

DECLARATION

OF

JG TOWNHOMES

THIS DECLARATION, made on the date hereinafter set forth, by KUYKENDALL MANAGEMENT TRUST dated April 8th, 1991 ("Declarant").

a) Declarant is the owner of certain real estate in the City of Steamboat Springs, Routt County, State of Colorado, which is generally described as more particularly described as follows:

A tract of land commonly called "Tract A" located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ of SECTION 27 and the SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of SECTION 22, TOWNSHIP 6 NORTH, RANGE 84 WEST of the 6th P.M., bounded by a line described as follows: Beginning at the NE corner of Lot 1, Block 3, Ski Trail Subdivision, Filing No. 3, recorded February 21, 1968, records of Routt County, Colorado, File No. 6718; thence along the Easterly line of said Lot 1, S 2°35'22" W 199.20 feet; thence along the Northerly line of Lot 3, of said Block 3, Ski Trail Subdivision, Filing No. 3, N 81°46'24" E 167.73 feet; thence N 10°56'18" W 251.77 feet; thence S 56°26'37" W 130.77 feet to the point of beginning, containing 0.69 acres, more or less.

TOGETHER WITH 30.00 foot road easements for ingress and egress between Ski Trail Lane and the above described Tract A, the centerline of which roadway easements are more particularly described on the attached Exhibit A (hereafter "Property"),

and;

b) Declarant desires to create a Planned Community, Common Interest Community ("CIC") on the Property, the name of which is JG Townhomes, in which portions of the Property will be designated for separate ownership and the remainder of which will be designated for common ownership by the owners of the separate ownership portions and which will be managed by a lot owners association formed by the Declarant for that purpose; and

c) Declarant has caused to be incorporated under the laws of the State of Colorado, JG Townhome Association, a lot owners association, nonprofit corporation, for the purpose of exercising the functions as herein set forth.

**ARTICLE I
SUBMISSION; DEFINED TERMS**

Section 1.01 Submission of Real Estate. Declarant hereby declares that all of the Property shall be held or 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 Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each owner thereof. Additionally, Declarant hereby submits the Property to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time (the "Act"). In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable.

Section 1.02 Defined Terms. Each capitalized term not otherwise defined in this Declaration or in the plat or map shall have the meanings specified or used in the Act.

**ARTICLE II
NAMES; DESCRIPTION OF REAL ESTATE**

Section 2.01 Names.

(a) CIC. The name of the Planned Community project is JG Townhomes.

(b) Association. The name of the Association is JG Townhome Association.

Section 2.02 Real Estate. The project is located in Routt County, Colorado. The real estate of the project is the Property, as more specifically described above.

**ARTICLE III
THE ASSOCIATION**

Section 3.01 Authority. The business affairs of the CIC shall be managed by the Association, a Colorado nonprofit corporation. The Association shall be governed by its Bylaws, as amended from time to time.

Section 3.02 Powers.

(a) The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the CIC.

(b) The Association may assign its future income, including its rights to receive Common Expense assessments, only by the affirmative vote of the Lot Owners of Lots to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose.

ARTICLE IV LOTS

Section 4.01 Number of Lots. The number of Lots in the CIC is two (2). The Declarant reserves no rights to create additional Lots.

Section 4.02 Identification of Lots. The identification number of each Lot is shown on the plat or map of this CIC.

Section 4.03 Lot Boundaries. The boundaries of each Lot are located as shown on the plat or map.

Section 4.04 Subdivisions of Lots. No further subdivision of the Lots shall be allowed.

ARTICLE V COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 5.01 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant, for each Lot, shall be deemed to covenant and agree, and each Lot Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual Common Expense Assessments. Such assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Lot Owner at the time when the assessment or other charges became or fell due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them.

The Common Expense Assessment of the Association shall be a continuing lien upon the Lot against which each such assessment is made. A lien under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien Security Interest on the Lot recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not prohibit an action to recover sums for which this Section creates a lien or prohibit the Association from taking a deed in lieu of

foreclosure. Sale or transfer of any Lot shall not affect the Association's lien except that sale or transfer of any Lot pursuant to foreclosure of any first lien Security interest, or any proceeding in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the Associations's lien as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Common Expense Assessments thereafter becoming due, nor from the lien thereof.

Section 5.02 Apportionment of Common Expenses. Common Expenses shall be assessed against all Lots in accordance with their percentage interest in the Common Expenses as described in Article IX of this Declaration.

Section 5.03 Purpose of Assessments. The assessments levied by the Association through its Executive Board shall be used for the purposes of promoting the health, safety, and welfare of the residents in the CIC, for preservation of values of the Townhomes and the CIC, and for taxes, insurance, maintenance, repairs, capital improvements and necessary reserves.

Section 5.04 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense assessment shall be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments may be collected in the manner as determined by the Executive Board. Common Expense Assessments shall begin on the first day of the month in which conveyance of the first Lot to a Lot Owner other than the Declarant occurs.

Section 5.05 Proposed Budget. The Association shall comply with the provisions of Section 38-33.3-303(4) C.R.S. regarding ratification of proposed budgets for the CIC.

Section 5.06 Effect of Non-Payment of Assessments. Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after written notice thereof, shall bear interest at the rate as determined by the Executive Board and the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without

foreclosing, or in any way waiving, the Association's lien therefor.

**ARTICLE VI
COMMON ELEMENTS AND
LIMITED COMMON ELEMENTS**

Section 6.01 Common Elements. "Common Element" means all of the real property described on the Map as "Lot 3, Common Area," being all of the real property of the CIC except Lot 1 and Lot 2, JG Townhomes, Steamboat Springs, Routt County, Colorado, including, but not limited to the landscaping (except for landscaping defined as a Limited Common Element below in Section 6.02), parking areas (except for parking areas defined as a Limited Common Element below in Section 6.02), streets and recreational facilities and as defined in Sections 38-33.3-202 (a) and (b) C.R.S.

Section 6.02 Limited Common Elements.

(a) A "Limited Common Element" means a portion of the Common Elements, designated in this Declaration, or on the plat or map, or by the Act, for the exclusive use of fewer than all of the Lots.

(b) The following portions of the building(s), in addition to the portions described in Section 38-33.3-202(1) (b) and (d) of the Act, are designated as Limited Common Elements:

(i) Any decks, patios, landscaping, parking areas, and porches which are attached or immediately adjoining either townhome structure, together with the stairs, and any appurtenance(s) attached thereto.

Section 6.03 Allocation of Specified Common Elements. The Executive Board may designate parts of the Common Elements from time to time for use by less than all of the Lot owners or by nonowners for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Executive Board. Any such designation by the Executive Board shall not be a sale or disposition of such portions of the Common Elements.

**ARTICLE VII
MAINTENANCE, REPAIR AND REPLACEMENT**

Section 7.01 Common Elements. The Association or its delegated representative shall maintain and otherwise manage all of the Common Area, including, but not limited to the landscaping

(except landscaping defined as Limited Common Element in Article VI hereof), retaining wall, if any, parking areas (except parking areas defined as a Limited Common Element in Article VI hereof), streets and recreational facilities, and shall maintain and otherwise manage and be responsible for the rubbish and snow removal from all areas within the above-described Common Elements.

Section 7.02 Limited Common Elements. The owner of a Lot to which any doorstep, stoop, porch, deck, balcony or patio is allocated shall be responsible for removal of snow, leaves and debris therefrom.

Section 7.03 Expense Allocation. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Lot to which the Limited Common Element is assigned.

ARTICLE VIII DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

Section 8.01 Development Rights and Special Declarant Rights. Other than as specified in Section 8.02, Declarant reserves no other Development Rights or Special Declarant Rights.

Section 8.02 Construction of Additional Improvements. Declarant has caused the Property to be approved by the City of Steamboat Springs and platted as a duplex townhouse subdivision. Lot 2 has an existing residential structure which is subject to a planned addition to the said structure as set forth in that certain Seller's Addition Agreement of even date herewith, recorded in Book 762 at Page 1072 of the Routt County records. Lot 1 is a vacant Lot upon which Declarant consents to the construction of a new residential structure which will be attached to the existing structure located on Lot 2 by a retaining wall which extends into the Common Area, more particularly described in Seller's Addition Agreement.

ARTICLE IX ALLOCATED INTERESTS

Section 9.01 Allocated Interests. The undivided interest in the Common Elements and the Common Expense liability allocated to each Lot shall be equal and each Lot shall receive one vote in the Association.

Section 9.02 Computation of Allocated Interests. The undivided interest in the Common Elements, the Common Expense Liability allocated to each Lot, and the number of votes per Lot have been computed on the basis of the total number of Lots in the CIC.

ARTICLE X
RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 10.01 Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved by the Declarant, the following use restrictions apply to all Lots and to the Common Elements:

(a) No use shall be made which will in any manner violate the statutes, rules and regulations of any governmental authority having jurisdiction.

(b) No use shall be made which is contrary to the rules and regulations as may be adopted from time to time by the Association.

(c) No Owner shall place any structure whatsoever upon the Common Elements nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Elements without prior consent of the Association.

(d) The CIC is hereby restricted to residential use and uses related to the convenience and enjoyment of such residential use. No structures of a temporary character, including, but not limited to, any trailer, tent, shack, garage, barn or other outbuilding shall be constructed, placed or used on any portion of the CIC at any time for any purpose, either temporarily or permanently, without the written consent of the other Lot Owner.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept on or about the CIC; provided, however, that except for those that are kept, bred or maintained for any commercial purpose, dogs, cats and other household pets may be kept subject to rules and regulations adopted by the Association.

(f) No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot nor shall any Lot be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of the property; provided further, however, that the foregoing covenants shall not apply to business activities, signs and billboards or the construction and maintenance of buildings of the Association, its successors and assigns in furtherance of its powers and purposes as herein set forth, nor shall the foregoing covenants be construed to prevent or prohibit a Lot Owner to make or receive telephone calls, facsimile transmissions, computer connections, and any similar activity connected with business activities, which does not adversely affect the residential character of the CIC.

(g) All equipment, garbage cans, wood piles or storage

piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring properties and streets.

(h) Except for the completion of the Lot 2 addition as described in the Seller's Addition Agreement, and the initial construction of the Lot 1 residence, no improvement, construction, modification, painting, or other change shall be made to the exterior of the existing buildings on the Lots without the prior, specific approval of the Association. Any disputes between the Lot Owners as to whether painting should occur or the colors shall be resolved by the Association.

(i) Lot Owners shall continuously maintain insurance in adequate amounts as from time to time determined by the Association with reputable companies insuring their Lot from general liability and the structures on said Lots from damage or destruction. Proof of such insurance shall be provided to the Association upon demand.

(j) Lot Owners shall maintain their buildings, improvements and property so that the CIC is in first-class and reasonable condition at all times.

Section 10.02 Restrictions on Alienation. A Lot may not be conveyed pursuant to a time-sharing arrangement described in Section 38-33-110 C.R.S. A Lot may be leased or rented for short term periods subject to the reasonable requirements of the Association. All leases and rental agreements shall be in writing and subject to the reasonable requirements of the Executive Board.

**ARTICLE XI
EASEMENTS AND LICENSES**

Section 11.01 Recording Data. All easements and licenses to which the CIC is presently subject are shown on the Plat.

Section 11.02 Grant of Utility Easement. The Declarant hereby grants and conveys to the Lot Owners a nonexclusive easement over and across the Common Area of the CIC, and also a nonexclusive easement across each Lot, on the exterior of each townhome structure for access to and repair and maintenance of any common and public utility lines and appurtenance, subject to the provisions of this Declaration, the Association By-laws and such Rules and Regulations as may be adopted from time to time by the Association. Such easement shall run with and be appurtenant to the individual Lots of the CIC and shall not be severed from said Lots at any time for any reason. The easement herein granted shall automatically pass to such owner's successors in title.

Section 11.03 Easement for Encroachments. A valid easement for an encroachment exists to the extent that any Lot or Common Element encroaches on any other Lot or Common Element.

ARTICLE XII
PARTY WALLS

Section 12.01 Party Wall Easements. Mutual reciprocal easements are hereby established, declared and granted for the common party wall hereafter to be constructed on the common boundary line between the Lots, and shall be governed by this Declaration. The common wall between the Lots is hereby declared to be a party wall, and the Owners of each Lot shall have an easement on that part of the foundation, stem-walls, supporting wall structure and roofing of the Townhome on the adjoining Lot as are situated adjacent to the common boundary between the Lots for the purpose of structural support, repair and maintenance of the same, and including reasonable access through such adjoining Lot and the Townhome thereon for the repair, maintenance, restoration and replacement of such building components constituting the party wall and situated on such common boundary. Reference to a Lot in any instrument affecting the title thereto, including without limitation deeds, mortgages, deeds of trust, statements of lien and the like, shall be deemed automatically to include the reciprocal easements for party wall structural improvements adjacent and appurtenant to such Lots.

Section 12.02 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 liability for property damage due to negligence or willful acts or omissions shall apply.

Section 12.03 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by both of the owners.

Section 12.04 Damage or Destruction. In the event of damage or destruction of the party wall from any cause not due to the negligence of either owner, the owners shall, at joint and equal expense, repair or rebuild said wall, and each party, his successors and assigns, shall have the right to full use of said repaired or rebuilt wall. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share or all of such cost in the case of negligence, the other party may have such wall repaired or restored and shall be entitled to have a lien as described in Section 12.07 hereof on the property of the party so failing to pay for the amount of such defaulting party's share of the cost of repair or replacement.

Section 12.05 Weatherproofing. Notwithstanding any other provision of this Article, the Lot 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 12.06 Right to Contribution Runs with Land. The right of an owner to contribution from the other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 12.07 Right to Lien. Any lien created herein shall be evidenced by a written notice setting forth the facts giving rise to the creation of said lien, shall be signed and sworn to by the Lot Owner claiming the lien, shall be recorded in the office of Clerk and Recorder of Routt County, Colorado, and may be foreclosed in the same manner as mortgages and deeds of trust are foreclosed in the courts of Colorado. Any such lien shall be junior to the lien of any mortgage or deed of trust recorded prior to the recording of the notice of the lien just described. The amount of lien shall include interest on all sums due at the rate of 8% per annum and the non-defaulting Lot Owner's costs of collection and enforcement, including, but not limited to, reasonable attorney and expert witness fees.

ARTICLE XIII NOTICE

Section 13.01 The Association and/or Lot Owners, when desiring or required to give notice of matters concerning the CIC to Lot Owners, shall send all such notices to the Lot Owners by U.S. mail to the address of said Lot Owner on record with the Routt County Treasurer or the Association, and in such event notice shall be deemed given two (2) days after deposited in the United States mail.

Section 13.02 Enforcement. Except as otherwise may be provided herein, a Lot Owner shall have the right to enforce, by proceedings or remedies at law or in equity, all restrictions, conditions, covenants and reservations reserved or imposed by the provisions of this Declaration and failure by an Owner to enforce the same for any violation shall in no event be deemed a waiver of the right to enforce the same on any subsequent violation. In any action to enforce this Declaration the prevailing party shall be entitled to an award of its costs and reasonable attorney fees.

Section 13.03 Amendment and Revocation. This Declaration may be amended or revoked by the unanimous written consent and approval of all Lot Owners and all lienors of record of Lot 1 and Lot 2 and of the Common Elements, and any such written amendment or revocation shall be recorded in the real property records of Routt County.

Section 13.04 General. The article and section headings are inserted for convenience only and are not intended to limit or expand any provisions hereof. The singular shall be deemed to include the plural, and vice versa, and use of any gender shall be deemed to include all other genders. This Declaration shall be construed under Colorado law. If any part of this Declaration shall be severable from the remainder of this Declaration and shall not affect the past or continued validity of all other sections hereof.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the 25 day of August, 1999.

KUYKENDALL MANAGEMENT TRUST dated April 8, 1991

By: Robert Gilden Kuykendall
Robert Gilden Kuykendall, Trustee

By: Laura Jean Maxcy Kuykendall
Laura Jean Maxcy Kuykendall, Trustee

STATE OF Colorado, COUNTY OF Garfield) ss.

ACKNOWLEDGED before me by Robert Gilden Kuykendall and Laura Jean Maxcy Kuykendall, as Trustees of the KUYKENDALL MANAGEMENT TRUST dated April 8th, 1999 this 25th day of August, 1999.

WITNESS my hand and official seal.

[SEAL]

Richard C. Dieter
Notary Public

My commission expires:

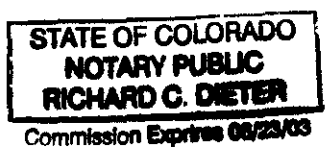


EXHIBIT "A"

Description of a 30 foot wide road easement for ingress and egress located in the NW1/4NE1/4, NE1/4NW1/4 of Section 27 and in the SW1/4SE1/4, SE1/4SW1/4 of Section 22, T6N, R84W, of the 6th P.M., Routt County, Colorado.

Said easement being 15 feet on each side of the following described center line being the center line of the existing access drive;

Beginning at a point on the northerly right-of-way line for Ski Trail Lane as shown on the plat of Ski Trail Subdivision Filing No. 3 as filed with the Routt County Clerk and Recorder appearing at File No.6718 from which the NW corner of Lot 1 of Block 3 of said subdivision bears N 44°38'44" E 68.48 feet;

Thence N 25°34'03" W 87.77 feet;
Thence N 15°43'08" E 11.65 feet;
Thence N 61°58'30" E 12.13 feet;
Thence S 70°12'37" E 49.93 feet;
Thence S 70°12'31" E 47.05 feet;
Thence S 88°25'22" E 39.05 feet;
Thence N 83°24'57" E 29.30 feet;
Thence N 83°07'31" E 10.35 feet to Point A;
Thence N 83°07'31" E 10.73 feet;
Thence S 80°40'45" E 26.37 feet;
Thence S 64°57'04" E 28.37 feet;
Thence S 50°19'10" E 9.40 feet to the Point of Termination on the north line of a parcel of land as described in Exhibit B of that certain document recorded with the Routt County Clerk and Recorder appearing in Book 495 at Page 173.

.....and the following described 30 foot wide road easement for ingress and egress being 15 feet on side of the following described center line;

Beginning at the above said Point A
Thence N 64°31'52" E 42.58 feet;
Thence N 85°09'14" E 34.37 feet;
Thence S 87°30'58" E 9.63 feet;
Thence S 80°56'04" E 17.20 feet;

Thence S 68°45'57" E 19.93 feet to the Point of Termination
on the north line of a parcel of land as described in
Exhibit B of that certain document recorded with the Routt
County Clerk and Recorder appearing in Book 495 at
Page 173.

Bearings are based upon those shown on the recorded plat of
Ski Trail Subdivision Filing No.3 and more particularly the
east line of Lot 1 Block 3 being N 02°35'22" E.

disk 20 L3929-1.DRV

Kuy Kuykendall 3929-1 30' easement for original
drive and new drive to replace old drive easement.

This legal description was prepared by R.C. Moon, Colorado
Registration No. 13221, at D&D Inc., a Professional Land
Surveying and Planning Co., Box 775008, Steamboat Springs,
Colo. 80477

