paying an equal amount to that paid by each of the other lot owners.

Section 7. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first monthly assessment shall be adjusted according to the number of days remaining in the calendar month. The Board of Directors shall fix the amount of the monthly assessment against each lot not later than December 31 of each year. Written notice of the monthly assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and unless otherwise provided, the Association shall collect each month from the Owner of each lot the monthly assessment for such lot. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A reasonable charge may be made by the board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 12% per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of the deed to a lot, hereby expressly vests in the Coachman Townhome Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien.

Section 9. Lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other lot Owners. The Association, acting on behalf of the lot Owners shall have the power to bid in an interest foreclosed at

the foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subordinate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding non-payment of such defaulting Owner's portion of the premium. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the common area or abandonment of his lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such a lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- a. All properties dedicated to and accepted by local public authorities;
- b. The common area; limited and general common elements; and
- c. All properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Colorado, including all property owned by the Association.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

#### ARTICLE V ADMINISTRATION AND MANAGEMENT

Section 1. Board of Directors. The Association by and through the Board of Directors elected in accordance with the Articles of Incorporation and the By-Laws of the Association, shall have the duties of the general management, operation, and maintenance of the townhouse properties and the enforcement of the provisions of this Declaration and of the Articles of Incorporation and By-Laws of the Association and rules and regulations adopted thereunder. The Board may delegate any of its duties, power and functions to any person or firm which will act as a managing agent at an agreed compensation.

Section 2. Developer as Board. Notwithstanding any provisions of the contract contained in the Articles of Incorporation or By-Laws of the Association or elsewhere herein, the Developer, his successors in retained interest and assigns, shall retain and exercise all of the duties, powers and function of the Board of Directors until January 1, 1980, or until all of the townhome units are sold, whichever first occurs. Upon the occurrence of either of the foregoing events, the Developer shall, by written notice thirty (30) days in advance of a meeting to be held for that purpose, notify all Owners of a meeting for the election of a Board of Directors. At such election and any other election provided for in the Articles of Incorporation and By-Laws of the Association, each Owner shall be entitled to the number of votes designated therein. Such meeting shall constitute the initial and organizational meeting of the Association at which time a Board of Directors shall be elected to serve until the next regular election or annual meeting as provided in the Articles of Incorporation and By-Laws of the Association. From such election, the elected Board of Directors and the Association shall be charged with all of the responsibilities of the Association as herein provided.

ARTICLE VI  
INSURANCE

Section 1. Coverage and Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the properties owned by the Association and shall obtain insurance on each unit, both of which shall be in an amount equal to the maximum insurable replacement value thereof, without deduction for depreciation, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to buildings similar in construction located and used as residential units or common properties, including but not limited to vandalism and malicious mischief insurance. In addition, the Board may acquire liability or such other insurance as may be necessary to insure the Association and Owner against liability for the use of any common facility. The Association shall obtain for each unit such general homeowners liability and other insurance as may be necessary to fully insure all units in the subdivision.

a. Premiums for all such insurance shall be common expenses.

b. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhome Owners in the same proportions as their undivided interest in the common area.

Section 2. Policies and Certificates. The original of all insurance policies shall be maintained and kept by the Board of Directors, or if under an insurance trustee agreement, by the insurance trustee with certified copies thereof to be kept by the Board. The insurance may be carried in blanket policy form naming the Association as insured and indemnifying the interest of each Owner, and providing for a standard common non-contributory mortgage clause in favor of each first mortgagee. Such policies shall also provide that it cannot be cancelled by either the insured or the insurance company until after ten (10) days prior written notice to each Owner and each first mortgagee.

ARTICLE VII  
ARCHITECTURAL CONTROL

Section 1. Common Properties. Subject to the Articles of Incorporation, By-Laws, and other actions of the Association, every Owner shall have the right and easement of enjoyment in and to the common properties or common areas as shown on the recorded plat, and such easement shall be appurtenant to and shall pass with the title to every lot. Limited common properties shall be used in accordance with these Covenants. Developer hereby grants all roads, drives, lanes, sidewalks and catwalks contained within the common areas for the purposes of assuring to each Owner access to and from his unit and the limited common elements appurtenant thereto. There shall be no obstruction of the common elements, nor shall anything be kept or stored on any part of the common elements without the prior written consent of the Association, except as specifically provided herein. No restriction, impairment or interference with any right of ingress or egress provided for in this Declaration shall be permitted at any time without the prior written consent of the Owner thereof. Nothing shall be altered on, constructed in, or removed from, the common areas except upon the prior written consent of the Association.

Section 2. Townhome Units. Each townhome unit shall be used and occupied solely for the purpose of lodging or as a dwelling by the Owner, the Owner's family, guests, invitees or tenants.

**Section 3. Governmental Regulations.** No operation or activities shall be permitted within or on any portion of the property which will violate the provisions of any applicable protective covenant, statute, ordinance, governmental regulation or reasonable rules and regulations of the Association.

**Section 4. Other Use and Possession Restrictions.** In addition to any other restrictions as the Board of Managers may establish, no Owner or any of the Owner's family, guests, invitees or tenants, may use or possess such Owner's townhome unit, or any of the common elements appurtenant thereto, in violation of any of the following provisions:

a. **Nuisances.** No noxious or offensive activity shall be carried on, nor shall anything be done therein or thereon which may be or may become an annoyance or nuisance to others. The Board may make such reasonable rules and regulations as it deems necessary for the control of noise from television sets, radios, stereos, noisy pets, and other noises that may be generated by the Owners, taking into consideration the use of the premises and the comfort and enjoyment of the residents of the subdivision.

b. **Trash.** No garbage, refuse, rubbish or trash of any sort or kind shall be deposited or left except in suitable containers provided for such purpose. The burning of trash in outside incinerators, barbecue pits, or the like, is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the premises. All containers or other equipment for the storage or disposal of trash or garbage shall be kept in a clean, sanitary condition. Except for any central or recreation facility refuse collection points established by the Association, which shall have such screening and be so located as shall be determined by the Board, all garbage or trash cans are to be stored inside garages, or otherwise hidden from view to the streets (public or private) or to or from any other Owner's townhome unit or to or from any of the common elements.

c. **Animals.** No animals or fowl may be kept, bred, or raised, except that dogs, cats, or other household pets may be kept so long as they are not kept, bred, or raised for commercial purposes. Chickens, turkeys, cattle, horses, ducks, geese, swine, sheep, goats, rabbits, or other domestic farm or barnyard animals, or fowl, or other animals or fowl primarily characterized as wild animals or fowl, may not be considered as household pets. Owners shall be responsible for any damage or injury done by any household pet or any of the common elements, and the Board may establish and enforce limitations and restrictions as to quantities of pets per Unit, as to the keeping of pets on leash or other restraint when outside a townhome unit, and as to the prevention of unsanitary conditions or landscaping destruction by pets within any of the common element areas. In addition, the Board may take such action as it deems necessary to regulate noise generated or created by any pet kept by any Owner, which shall include the removal of the pet from the premises.

d. **Commercial Vehicles, Campers, Trailers.** No commercial type vehicles and no trucks shall be stored or parked except in a closed garage or a special parking area as may be designated by the Board, or parked on any of the streets (public or private) within the townhome unit property except while engaged in transport to or from a unit for the purposes of this provision, a 3/4 ton or smaller vehicle, commonly known as a pickup truck, shall not be deemed to be a commercial vehicle or truck. Campers, boats, trailers, motor homes,

buses, and the like shall be kept in garages, or stored in a special parking area as may be designated by the Association, and may not be used as a temporary residence at any place within the townhome unit property.

e. Garage Doors. Garage doors are to be kept closed at all times except when in immediate use for ingress or egress of motor vehicles, equipment, and the like.

f. Unused Motor Vehicles. No unused motor vehicle, other than those in this Section 9.6 more specifically provided for, shall be stored or parked on any of the common elements, except in a closed garage. "Unused motor vehicle" shall be defined as any motor vehicle which has not been driven under its own propulsion for a period of one week or longer.

g. Structures In or Above Common Elements. In addition to any other restrictions upon the addition or alteration of any item or matter to or in any common element, no clothesline aerial, antenna, patio cover, basketball board, or similar structure or item may be installed, erected, constructed, maintained, or placed in or upon any common element. This provision shall not be construed to prevent the normal use of slightly umbrellas as an integral part of table furniture placed upon common elements, nor the placement and use of athletic and recreational equipment as the Board may expressly permit.

h. Signs. No signs of any kind may be displayed to public view except one, unlighted, non-moving, professional sign face advertising a unit as "For Sale", "For Rent", or "For Lease", not to exceed 5 square feet, in colors harmonious to the exterior of the building, which sign may be temporarily located in a common element area in the unit to be sold, rented, or leased.

i. Crawl Space. No attic or other crawl spaces of the common elements adjacent to any townhome unit may be used or entered for any purpose other than for utility and repair access authorized by the Association.

j. Other Architectural Controls. No building, fence, wall or other structure shall be commenced, erected or maintained upon any lot or any portion thereof used in connection with any lot after the purchase of that lot with a completed unit thereon from developer, its successors or assigns, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by any architectural committee composed of three or more representatives appointed by the Board. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with.

#### ARTICLE VIII PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots and

in any way connected with a wall on an adjoining lot and any other wall that is connected or is common to a wall on an adjoining lot shall constitute a party wall, and, to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 2. Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

**Section 3. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use with out prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

**Section 4. Weatherproofing.** Notwithstanding any other provision of this Article, any Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 5. Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owners, and successors in title.

**Section 6. Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrator shall choose one additional arbitrator and the decision shall be by a majority of all arbitrators.

**Section 7.** All of the above provisions with regard to party or common walls or to walls used as common walls shall apply to the extent that the same is not covered by other requirements of the Association or insurance coverage.

#### ARTICLE IX EXTERIOR MAINTENANCE

**Section 1. Exterior.** In addition to maintenance upon the common area, the Association shall provide all exterior maintenance upon each lot which is subject to assessment hereunder, as follows: Paint, repair, replace and care for roofs, sky-lights, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, other exterior improvements.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repair shall be added to and become a part of the assessment to which such lot is subject.

#### ARTICLE X MAINTENANCE

**Section 1. Owner Responsibility.** Each Owner shall be obligated, at his expense, to keep in good order, condition and repair, the interior surfaces of the townhome unit including plaster, gypsum, drywall, carpeting, tile, paneling, wallpaper, paint or other covering.

**Section 2. Fixtures and Equipment.** All fixtures and equipment installed within a townhome, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of the townhome, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other townhomes or their Owners.

**Section 3. Garage Doors.** Each Owner shall maintain the garage door for the garage space of the Owner's townhome unit including all hardware and door-support systems, except that the Owner may not paint or otherwise decorate or change the appearance of the exterior of such garage door.

**Section 4. Common Doors.** Each Owner shall maintain common element doors (including sliding glass doors) and windows except that the Owner may not paint or otherwise decorate or change the appearance of the exterior of any such perimeter doors.

**Section 5. Antennas.** Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property, nor upon any structure situated upon the property other than an aerial for a master antenna system or systems utilized by the development that requires an exterior antenna.

#### ARTICLE XI EASEMENTS

**Section 1. Construction.** Each townhome and the property included in the common area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Developer. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more townhomes is partially or totally destroyed, and then rebuilt, the Owners of the townhomes so affected agree that minor encroachments of parts of the adjacent townhome units or common areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

**Section 2. Blanket Easements.** There is hereby created a blanket easement upon, across, over and under all of the said property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the electrical and/or telephone company to erect and maintain the necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and common area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the common area and any townhouse to perform the duties of maintenance and repair of the townhouses or common area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer shall have the right to grant such easement on said property without conflicting

property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and common area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the common area and any townhouse to perform the duties of maintenance and repair of the townhouses or common area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Developer shall have the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 3. Temporary Easements. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for the Developer or the builder of said townhomes to maintain during the period of construction and sale of said townhomes, upon such portion of the premises as Developer deems necessary, such facilities as in the sole option of Developer may be reasonably required, convenient or incidental to the construction and sale of said townhomes, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 4. Future Construction. All easements granted by this Article and all of the provisions of this Article shall apply to and permit the use by the Developer of any of the property in the townhome subdivision for the purpose of developing future townhome units or constructing additional units immediately adjacent to the units already constructed. In the event any additional land is incorporated into the townhome area, and any additional units constructed, shall be covered and bound by this Declaration of Covenants, and shall be subject to all of the standards contained herein.

#### ARTICLE XII MISCELLANEOUS PROVISIONS

Section 1. Power of Attorney. This Declaration does hereby make the irrevocable appointment of the Association as Attorney in Fact for all Owners to deal with the common properties upon destruction, obsolescence, repair or reconstruction, or condemnation, and the grantee of the deed from the Developer or from any Owner shall irrevocably constitute and appoint the Association their true and lawful attorney in their name, place and stead for the purpose of dealing with the property upon its destruction, obsolescence, repair or reconstruction or condemnation.

Section 2. Property for Common Use. The Association, as Attorney in Fact for all of the Owners, may acquire and hold for the use and benefit of all of the Owners, real, tangible and intangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the Owners in the same proportion as their respective or pertinent interest in and to the common elements, and such interest therein shall not be transferrable except with a transfer of a townhome unit. A transfer of a townhome unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto. Each Owner may use such property in accordance

with the purpose for which it is intended without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a townhome unit under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed townhome unit.

Section 3. Compliance with Provisions. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, By-Laws, rules, regulations, resolutions and contracts of the Association as the same may from time to time be in force and effect. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors in behalf of the Owners, or in a proper case, by an aggrieved Owner.

#### ARTICLE XIII GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot, subject to this Declaration. Their respective legal representative, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the lot Owners. Any amendment must be properly recorded with the Clerk and Recorder of El Paso County, Colorado.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 5. State Law. The provisions of this Declaration shall be governed by the Laws of the State of Colorado.

Section 6. Annexation. Additional residential property and common area may be annexed to the properties as developed by the Developer as hereinabove provided.

#### ARTICLE XIV RESERVATIONS BY DEVELOPER

Section 1. Reservations. Notwithstanding any provision to the contrary contained in this Declaration or in the Articles of Incorporation or By-Laws of the Association, until January 1, 1982, or until all of the townhome units are sold, whichever occurs first, Developer reserves the following rights and privileges: (1) The

successors in retained interest, agents, and assigns, may, without charge, utilize in a reasonable manner space and facilities within the recreational building and other general common elements, for townhome unit sales activities, promotions, furnishings and personnel, may maintain one or more signs and pennants upon the land advertising the availability of unsold units, may maintain model units for showing to prospective purchasers, and shall, generally, have a license, without charge, for such period, for the use of and for access to, from, in and through general common elements, in a reasonable manner and to a reasonable extent, to promote and effect sales of the unit; provided, that the Developer, its successors and retained interests and assigns, shall be obligated and liable forthwith for the repair and maintenance, ordinary wear and tear excepted, of any general common element, room or facility as may be reserved for its exclusive office and display use.

Section 2. Free Access. The Developer, its successors and retained interests, agents, contractors, employees, permittees, and assigns, reserve the right of free access to and use of all of the townhome property as may be reasonably required for the completion of construction, and the movement of personnel and vehicles, storage of building materials and supplies, blockade of streets, and other uses, functions and activities incidental to such completion of construction.

Section 3. Dedication. The Developer reserves the right to dedicate to public use, all or any part of the street system within the townhome development.

Section 4. Amendment. Developer reserves to itself until January 1, 1982, or until all of the units are sold, whichever first occurs, and thereafter to the Association, the right to amend or supplement the plat of the development, from time to time, to conform the same according to the actual location of any constructed improvements and to establish, vacate, extend, or relocate easements, access road easements, and on-site parking areas on any part of the general common elements.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand and seal this 17<sup>th</sup> day of July, 1978.

R & B INVESTMENT COMPANY, a General Partnership

By Leonard Bestgen  
Partner

STATE OF COLORADO  
COUNTY OF EL PASO

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of July, 1978, by Leonard Bestgen as general partner of R & B Investment Company, a General Partnership

Witness my hand and official seal.

My Commission expires: 8-12-78

Lynnda Shields  
Notary Public



AMENDMENT TO DECLARATIONS OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
COACHMAN TOWNHOMES SUBDIVISION  
COLORADO SPRINGS, COLORADO

BOOK 3109 PAGE 959

The Developer, pursuant to Article XIV, Section 4, of the above Declaration of Covenants, etc., for Coachman Townhomes Subdivision, desires to amend Article VI, Section 1, of the said covenants to read as follows:

ARTICLE VI  
INSURANCE

Section 1. Coverage and Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the properties owned by the Association and shall obtain insurance on each unit, both of which shall be in an amount equal to the maximum insurable replacement value thereof, without deduction for depreciation, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to buildings similar in construction located and used as residential units or common properties, including but not limited to vandalism and malicious mischief insurance. In addition, the Board may acquire liability or such other insurance as may be necessary to insure the Association and Owner against liability for the use of any common facility. The Association shall obtain for each unit such general homeowners liability and other insurance as may be necessary to fully insure all units in the subdivision, for liability for occurrences outside the unit. Each individual unit owner shall be responsible to obtain insurance that covers the contents of any unit together with any liability insurance to cover both interior and exterior liability.

a. Premiums for all such insurance shall be common expenses.

b. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhome owners in the same proportions as their undivided interest in the common area.

c. Unit owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by any unit owner.

All of the other provisions of the said Declarations of Covenants, etc. remain unaffected by this amendment.

IN WITNESS WHEREOF the undersigned, being the Developer herein, has hereunto subscribed this instrument this 27th day of October, 1978.

R & B INVESTMENT COMPANY,  
A General Partnership

By Edward Redden  
Partner

NOV 17 1978

State of Colorado  
County of El Paso

RECEIVED AT 12:31 O'CLOCK P.M.  
RECEIPTION NO. 495857

HARRIET BEASLEY

STATE OF COLORADO }  
                          } ss  
COUNTY OF EL PASO }

The foregoing instrument was acknowledged before me this 27th  
day of October, 1978, by Leonard Bestgen, General  
Partner, R & B Investment Company

Witness my hand and official seal.

My Commission expires: October 28, 1979

*William F. Stockman*  
Notary Public



