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Reception No. 200435 Book \_\_\_\_\_ Page \_\_\_\_\_ Date OCT - 3 1973 Hill P.  
John D. [Signature] Elbert County Recorder by [Signature] Deputy. Fee \_\_\_\_\_  
PROTECTIVE COVENANTS

OF  
THE PINES

THE PINES, LTD., a Colorado partnership (herein called "TPL"), the owner of the real property duly platted as The Pines, a subdivision in Elbert County, Colorado, which plat is recorded under Reception No. \_\_\_\_\_ in the Office of the Clerk and Recorder of said County, hereby makes the following declaration of limitations, restrictions and uses upon said property as restrictive and protective covenants to bind and inure to the benefit of TPL and its successors and assigns and of all future owners of any part of said property.

ARTICLE I - PURPOSE OF COVENANTS

It is the intention of TPL, expressed by its execution of this instrument, that said property shall be developed and maintained as a highly desirable rural residential area. It is the purpose of these covenants that the present natural beauty, growth, native setting and surroundings shall always be protected insofar as possible in connection with the uses and structures permitted hereby.

ARTICLE II - DEFINITIONS

1. Subdivision. The "Subdivision" shall mean the real property duly platted as The Pines, a subdivision in Elbert County, Colorado, which plat is filed under Reception No. \_\_\_\_\_ in the Office of the Clerk and Recorder of said County, and any and all adjacent subdivisions which have in their title the words "The Pines."
2. Lot. "Lot" shall mean each subdivision lot so designated on the duly filed plat of the Subdivision by lot numbers.

ARTICLE III - THE PINES HOMEOWNERS ASSOCIATION

1. Membership. All owners of Lots (other than land dedicated to the public) by whatever means acquired, shall automatically become members of The Pines Homeowners Association, a Colorado non-profit corporation (herein called the "Association"), in accordance with the Articles of Incorporation and By-Laws of the Association as are now or hereafter in effect and as the same may be duly amended. TPL shall not be required to pay dues to the Association.
2. Voting. One membership in the Association shall be issued for each Lot and each membership shall be entitled to one vote.
3. Lien. The annual dues and any special assessments attributable to each membership in the Association, together with interest thereon and costs of collection thereof, shall be a charge on the Lot, for which the membership is issued, shall be a continuing lien on the Lot, and shall also be the personal obligation of the record owners and lessees of the Lot at the time when the dues or assessment became due. The personal obligation shall not pass to such a party's successors in title unless expressly assumed by them. Any dues or special assessments which become delinquent shall bear interest from the date of delinquency at the rate of 8% per year, and the Association shall sue the owners and lessees personally,

obligated to pay the same, or foreclose the lien against their Lot. Interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such dues or assessment. The lien of the Association may be foreclosed in the same manner as a mortgage under the laws of Colorado. The lien of the Association provided for herein shall be subordinate to the lien of any deed of trust or mortgage covering any Lot. Sale or transfer of any Lot shall not affect the lien of the Association. However, the sale or transfer of any Lot occurring as a result of court foreclosure of a mortgage or deed of trust, foreclosure through the Public Trustee or any similar proceeding in lieu of foreclosure shall extinguish the lien of the Association as to payments which became due prior to such sale or transfer, but shall not relieve any owner or lessee of personal liability therefor. No sale or transfer shall relieve such Lot from liability for any dues or assessments thereafter becoming due or from the lien thereof.

4. Responsibilities of Membership. The Association, by and through its Environmental Control Committee and/or its membership, shall be responsible for maintaining the subdivision as a highly desirable rural residential area. Further, by assessments to each owner on a pro-rata acreage basis, the Association shall maintain and pay the cost of upkeep on dedicated roadways, if necessary, commencing January 1, 1976 and continuing thereafter until the officials of Elbert County assume responsibility for maintaining said roadways.

ARTICLE IV - ENVIRONMENTAL COMMITTEE

1. Environmental Committee. After the formation of the Association, the Environmental Committee for the Subdivision (herein called the "Committee") shall be the Board of Directors of the Association, as constituted from time to time. Prior to the formation of the Association, the Committee shall be appointed by TPL. The Committee shall have and exercise all the rights, powers and duties set forth in this instrument.

2. Approval by Committee. No improvement, including but not limited to houses, barns, stables, swimming pools, tennis courts, ponds, flagpoles, aeriels, antennas, fences, walls, garages, drives, parking areas, shall be constructed or altered, nor shall natural vegetation be altered or destroyed, nor shall landscape development be performed, on any Lot, unless complete plans for such construction or alteration be approved in writing by the Committee prior to the commencement of work. If the Committee fails to take action within 30 days after complete plans for such work have been submitted, then such submitted plans shall be deemed to be approved; provided, however, that no building or other structure shall be erected or be allowed to remain on any Lot which violates any of the covenants or restrictions herein contained. The issuance of a building permit or license, which may be in contravention of these protective covenants, shall not prevent the Committee from enforcing these provisions. In the event the Committee shall disapprove any plans, the party submitting such plans may appeal to the next annual or special meeting of the Association, where 2/3 of the votes entitled to be cast shall be required to reverse the decision of the Committee. Refusal or approval of plans and specifications by the Committee may be based upon any ground, including purely aesthetic grounds which in the sole and uncontrolled discretion of the Committee shall seem sufficient.

3. Variances. Where circumstances such as topography, property lines, location of trees, vegetation or other physical interference require, the Committee may, by a 2/3 vote, allow reasonable variances of these covenants to terms and conditions it shall require; provided, that no such variance shall be finally

allowed until 15 days after the Committee shall have mailed a notice of such variance to each member of the Association. In the event any 10% of the members of the Association shall notify the Committee in writing of an objection to such variance within said 15-day period, the variance shall not be allowed until it shall have been approved by a vote of at least 2/3 of the votes entitled to be cast at an annual or special meeting of the members of the Association.

4. General Requirements. The Committee shall require that all construction, landscape improvement and alterations within the Subdivision, including the visual design, materials, color, site location, height, topography, driveway, grade and finished ground elevation, be complementary to the natural surroundings and existing structures. The Committee shall protect the privacy of each home location from other sites insofar as possible.

5. Preliminary Approvals. Parties who anticipate constructing improvements within the Subdivision or who own or contemplate the purchase of a Lot, may submit a preliminary design of improvements to the Committee for informal review. The Committee shall not be committed or bound by any informal review until complete plans are submitted and approved or disapproved.

6. Plans. The Committee shall disapprove any plans submitted which are not sufficient for them to exercise the judgment required by these covenants.

7. Environmental Committee Not Liable. The Committee shall not be liable for damages to any party submitting any plan for approval, or to any owner of a Lot by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove, with regard to such plans. Any owner of a Lot, or any party submitting plans to the Committee for approval, by so doing does agree and covenant that he or it will not bring any action or suit to recover damages against the Committee, its members as individuals, advisors, employees, agents or developers.

8. Written Records. The Committee shall keep for at least five years complete records of applications submitted to it (including one set of all architectural plans so submitted) and actions of approval or disapproval and other actions taken by it under the provisions of this instrument.

#### ARTICLE V - RESTRICTIONS ON LOTS

1. Zoning Regulations. No Lot shall be occupied or used by or for any structure or purpose which is contrary to the zoning regulations of Elbert County, Colorado.

2. Residential Lots. All Lots shall be residential tracts.

3. Business Uses. No commercial business of any kind shall be permitted in the Subdivision.

4. Signs. One "For Rent" or "For Sale" sign no larger than 20 x 26 inches shall be permitted. One entrance gate sign of a style and design as approved by the Committee shall be permitted. Otherwise, no advertising signs, billboards, unsightly objects or nuisances shall be erected, altered, or permitted on any Lot.

5. Animals. No animals will be reared or bred on any Lot for commercial purposes, and:

A. Household pets will be allowed. However, no more than two of any one kind of animal will be allowed without approval of the Committee.

B. No more than two horses per Lot will be allowed without the approval of the Committee, with the exception of Lot 1 on which no more than five horses will be allowed without the approval of the Committee, and all horses on each Lot shall be kept corralled in an area not exceeding one acre. Horses may be allowed to graze and pasture on a Lot for grass and weed control, but all horses must be fed supplementarily and kept corralled, because this type land requires at least 15 acres per year to feed each horse and the Subdivision is not capable of supporting extended grazing without damage to the natural grass and vegetation.

C. Pigs, goats and stallions are expressly prohibited in the Subdivision.

D. Other animals will be allowed only with the approval of the Committee.

6. Resubdivision. No Lot shall be resubdivided into smaller tracts or Lots nor conveyed or encumbered except as permitted on the plat of the Subdivision; however, conveyances or dedications of easements for utilities or private lanes or roads may be made for less than all of one Lot.

7. Combining Tracts. If two or more contiguous Lots are owned by the same party or parties, they may be combined into one or more residential tracts larger than a Lot by means of a written document, executed and acknowledged, approved by the Committee and recorded in the real property records of Elbert County, Colorado. Thereafter, the new and larger tracts shall each be considered as one Lot for the purpose of these covenants.

8. Service Yards. Clotheslines, swimming pool filter tanks, fuel oil tanks and similar tanks, service equipment, trash, wood-piles or storage areas shall be screened by planting or fencing to conceal them from view of neighboring Lots, drives and roads. Protective enclosures to screen the above must be approved by the Committee as a part of the plans for the improvements to be located on the Lot. All refuse and trash shall be removed from all Lots and shall not be allowed to accumulate nor be burned in the Subdivision.

9. Underground Utility Lines. All water, gas, electric, telephone and other utility lines within the limits of the Subdivision must be underground and may not be above ground, except for transformers, meters or light standards.

10. Gardens and Lawns. A family garden, not to exceed 1,000 square feet, is permissible, but no additional ground shall be used for farming purposes, and, in order to preserve the natural environment, the aggregate area of garden and lawn on each Lot shall not exceed one acre.

11. Fencing. All fences on road frontages must be of wood construction approved by the Committee. Fencing on all other boundaries must be of new construction. Wire may be woven or barbless. If barbless, a minimum of four strands must be used. Posts must be spaced a maximum of one rod. No electrical fences along Lot boundaries will be permitted.

12. Buildings. No buildings or other structures shall be placed, erected, altered or permitted to remain on any Lot other than:

- A. One detached single-family dwelling house;
- B. An attached or detached garage; and
- C. A service-type barn or stable.

13. Construction. At the time plans and specifications receive approval, the prospective builder shall proceed diligently with the construction of the dwelling house and garage, and the same shall be

completed within a maximum period of nine months, except that this period may be enlarged by an additional three-month period if said extension is made necessary by reason of inclement weather, inability to obtain materials, strikes, acts of God, etc. The exterior construction of all buildings must be completed, including treating or painting of wood, before occupancy. No building material shall be stored on any lot for a period of longer than ninety (90) days unless substantial construction is actually in progress.

14. Dwelling Size. The principal dwelling shall have a minimum fully enclosed ground area devoted to living purposes, exclusive of porches, terraces, and garage of 1400 square feet, except that where the said principal dwelling is a 1½- or 2-story dwelling, the minimum may be reduced to 1200 square feet of ground floor area, provided that the total living area of the 1½- or 2-story is not less than 1600 square feet. A tri-level dwelling shall have a minimum of 1400 square feet of finished living area on the two upper levels.

15. Landscape. No trees shall be cut or removed, except those which must be removed for access to the property, for the erection of buildings, or those which become diseased or dead, or require thinning to maintain good growth. Each and every lot owner shall dispose of all trees cleared by him in such a manner that all Lots shall be kept free of accumulations of brush, trash or other materials which may constitute a fire hazard or render a Lot unsightly.

16. Used or Temporary Structures. No temporary structure, mobile home, camper trailer, bus or other similar vehicle shall be occupied or used as a residence or for housing purposes within the subdivision.

17. Exterior Lighting. All exterior lighting and standards shall be approved by the Committee.

18. Off-Street Parking. Each dwelling house shall be constructed with adequate off-street parking area for at least two automobiles. No parking shall be allowed within the road right-of-way.

19. Garbage Disposal, Sanitary Systems and Water Systems. Each dwelling or structure containing a kitchen shall be equipped with a garbage disposal unit. No sewage disposal system shall be constructed, altered, allowed to remain or be used unless fully approved as to design, capacity, location and construction by all proper public health agencies of Colorado, Elbert County and the Committee.

20. Foundation, Cinderblock and Concrete. No foundation cinderblock or concrete shall be exposed. Facing must be of wood, brick or stone. No artificial stone facing or any other manufactured product of this nature shall be allowed without the approval of the Committee.

21. New Construction. Only new construction will be allowed. No used buildings will be allowed.

22. Metal Buildings. No corrugated type metal buildings will be allowed. Other metal buildings that, through their appearance, enhance the environmental surroundings will be allowed with the approval of the Committee. No converted mobile homes may be used as basic structures.

23. Fireplaces, Chimneys and Barbecues. All fireplaces, chimneys and barbecues shall be equipped and maintained with spark arresting screens.

24. Driveways. Culverts shall be a minimum of 15 inches in diameter or that allowed for merging driveways into County approved roads and across road borrow pits.

25. Land Uses. No improvements nor any activity shall be permitted on any Lot which is or might become a nuisance to adjoining

Lots. No open fires will be permitted and no hunting will be permitted within the Subdivision.

26. Vehicles and Machinery. No inoperative vehicles or machinery shall be placed and remain on a Lot for more than 48 hours unless parked in a garage.

27. Oil and Mineral Operations. No oil drilling or development operations, oil refining or quarrying or mining operations of any kind shall be permitted upon any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot. No derrick or other structure designed for use in drilling for oil or natural gas shall be erected, maintained or permitted on any Lot.

28. Single Family. Single family shall mean one head of household and his legal dependents. Multiple families in one dwelling are expressly forbidden.

29. Setback. No structure shall be located on a building lot nearer than 100 feet to the front Lot line or nearer than 50 feet to an interior Lot line or rear Lot line.

#### ARTICLE VI - EASEMENTS

1. Utility Easement. TPL hereby reserves to itself, and its successors and assigns, perpetual easements across, over, along and under the areas so designated on the recorded plat of the subdivision as utility easements for the purpose of construction, maintenance, operating, replacing, enlarging and repairing power, telephone, water, irrigation, storm drainage, sewer, gas, and similar lines, pipes, wires, ditches and conduits.

2. Irrigation and Drainage Easements. TPL hereby reserves to itself, and its successors and assigns, perpetual easements across the land in the Subdivision along all drainage swales and ditches presently in existence or hereafter constructed or confined with the consent of the owners of Lots across which the water flows for the purpose of constructing, maintaining and operating ditches for proper drainage of all Lots. TPL similarly reserves to itself and its successors and assigns, the right to go on all such Lots at all reasonable times, for the purposes of preserving and maintaining the natural beauty.

#### ARTICLE VII - ENFORCEMENT

1. Enforcement. The Committee shall have the right to prosecute any action to enforce the provisions of all of these covenants by injunction, on behalf of itself and all or part of the owners of Lots. In addition, each such owner shall have the right to prosecute for an injunction and for damages, actual and punitive, by reason of any violation or threatened violation of these covenants.

2. Limitation. In the event any construction, alteration or landscape work is commenced upon any Lot in violation of these covenants, and no action is commenced within 60 days thereafter to restrain such violation, then injunctive or equitable relief shall be denied, but an action for damages shall still be available to any party aggrieved. Said 60-day limitation shall not apply to injunctive or equitable relief against other violations of these covenants.

#### ARTICLE VIII - GENERAL PROVISIONS

1. Severability. Should any part of these covenants be declared invalid or unenforceable by any court of competent jurisdiction,

such decision shall not affect the validity of the remaining parts of these covenants.

2. Effect and Duration. The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each Lot, and all owners thereof, and their heirs, devisees, personal representatives, successors and assigns, and shall continue in full force and effect until January 1, 1999, at which time they shall be automatically extended for successive terms of 10 years each, unless an instrument executed by the then owners of at least 2/3 of the Lots has been recorded agreeing to change the same in whole or in part.

3. 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 2/3 of the Lots.

4. Application. These Covenants shall not apply to any improvement now on or condition now existing with respect to any Lot, but shall apply to all alterations and changes in any such improvement or condition.

Executed as of October 3, 19 73.

THE PINES, LTD.

Robert L. Hier  
Robert L. Hier, Partner

Frank W. Christensen  
Frank W. Christensen, Partner

Jack K. Crall  
Jack K. Crall

STATE OF COLORADO )  
                                  ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 3rd day of October, 1973, by Robert L. Hier, Frank W. Christensen and Jack K. Crall.

Witness my hand and official seal.



Bonnie A. Hargis  
Notary Public