

MAY 1 1979

EARL J. PETER, RECORDER

BOOK 1198 PAGE 282

DECLARATION OF CONVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Village Nine, Ltd., a limited partnership, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Mesa, State of Colorado, which is more particularly described as:

VILLAGE NINE SUBDIVISION FILING 3

As per plat recorded in Book 12 at Page 153 in the office of the Clerk and Recorder of Mesa County, hereinafter referred to as the "Properties".

NOW THEREFORE, Declarant hereby declares that all of the Properties 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. "Committee" shall mean and refer to Architectural Control Committee, 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 hereinbefore described.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" shall mean and refer to Village Nine, Ltd., a limited partnership, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change of 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 Architectural Control Committee. In the event said 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 III

GENERAL PROVISIONS

Section 1. Enforcement. The Committee or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and chargee now or hereafter imposed by the provisions of this Declaration. Failure by the Committee or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the 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 way 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, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Use of Sites.

- A. Use of Lots is restricted to high quality dwellings. No store, office or other place of business of any kind and no hospital, sanitorium, or other place for the care or treatment of the sick or disabled, physically or mentally, nor any

theater, saloon or other place of entertainment, nor any church, club, fraternal association or other association normally or regularly involving the gathering of people in groups larger than the family will be erected or permitted upon the Lots, and no business of any kind or character whatever shall be conducted thereon or in or from any building thereon.

- B. The following location restrictions shall apply: Property line set backs shall be as shown on the Plan for Village Nine Subdivision Filing 3 recorded as Reception # 1190207 in the office of the Clerk and Recorder of Mesa County.
- C. No elevated tanks of any kind (oil, gas, water, etc.) will be permitted at Village Nine.
- D. Clotheslines, equipment, garbage cans, service yards, or storage areas shall be adequately screened by planting or construction. No structure shall be erected, altered, placed or permitted on the Lot which exceeds 25 feet in height from the highest finished grade line immediately adjoining the foundation or structure. No radio, short wave or television antenna over five feet above the highest roof line is permitted unless approved by the Architectural Control Committee.
- E. The Architectural Control Committee may set a fee depending on the nature and extent of the plans for the cost of its examination. The Committee shall have the right to refuse approval for construction of any improvement which in its option is unsuitable because of aesthetic or other reasons. The fee shall not be refundable.
- F. No obnoxious, offensive or other activity which would constitute a public or private nuisance or annoyance to the neighborhood will be permitted.
- G. Dangerous or wild animals, livestock or poultry will not be kept. Household pets will be permitted so long as they remain in control of the Lot Owner.
- H. No firearms, fireworks, explosives, air rifles, BB guns, crossbows, or similar devices shall be discharged.
- I. No advertising signs, billboards or unsightly objects shall be maintained or erected. "For Sale" signs may be posted, if no larger than those allowed by Mesa County Zoning Resolution.
- J. No junk or trash will be allowed to accumulate and the same must be regularly removed.

- K. The Architectural Control Committee, upon the failure of the owner of any Lot to maintain his Lot and improvements, in a reasonable and satisfactory manner, as determined by the Architectural Control Committee, or upon use by the owner in a manner inconsistent with those covenants, may enter upon the Lot and repair, maintain, rehabilitate and rectore the premises and/or improvements or abate the improper use and any costs shall be charged against the owner of said Lot.
- L. All Lots are subject to and bound by Public Service Company tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. The owner or owners shall pay as billed a portion of the cost of public street lighting in the subdivision according to Public Service Company rates, rules and regulations, including future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 30th day of April 1979

Declarant: Village Nine, Ltd.

By: Thomas M. Wilkinson
Thomas M. Wilkinson, General Partner

of Village Nine, Ltd.

STATE OF COLORADO)
) SS.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 30th day of April 1979 by Thomas M. Wilkinson, General Partner of Village Nine Ltd.,

a limited partnership, the Declarant.

Witness my hand and official seal.

My commission expires: 3-8-80

John D. Ryan

Notary Public

