

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
OAKHURST SOUTH
(A P.U.D.)

THIS DECLARATION is made this 12th day of August, A.D., 1976 by DIMENSIONS II, INC., a Colorado Corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situate in the City of Glenwood Springs and County of Garfield, State of Colorado, which is more particularly described on Exhibit "A", attached hereto and incorporated by reference herein, and desires to create thereon a residential community with permanent green areas, open spaces, and other common facilities for the benefit of said community; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said green areas, open spaces, and other common facilities; and to this end, desires to subject the real property described on Exhibit "A" to the covenants, restrictions, easements, charges, and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant deems it desirable for the efficient preservation of the values and amenities in said community, to create an entity to which to delegate and assign the powers of maintaining and administering the common areas and facilities, and for administering and enforcing the covenants, restrictions, assessments, and charges hereinafter created; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of Colorado, the OAKHURST SOUTH TOWNHOME ASSOCIATION, INC., a non-profit corporation, for the purpose of exercising the functions aforesaid.

NOW, THEREFORE, Declarant hereby declares that all of the real property described on Exhibit "A" shall be held, transferred, devised, given, sold, and conveyed subject to the following easements,

restrictions, liens, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. That these easements, covenants, restrictions, liens, covenants, and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall be a burden upon and inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to THE OAKHURST SOUTH TOWNHOME ASSOCIATION, INC., a Colorado Corporation, not for profit, its successors and assigns.

Section 2. "Property or Properties" shall mean and refer to that certain real property described on Exhibit "A" and such additions thereto, if any, as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean and refer to all of the 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 on Exhibit "B", attached hereto and incorporated by reference herein.

Section 4. "Lot" shall mean and refer to any of the numbered plots of land shown on the Plat of the Properties, title to which is or will be conveyed in fee simple by reference to the numbered plots as shown upon any recorded plat of the Properties, with the exception of the Common Area, as hereinabove defined.

Section 5. "Member" shall mean and refer to every person or entity, including Declarant, who holds membership in the Association.

Section 6. "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 Declarant and contract sellers, but excluding those having such interest merely as security for the performance of an obligation (i.e. a mortgagee).

Section 7: "Declarant" shall mean and refer to DIMENSIONS II, INC., a Colorado Corporation, its successors, assigns, and transferees

if such heirs, legal representatives, transferees or assigns acquire more than one undeveloped lot for the purpose of development.

Section 8. "Plat" shall mean the Plat of OAKHURST SOUTH SUBDIVISION, City of Glenwood Springs, recorded October 23, 1975, ~~XXXXXX~~ under Reception No. 269910 ~~XXXXXXXXXXXXXXXXXXXX~~ of the records of the Clerk and Recorder of Garfield County, State of Colorado, and any other amended, supplemental or additional plats or filings thereof designating lots.

Section 9. "Townhome" shall mean and refer to a residential dwelling unit constructed upon any of the lots shown upon any recorded plat of the Properties.

Section 10. "Yard" shall mean and refer to any portion of a Lot which is not occupied by a Residence.

Section 11. "Mortgage" shall mean any mortgage, deeds of trust or other document pledging a lot as security for the payment of a debt or obligation.

Section 12. "Mortgagee" shall mean any person, corporation, partnership, trust, company or other legal entity which takes, holds, owns, or is secured by a mortgage.

ARTICLE II

Membership

Every Owner shall be a member of the Association. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of a Lot shall be the sole qualification for membership.

ARTICLE III

Voting Rights

Section 1. The Association shall have two classes of voting membership.

Class A. Class A members shall be all of the Owners with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest. When more than one person holds an interest in any Lot, all such persons shall be members; provided, however, that the vote for such Lot shall be exercised as the several Owners among themselves determine, but in no

event, shall more than one vote be cast with respect to any one Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which they hold interest, provided that the Class B membership shall cease and be converted into Class A membership on the happening of either of the following events, whichever occurs first:

(a) When the total votes outstanding in Class A membership equals the total votes outstanding in Class B membership; or

(b) December 31, 1978.

ARTICLE IV

Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot; provided, however, that such right and easement of enjoyment in and to the Common Area shall be subject to the following:

(a) The right of the Association to limit the number of guests of an Owner on the Common Areas and to the facilities, if any, located thereon;

(b) The right of the Association to collect money upon a cost basis for the use of recreational facilities, if any, situated upon the Common Area;

(c) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage or grant other security interests in the Common Area; provided, however, that the rights of any mortgagee shall be subject to the rights of the members while any mortgage or note is current and not in default, and further provided that no funds may be borrowed unless two-thirds (2/3) of the Owners agree to such action, and an instrument reflecting such agreement is recorded with the Clerk and Recorder of Garfield County, State of Colorado, and no portion of the Common Areas may be mortgaged or encumbered to secure such borrowing without the consent of two-thirds (2/3) of the Owners and not less than seventy-five percent (75%) of the First Mortgagees of Lots within the Properties

(based upon one vote for each mortgage owned), which consent shall be evidenced by an instrument reflecting the same recorded with the Clerk and Recorder of Garfield County, State of Colorado;

(d) The right of the Association to suspend the voting rights and right to use of the recreational facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid; and the right of the Association to suspend the voting and right to use of the recreational facilities by an Owner for a period not to exceed thirty (30) days from any infraction of its published rules and regulations;

(e) The right of the Association to dedicate, sell 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 and first mortgagees. No such dedication or transfer shall be effective unless two-thirds (2/3) of the Owners, and not less than seventy-five percent (75%) of the first mortgagees of each Lot within the Properties (based upon one vote for each mortgage) agree to such action and an instrument reflecting such agreement is recorded with the Clerk and Recorder of Garfield County, State of Colorado;

(f) The right of Declarant to use so much of the Common Area as it may deem necessary or advisable for the purpose of aiding in the construction and development of the unimproved Lots and Common Area, and the maintenance and repair of the same; provided, however, that such use may neither unreasonably interfere with an Owner's use and access to the Common Area, nor with an Owner's right of ingress and egress to his residence;

(g) The right of the Association to set hours for the use of recreational facilities, if any, located on the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, 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. Declarant hereby covenants for itself, its successors and assigns, that it will convey title to the Common Area by one or more deeds to the Association, prior to the conveyance of the first Lot shown on the Plat, free and clear of all liens

and encumbrances, except: real estate taxes for the year in which the conveyance occurs and easements, rights of way, reservations, agreements, and restrictive covenants of record.

Section 4. Alienation of Common Area. Except as hereinabove provided, the Common Area shall not be sold, abandoned, subdivided, hypothecated, transferred or otherwise encumbered by the Association without the written consent and approval of not less than eighty percent (80%) of the first mortgagees of the Lots within the Properties (based upon one vote for each Mortgage).

ARTICLE V

Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligations of Assessments. Declarant, for each Lot owned within the Properties and each Owner of any Lot hereinbefore described, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges; and
- (b) Special assessments for capital improvements.

The annual and special assessments, together with such interest thereon and costs of collection, including reasonable attorney fees, as hereinafter provided, shall be a charge on his Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney fees shall also be the personal obligation of the person who was the owner of such Lot at the time when the assessment fell due; provided, however, that the personal obligation for delinquent assessments shall not pass to his successor in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association, through its Board of Directors, shall be used exclusively for the purposes of promoting the recreation, health, safety, and welfare of the residents on the Property; for the maintenance, repair, and upkeep of the Common Area; for the repairing, reconstructing, replacing, and maintaining of driveways, roads, sidewalks, footpaths, utilities, landscaping, recreational facilities, parking areas, and any other maintenance obligation which may be deemed necessary by the Association for

the common benefit of the Owners, or the maintenance of property values, or which may be incurred by virtue of agreement with or requirement of the City, County or other governmental authorities. The assessments shall further be used to provide adequate insurance of all types, and in such amounts deemed necessary by the Board of Directors with respect to the Common Area and public ways. Also, a portion of the annual assessments, which are payable monthly, shall be used to provide an adequate reserve fund for the replacement, repair, and maintenance of those elements of the Common Area which must be replaced on a periodic basis, and the Board of Directors shall be obligated to establish such reserve fund.

Section 3. Basis and Payment of Annual Assessments.

(a) The annual assessments with respect to each Lot shall be estimated by the Board of Directors prior to the conveyance of the first Lot and shall be payable in equal monthly installments; provided, however, that until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Dollars (\$300.00) per Lot.

(i) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(ii) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose.

(iii) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(b) Monthly installments of annual assessments shall be payable on or before the 10th day of each month, but shall be and become a lien as of the date of the annual assessment as hereinafter provided. Written notice of the annual assessment shall be sent to every Owner immediately following the assessment date. The Association shall upon demand of any Owner, prospective purchaser, mortgagees

and prospective mortgagees 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 certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments 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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent to two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose. For purposes of this Section, the repair, maintenance or replacement of roads and utility lines, including but not limited to gas, water, sewer, telephone, and electric shall be considered capital improvements.

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 ten (10) days 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 sixty percent (60%) 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 preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Date of Commencement of Annual Assessments. Due Date. The annual assessments provided for herein shall commence as to each lot on the first day of the month following the conveyance of the first Lot. The first annual assessment shall be adjusted according to the number of months and days remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner

Subject thereto.

Section 7. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots.

Section 8. Effect of Nonpayment of Assessments--Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If an assessment installment is not paid within thirty (30) days after the due date, said assessment installment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may assess a Five Dollar (\$5.00) per month late charge. The Association may bring an action at law against the Owner personally obligated to pay the delinquent installments. In addition to such action or as an alternative thereto, the Association may file with the Clerk and Recorder of Garfield County, wherein the property is situated, a Statement of Lien with respect to the property, setting forth the name of the Owner, the legal description of the property, the name of the Association, and the amount of delinquent assessments then owing, which Statement shall be duly signed and acknowledged by the President or a Vice-President of the Association, and which shall be served upon the Owner of the property by Certified Return Receipt Requested, mailed to the address of the property or at such other address as the Association may have in its records for the Owner of the Property. Thirty (30) days following the mailing of such notice, the Association may proceed to foreclose the Statement of Lien in the same manner as provided for the foreclosure of mortgages on real property under the statutes of the State of Colorado. In either a personal or foreclosure action, the Association shall be entitled to recover as a part of the action, delinquent interest, late charges, costs and reasonable attorney fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust, and to any executory land sales contract owned, guaranteed or insured by the Veterans Administration. Sale or transfer of any Lot shall not affect the assessment

lien. However, the sale or transfer of any Lot as a result of court foreclosure of a mortgage, foreclosure through the Public Trustee, or any proceeding in lieu of foreclosure, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer, but shall not relieve any former Owner of personal liability therefor. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property, subject to this Declaration, shall be exempt from the lien for assessments created herein:

(a) All properties dedicated to and accepted by a local public authority; and

(b) The Common Area.

Section 11. Notice to Mortgagee. Upon request of a First mortgagee of any Lot, the Association shall report to such First mortgagee any unpaid assessments or other defaults under the terms of this Declaration which are not cured by said mortgagee's mortgagor within thirty (30) days; provided, however, that a mortgagee shall have forwarded to the Association notice of its encumbrance.

ARTICLE VI

Party Walls

Section 1. Party Wall Easements. Mutual reciprocal easements are hereby established, declared, and granted for all party walls between improvements constructed or to be constructed on Lots, which reciprocal easements shall be for mutual support, and shall be governed by this Declaration. Every Deed, whether or not expressly so stating, shall be deemed to convey and to be subject to such reciprocal easements.

Section 2. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhome upon the Property and placed on the dividing line between the Lots 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 of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 3. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of any party wall shall be borne

equally by the Owners on either side of the party wall. If one of the Owners who uses the wall refuses to pay his proportionate share of the cost of repair or maintenance, then the other Owner may cause the party wall to be repaired and shall be entitled to assess the cost attributable against the non-paying adjoining Owner's Lot, and the same shall become and remain a lien against said Lot until fully paid. Said lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage on real property.

Section 4. 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, without prejudice, however, to the right of any such Owners to call for a larger contribution from the other Owners under any rule of law regarding liability for negligent or willful acts or omissions. If one Owner causes the wall to be restored and any other Owner uses the party wall and does not contribute to the costs of the wall's restoration, the Owner who caused the wall to be restored shall be entitled to assess the cost attributable against the non-paying adjoining Owner's Lot, and the same shall become and remain a lien against said Lot until fully paid. Said lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage on real property.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an 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 6. The cost of reasonable repair and maintenance of the common roof and foundation of any improvement constructed on two or more lots shall be borne equally by the Owners of the Lots upon which said improvement is constructed. If one of the Owners refuses to pay his proportionate share of the costs of repair or maintenance, the other Owner may cause the roof or foundation to be repaired and shall be entitled to assess the cost attributable against the non-paying adjoining Owner's property; and the same shall become and remain a lien against said property until fully paid. Said lien may be foreclosed in the manner provided by law for the foreclosure of a mortgage on

real property.

Section 7. Right to Contribute 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 Owner's successors in title.

Section 8. Arbitration. In the event any dispute arising concerning a party wall or under the provisions of this Article, such dispute shall be settled by arbitration. Each party shall choose one (1) arbitrator and such arbitrators shall choose one (1) additional arbitrator and these individuals shall act as a Board of Arbitration; and the decision in reference to said dispute shall be by a majority vote of the Board of Arbitrators after a factual hearing.

ARTICLE VII

Architectural Control

Section 1. Review of Plans. No building, fence, wall, canopy, awning, other structure or improvement shall be commenced, erected, altered, moved, removed, painted, repainted, stained, restained, or maintained upon the Properties, nor shall any exterior addition to, or change or alteration thereof be made until the plans and specifications showing the nature, kind, shape, height, materials, colors 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, through an architectural control committee composed of three (3) or more representatives appointed by the Board.

Section 2. Architectural Control Committee. The Architectural Control Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the properties conform to and harmonize with existing surroundings and structures.

Section 3. Procedures. The Architectural Control Committee shall approve or disapprove all plans and requests within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within thirty (30) days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with.

Section 4. Majority Vote. A majority vote of the Architectural Control Committee is required for approval or disapproval of proposed amendments.

Section 5. Written Records. The Architectural Control Committee shall maintain written records of all applications submitted to it and of all actions it may have taken.

Section 6. No Liability. The Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within the Properties by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such requests.

Section 7. Reservation of Right to Exercise by Declarant. Notwithstanding any other provision expressly or impliedly to the contrary contained in this Declaration, the Articles of Incorporation or By-Laws of the Association, Declarant reserves the right to exercise the rights, duties and functions of the Association's Architectural Control Committee until such time as all of the Lots situated on the Property subject to this Declaration have been sold by Declarant.

ARTICLE VIII

Exterior Maintenance

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance and exterior repair upon each Townhome, constructed on a lot, as follows: paint or stain; repair, replacement and care of roofs, gutters, downspouts; and repair of exterior building surfaces; repair and maintenance of common utility lines to the point at which said lines enter an individual Townhome; planting and maintaining trees, shrubs, grass, walks and other exterior improvements, provided, however, that the Association shall not be responsible for the planting and maintaining of trees, shrubs, grass, gardens, or ornamental landscaping within the yard area on any Lot. Such exterior maintenance shall not include the maintenance and repair of entry doors and frames, or glass in sliding glass doors and windows which shall be the sole responsibility of the Owner. Determination of whether such repair or maintenance is the obligation of the Association shall rest solely with the Association, which shall also have sole responsibility for determining the kind and type of materials used in such repair and maintenance.

If the need for maintenance or repair is caused through the willful or negligent act of any Owner, his agent, family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Owner's lot is subject.

ARTICLE IX

Use Restrictions

Section 1. The use of the Common Area, Lots and improvements thereon shall be subject to the restrictions set forth in Article IV, Section 1, and to those restrictions hereinafter set forth.

Section 2. The use of the Common Area shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association or the Association.

Section 3. No use shall be made of the Common Area which would in any manner violate the statutes, rules, regulations, orders or decrees of any court or governmental authority having jurisdiction over the Common Area.

Section 4. No Owner shall place any structures upon the Common Area, nor shall any Owner do any act which would temporarily or permanently deny free access to any part of the Common Area to any or all Owners.

Section 5. No use shall ever be made of the Common Area which will deny ingress and egress to those Owners having access to Lots only over Common Area and the right of ingress and egress to said Lots is hereby expressly granted.

Section 6. The Property is hereby restricted to residential dwellings for residential use and uses related to the convenience and enjoyment of such residential use. All buildings or structures erected upon the Property shall be of new construction, and no buildings or structures shall be moved from other locations onto the Property. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding, shall be used on any portion of the Property at any time as a residence either temporarily or permanently.

Section 7. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or

maintained for any commercial purpose. All household pets shall be controlled by their Owner and shall not be allowed in or on the Common Area or any facility located thereon except when properly leased. Each Owner of a household pet shall be financially responsible and liable for any damage caused by said household pet.

Section 8. No advertising sign (except one of not more than five square feet and containing the words "For Sale" or "For Rent" per Lot), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Common Area or any Lot. Further, no business activities of any kind whatever shall be conducted on any Lot or in any portion of the Property. Notwithstanding the above, the foregoing prohibitions shall not apply to the business activities, signs and billboards of the Declarant, its agents and assigns, during the construction and sale period, and to the Association, its successors and assigns, acting in furtherance of its powers and for the purposes as herein set forth.

Section 9. All equipment, garbage cans, service yards, wood piles or storage piles shall be kept within the yard in the area provided for the same so as to conceal them from view of neighboring Lots and streets. All rubbish, trash, or garbage shall be regularly removed from the Lots, and shall not be allowed to accumulate thereon. No clotheslines shall be permitted on any Lot or in the Common Areas.

Section 10. Except in the individual yards, no planting, or gardening shall be done; and no fences, hedges, walls, balconies or additions to the improvements situated upon a Lot shall be erected or maintained except as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Architectural Control Committee. It is expressly acknowledged and agreed by all parties concerned that this prohibition is for the mutual benefit of all Owners of Lots and is necessary for the protection of said Owners.

Section 11. 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, except as may be approved, in writing, by the Association's Architectural Control Committee.

Section 12. No boat, camper, trailer, truck, recreational vehicle or other vehicle of a similar type or nature shall be parked or stored in or on any street or Common Area within this project.

Such vehicles shall only be stored or parked in those areas of this project, if any, designated for storage or parking of such vehicles by the Association's Board of Directors.

Section 13. Damage to any portion of the Common Areas and improvements located thereon caused by an Owner or his family or guests shall be paid for by said Owner. The term "damage" shall not include ordinary wear and tear.

Section 14. The Owner of any Lot shall not suffer or permit any noxious or offensive activity to be conducted, carried on or practiced on his Lot or within his Townhome, or the Common Area that will constitute an annoyance to the neighborhood or other Lot owners, constitute nuisance as provided by law, or that will detract from the residential value, reasonable enjoyment and quality of the Properties.

Section 15. Any Owner who leases his Lot or the improvements constructed thereon shall be required to provide in his Lease that the terms of the Lease shall be subject in all respects to the provisions of this Declaration, the Association's Articles of Incorporation and By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the Lease. All leases shall be required to be in writing.

Section 16. Damage to any portion of the Common Areas and improvements located thereon caused by an Owner or his family or guests shall be paid for by said Owner within thirty (30) days after receipt of a bill from the Association. If said sum is not paid within said thirty (30) day period, then the Association shall be entitled to collect the same in the manner provided for in Article V, Section 8 of this Declaration. The term "damage" shall not include ordinary wear and tear.

ARTICLE X

Easements

Section 1. Common Area. The easements over and across the Common Area shall be those shown, or provided for, upon the recorded Plat, and such other easements as may be established pursuant to the provisions of this Declaration of Covenants, Conditions and Restrictions. Further, each Owner is hereby granted an easement for pedestrian and vehicular ingress and egress on, over and across the fire access and utility easement shown on the Plat.

Section 2. Encroachments. Each Lot and the Common Area shall be subject to an easement for encroachment of Townhomes onto adjoining Lots or the Common Area or encroachment of the Common Area onto any Lot; overhangs, as designed or constructed, by the Declarant; and for any encroachments occurring thereafter as a result of settling or shifting of any structure. A valid easement shall exist for said encroachments and overhangs and for their maintenance, repair and replacement. If any Townhome is partially or totally destroyed, and then rebuilt, the Owners of Lots agree that minor encroachments of parts of construction onto adjacent Lots or the Common Area due to the reconstruction shall be permitted and that a valid easement for such overhangs and encroachments and the maintenance thereof shall exist.

Section 3. Utilities. There is hereby created a blanket easement upon, across, over and under the Common Area for installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewer, gas, telephone, electricity and master television antenna system, if any. By virtue of this easement, it shall be expressly permissible for the providing utility companies to erect and maintain the necessary equipment on the Property and to affix, repair and maintain water and sewer pipes, gas, electric and telephone wires, circuits, conduits and meters.

Section 4. Easement for Association. Each Lot and the Common Area shall be subject to an easement in the Association (including its agents, employees and contractors) for providing maintenance as provided for herein.

ARTICLE XI

Insurance

Section 1. Insurance to be Maintained by Owners. Insurance coverage on the improvements constructed on each Lot, and public liability insurance coverage within each Townhome and upon each Lot shall be the responsibility of the Owner thereof.

Section 2. Insurance on Common Area. The Association shall maintain insurance covering all improvements located or constructed upon the Common Area. The Association shall maintain the following types of insurance on the improvements located on the Common Area:

A. A policy of property insurance in an amount equal to the full replacement value (i.e., 100% of current "replacement cost" exclusive of land, excavation and other items normally excluded from

coverage) of the improvements located on common areas with an "Agreed Amount Endorsement" or its equivalent, a "Demolition Endorsement" or its equivalent, and if necessary, an "Increased Cost of Construction Endorsement" or "Contingent Liability from Operating of Building Laws Endorsement" or the equivalent, such insurance to afford protection against at least the following:

(1) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief, windstorm and water damage; and

(2) such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

B. A comprehensive policy of public liability insurance covering all of the common areas insuring the Association in an amount not less than \$1,000,000.00 covering all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hire automobile, liability for property of others, and, if applicable, garagekeeper's liability, host liquor liability and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use.

C. The Association shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of such Association and all others who handle or are responsible for handling funds of the Association. Such fidelity bonds shall meet the following requirements.

(1) all such fidelity bonds shall name the Association as an obligee; and

(2) such fidelity bonds shall be written in an amount equal to at least 150% of the estimated annual operating expenses of the planned unit development project, including reserves; and

(3) such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

D. All such policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a member of the Association and shall provide that

the policies may not be cancelled or substantially modified without at least ten (10) days prior written notice to all insureds, including the mortgagees of any Lot. Duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to any first mortgagee of any Lot upon written request. The insurance shall be carried in blanket forms naming the Association as the insured, as trustee for each of the Owners.

Section 4. Reappraisal. The Association shall, at least every year obtain an appraisal for insurance purposes which shall be maintained as a permanent record, showing that the insurance in any year represents one hundred percent (100%) of the full replacement value of the improvements on each Lot and of the insurable Common Area.

Section 5. Notice of Damage. The Association shall notify each first mortgagee of a Lot wherever: (1) damage to any improvement on a Lot which exceeds \$1,000.00 and (2) damage to the Common Areas and the improvements situated thereon which exceeds \$10,000.00. Said notification shall be delivered within twenty (20) days after the event causing the damage.

ARTICLE XII

Damage or Destruction

Section 1. Destruction of Improvements on Lot.

A. In the event of damage or destruction to a Townhome due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the Townhome, shall be applied by the Owner to repair and reconstruction of the Townhome. "Repair and reconstruction" of the Townhome, as used herein, means restoring the improvements to substantially the same condition in which they existed prior to the damage.

B. If the insurance proceeds are insufficient to repair and reconstruct any damaged Townhome, such damage or destruction shall be promptly repaired and reconstructed by the Owner.

C. The Owner and first mortgagees of any or all of the destroyed or damaged Townhome may agree that the destroyed or damaged Townhome shall forthwith be demolished and all debris and rubble caused by such demolition be removed and the Lot(s) regraded and landscaped to the satisfaction of the Architectural Control Committee of the Association. The cost of such landscaping and demolition work

shall be paid for by any and all insurance proceeds available.

Section 2. Damage to Common Area. In the event of damage or destruction to all or a portion of the Common Area due to fire or other disaster, the insurance proceeds if sufficient to reconstruct or repair the damage, shall be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Area damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Areas, the Association shall present to the members a notice of a special assessment for approval by the membership in accordance with Article V, Section 4. If such assessment is approved, the Association shall make such assessment and proceed to make such repairs or reconstruction. If such assessment is not approved, the insurance proceeds may be applied in accordance with the wishes of the membership as expressed by majority vote, except that the proceeds shall not be distributed to the Owners, unless made jointly payable to Owners and the first mortgagees of their respective Lots, if any. The assessment as to each Owner and Lot shall be equal to the assessment against every other Owner and Lot. Such assessment shall be due and payable as provided by resolution of the Board of Directors, but not sooner than thirty (30) days after written notice thereof. The assessment provided for herein shall be a debt of each Owner and a lien on his Lot and the improvements thereon and may be enforced and collected by foreclosure proceedings in the courts.

ARTICLE XIII

Condemnation

Section 1. Condemnation. If at any time or times during the continuance of ownership pursuant to this Declaration all or any part of the Common Areas shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

(a) Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award" shall be payable to the Association.

(b) Complete Taking.

(1) In the event that all of the Common Areas are taken or condemned, or sold or otherwise disposed of, in lieu of or in

avoidance thereof, the Condemnation Award shall be apportioned among the Owners equally and payment of said apportioned amounts shall be made payable to the owner and the first mortgagee of his lot jointly.

(2) On the basis of the principal set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the Condemnation Award to which each Owner is entitled.

(c) Partial Taking. In the event that less than the entire Common Area is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall first be applied by the Association to the rebuilding and replacement of those improvements on the Common Area damaged or taken by the condemning public authority, unless seventy-five percent (75%) of the Owners and the first mortgagees of each lots agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement, shall be used by the Association for the future maintenance of the Common Area and exterior maintenance of the Townhomes situated on each Lot.

ARTICLE XIV

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 rights hereunder shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. 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 representatives, 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

and at all times by not less than seventy-five percent (75%) of the first mortgagees (based upon one vote for each mortgage). Any Amendment must be recorded.

Section 3. VA Approval. In the event that any Mortgage on any Lot is guaranteed or insured by the Veterans Administration, then as long as there is a Class B membership, the following actions will require the prior approval of the Veterans Administration: Annexation of additional properties; dedication of the Common Area; and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 4. Declarant's Easements. Anything to the contrary herein notwithstanding, Declarant hereby reserves an easement and right of way over all Common Area and Lots not conveyed for its use for the purpose of constructing improvements, utilities, and other matters, including the right to erect temporary buildings to store any and all materials. Declarant further reserves the right to use any completed structure for the purpose of a sales office or model home for demonstration purposes. This easement shall cease when Declarant has conveyed the last lot.

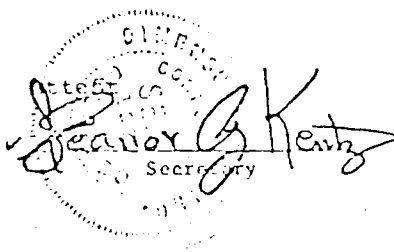
Section 5. Professional Management. This Project may be managed by a Professional Real Estate Management Company licensed to do business in the State of Colorado and the Association's Board of Directors shall be allowed to retain the services of such a company, provided that the term of any such contract shall not be in excess of two (2) years and shall be terminable on thirty (30) days written notice.

Section 6. 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.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein has hereunto set its hand and seal this 12th day of August, A. D., 1976.

DIMENSIONS II, INC., a Colorado Corporation

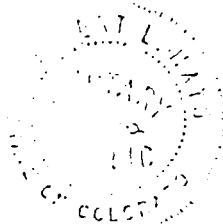
By: C. E. Kentz - Pres.
President



STATE OF COLORADO)
COUNTY OF GARFIELD)ss

The foregoing instrument was acknowledged before me this
13th day of August, 1976 by C. E. Kentz as President and Eleanor
Z. Kentz as Secretary of Dimensions II, Inc., a Colorado Corporation.

My Commission expires: July 15, 1979



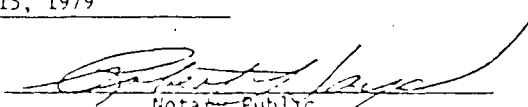

Notary Public

EXHIBIT "A"

Oakhurst South Subdivision, City of Glenwood Springs, in accordance
 with the Plat thereof recorded October 23, 1975, ^{under Reception No. 269910} ~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXX~~ Garfield County Records, County of Garfield, State of Colorado.

EXHIBIT "B"

Oakhurst South Subdivision, City of Glenwood Springs, in accordance
 with the Plat thereof recorded October 23, 1975 ^{under Reception No. 269910} ~~XXXXXX~~
~~XXXXXX~~ Garfield County Records, County of Garfield, State of Colorado,
 except Lots 1 through 34, inclusive.