

**PLANNED COMMUNITY DECLARATION  
for  
COMANCHE CREEK RANCH PLANNED COMMUNITY**

THIS DECLARATION, a declaration of covenants, conditions and restrictions ("Declaration"), is made effective this 28th day of November, 1995, by WAYNE C. FURR and VICKI A. FURR ("Declarants"), pursuant to C.R.S. 38-33.3-101, et seq., the Colorado Common Interest Ownership Act (the "Act"); FARM CREDIT BANK OF WICHITA, as the holder of a security interest on the property owned by the Declarants, joining in this Declaration for the purpose of subordinating its said interest to this Declaration; LENORE ALLISON DREISBACH, the owner of a parcel of property described herein on the Plat as Tract 19, in order to include the same within the terms and conditions of this Declaration ("Tract 19 Owner"); and the KIOWA STATE BANK, the holder of a security interest on Tract 19, to subordinate its security interest on Tract 19 to this Declaration;

**W I T N E S S E T H:**

WHEREAS, the Declarants and the Tract 19 Owner collectively own 1,546 acres of real property located in Sections 7, 8, 17, 18, 19 and 20 of Township 10 South, Range 63 West, of the Sixth Principal Meridian, Elbert County, Colorado, together with easements appurtenant, more particularly described on Exhibit "A", the Plat attached hereto (the "Property"); and

WHEREAS, to develop, improve and maintain the Property as a highly desirable rural, residential and agricultural area, protect the natural beauty, growth, native setting and surroundings in conjunction with the structures and uses permitted herein; prevent owners from improper use of the Property, the construction of unsuitable improvements, the creation of unsightly conditions on any of the Tracts; and otherwise avoid any use or permanent construction which would depreciate the value of the Property or any Tract; and

WHEREAS, the Declarants herein divide the Property into twenty-five (25) units of sixty (60) acres or more, including the Tract 19 Owner's parcel ("Tracts"), with easements for ingress, egress, utilities, drainage, equestrian and pedestrian use leased in perpetuity to an association, in which each Tract Owner shall be a member, to which the Tract 19 Owner expressly agrees; and

WHEREAS, the Association shall be responsible for the maintenance, repair, and improvement of said easements, assessing each Tract Owner equally for the same, and to administer and enforce the covenants set forth herein, such that the Property will be a Common Interest Community, specifically a Planned Community;

NOW, THEREFORE, the Declarants declare, make and establish the following covenants, conditions, restrictions, easements, reservations, uses, limitations and obligations, which the Property and all of its Tracts shall be subject to, encumbered by, and which shall expressly run with the land, to which the Tract 19 Owner, as undersigned, expressly agrees, the Property hereinafter to be known as Comanche Creek Ranch Planned Community.

### ARTICLE 1.00 - DEFINITIONS

As used in this Declaration, unless otherwise specifically provided or unless the context otherwise dictates:

1.01 Association means the Comanche Creek Ranch Planned Community Unit Owners Association, Inc., a Colorado nonprofit corporation, organized, pursuant to the Act, to administer, maintain and repair the Common Elements; administer and enforce the covenants set forth herein; and collect, disburse and account for the assessments and charges herein contemplated.

1.02 By-Laws mean any instruments, however denominated, which are adopted by the Association for its regulation and management, including any amendments to the same.

1.03 Common Elements mean the easements for ingress, egress, utilities, drainage, pedestrian and equestrian uses, as shown on the Plat, leased in perpetuity to the Association; which, however, do not include the ten (10) foot and twenty (20) foot equestrian and trail easements shown on the Plat.

1.04 Common Expenses mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.05 Common Interest Community means real estate described in a declaration with respect to which a Person, by virtue of such Person's ownership of a Tract, is obligated to pay for insurance premiums on and for the maintenance or improvement of other real estate described in the Declaration.

1.06 Executive Board means the body, regardless of name, designated in the Declaration to act on behalf of the Association.

1.07 Person means a natural person, a corporation, a partnership, an association, a trust, or any other entity, or any combination thereof.

1.08 Planned Community means a Common Interest Community that is not a condominium or cooperative.

1.09 Plat means that part of this Declaration that is a land survey, which depicts all of the Planned Community in two (2) dimensions, specifically Exhibit "A" attached hereto.

1.10 Rules and Regulations mean any instruments, however denominated, which are adopted by the Association for the regulation and management of the Planned Community, including any amendment to those instruments.

1.11 Security Interest means an interest in real estate or personal property created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

1.12 Tract means a unit or a physical portion of this Planned Community which is designated for separate ownership or occupancy, the boundaries of which are described in Exhibit "A" attached hereto.

1.13 Tract Owner means the Declarants or other Persons who own any Tracts, but does not include a Person having an interest in any Tract sold as security for an obligation. The Declarants are the owners of any Tract created by the Declaration until the Tract is conveyed to another Person.

ARTICLE 2.00 - PLANNED COMMUNITY, TRACT  
OWNERSHIP, ASSOCIATION MEMBERSHIP

2.01 Recording/Legal Description. Expressly established is a Planned Community, a type of Common Interest Community, pursuant to the Act, which is neither a condominium nor a cooperative, and this Declaration is inclusive of the Plat, Exhibit "A" attached hereto. Upon recording of this Declaration, every contract, deed, lease, mortgage, deed of trust, and every other instrument affecting title to a Tract of Property shall legally describe the same as follows:

Tract \_\_\_\_\_, COMANCHE CREEK RANCH PLANNED COMMUNITY, according to the Planned Community Declaration thereof, recorded ~~November~~ <sup>December</sup> \_\_\_\_\_, 1995, in Book \_\_\_\_\_, at Page \_\_\_\_\_, in the records of the Office of the Clerk and Recorder of Elbert County, Colorado; and

every such instrument describing each Tract shall, likewise, convey an undivided interest in the Common Elements as set forth in this Declaration.

2.02 Nonpartition/Common Elements and Tracts. All rights in the Common Elements, easement rights as set forth herein, shall be owned and administered in common for the use and benefit of all Tract Owners and shall remain undivided. Further, no Tract will be subject to any manner of subdivision. Each Tract Owner, with the acceptance of his or her deed or other instrument of conveyance, specifically waives his or her right to institute and/or maintain a partition action or any other action designed to cause a division

of the rights in the Common Elements or a subdivision of his or her Tract.

Each Tract Owner agrees that this section may be pleaded as a bar to the maintenance of any such partition or subdivision action. Any violation of this Section 2.02 shall entitle the Association to collect, jointly and severally, from the parties violating the same, the actual attorney fees, costs, expenses and damages which the Association incurs in connection therewith.

2.03 Common Element Rights. Every Tract Owner, his family members, guests, invitees and licensees shall have a right and easement of enjoyment in and to the use of the Common Elements, which rights and easements shall be appurtenant to and pass with the transfer of title to the owner's Tract, provided, however, that such rights and easement shall be subject to:

A. The terms and conditions of this Declaration, including the Planned Community Plat;

B. The right of the Association to adopt Rules and Regulations concerning the same and any facilities located thereon; and

C. The right of the Association to make assessments for the maintenance and upkeep of the Common Elements as provided in this Declaration.

2.04 Association, Membership, Voting Rights. Contemporaneous with the filing and recordation of this Declaration, the Association shall be organized. Each Tract shall be subject to assessment as hereinafter set forth. Each Tract Owner shall be a member of the Association and shall remain a member for the period of his ownership, provided, however, that, in no event, shall the total number of Association votes which are cast with respect to any Tract exceed the total number of votes allocable thereto, as provided in 2.05 below. Membership in the Association may not be separated from ownership of the Tract.

2.05 Classes of Voting Membership. The Association shall have two (2) classes of voting membership:

A. Class A. The Class A members shall be all Tract Owners, with the exception of Declarants, and shall be entitled to one (1) vote for each Tract owned. When more than one Tract Owner holds an interest in the same Tract, all such Tract Owners shall be members, and the vote for such Tract shall be cast as the Tract Owners thereof agree, but in no event shall more than one (1) vote per question be cast with respect to such Tract. If the Tract Owners of such Tract do not agree as to the manner in which their vote should be cast when called upon to vote, then they shall be treated as having abstained.



B. Class B. The Class B member(s) shall be Declarants, who shall be entitled to four (4) votes for each Tract owned which is neither leased, nor rented, nor otherwise occupied as a residence. Leasing, renting, or allowing entry for residential occupancy shall terminate the Declarants' weighted voting advantage in relation to any Tract so leased, rented or occupied as a residence, and will limit Declarants in relation to any such Tracts to the same voting rights as a Class A member. The Class B membership shall cease and be converted to Class A membership on the earlier of:

(1) four (4) months after the date the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(2) the Declarants voluntarily relinquishing their Class B membership rights.

ARTICLE 3.00 - COMMON ELEMENTS - ASSOCIATION'S RIGHTS

3.01 Limitation on Common Element Rights. In addition to promulgating the Rules and Regulations on the use of the Common Elements as necessary or prudent, the Association shall have the right to:

A. Grant such easements and rights-of-way to such utility companies or public agencies or authorities as it shall deem necessary for the proper service and maintenance of the Property, and the Association shall be obligated to make such grant upon request of the Declarants.

B. The right of the Declarants, so long as their Class B membership exists, and/or the Association to grant temporary easements for construction storage of dirt and similar items, including construction materials, if necessary, to any Tract Owners during the construction of improvements upon any Tracts or involving the Common Elements, specifically provided that, following the completion of such construction, whoever shall have been granted such privilege(s) shall forthwith proceed to remove all materials and dirt from the affected Tract or Common Elements and restore the same to the condition existing before such use or to a condition acceptable to the Architectural Control Committee, all at the sole cost and expense of the Person to whom the same was granted; and

C. The right of the Association to dedicate or transfer all or any part of the Common Elements to a public agency, authority, or utility serving the Property for such purposes and subject to such conditions as may be agreed by the members, provided that no such dedication, determination as to the purposes

or as to the condition thereof, if made by the Association, shall be effective unless approved by the assent of fifty-one percent (51%) of the Class A members and by the Class B members, if any, upon a written ballot, which shall be sent to all members at least thirty (30) days in advance of the vote thereof, which shall set forth the reasons for such proposed action.

3.02 Insurance. The Association shall maintain insurance as required under the Act and insure against injury to persons and property as a result of the use of the Common Elements. Such insurance shall conform to all requirements under the Act; be maintained with a company licensed to do business in the State of Colorado; and shall have minimum limits of liability of One Million Dollars (\$1,000,000) for personal injury and One Hundred Thousand Dollars (\$100,000.00) for property damage, per occurrence. These insurance limits shall be adjusted periodically and increased if required in the reasonable judgment of the Executive Board of the Association and if such increased amounts of insurance are available for purchase. Further, as the Executive Board of the Association may deem necessary or prudent, other insurance insuring the Association, its directors and/or officers may be obtained.

#### ARTICLE 4.00 - ASSESSMENTS

4.01 Personal Obligation. All Tract Owners, including the Declarants and any purchaser under an executory land sales contract, covenant and agree and shall be personally obligated to pay to the Association:

A. Annual Common Expense assessments imposed by the Association to meet the Common Expense and reserve requirements of the Association, pursuant to 4.02 below.

B. Special assessments, pursuant to Section 4.03 below;  
and

C. Other charges, fees and assessments, including, without limitation, default assessments, pursuant to 4.06 below, and as may be otherwise provided in this Declaration.

All owners of each Tract shall be jointly and severally liable to the Association for the payment of all assessments, fees and charges attributable to their Tract. No owner may waive or otherwise escape personal liability for the payment of the assessments, charges and fees provided for herein by abandonment or leasing of his Tract.

4.02 Annual Common Expense Assessments and Reserves. Annual Common Expense assessments and reserves shall not be due and payable by any Tract Owner until January 1, 1997. On that date,

all Tract Owners, including the Declarants, shall pay to the Association an annual Common Expense assessment, in advance, of Six Hundred Dollars (\$600.00) for the year, and all Tract Owners, except for the Declarants, shall pay a one-time reserve payment of One Thousand Two Hundred Dollars (\$1,200.00) per Tract. The Declarants, however, shall pay the reserve expense, if they are residing on a Tract owned by them within the Property. Subsequent to January 1, 1997, each new Tract Owner, upon acquisition of his or her Tract from the Declarants, shall pay a one-time One Thousand Two Hundred Dollar (\$1,200.00) reserve payment, which shall be established as a reserve for the maintenance, repair, and replacement of any facilities within the Common Elements. Surpluses in the annual Common Expense assessments unused for current operations may be added to these reserves.

The annual Common Expense assessment shall be due and payable within thirty (30) days of notice of the same to each Tract Owner, to be payable annually in advance. Notwithstanding the votes of any Tract Owner, such as Class B members of the Association, each Tract will be equally assessed, each Tract bearing 1/25 of any annual or special assessment.

Subsequent annual Common Expense assessments, which shall commence January 1, 1998, shall be based on the Association's advance budget of cash requirements needed to provide for the payment of all estimated expenses related to or connected with the administration, maintenance, repair and improvement of the Common Elements, insurance, and the administration of the Association otherwise, but the same shall not exceed ten percent (10%) of the previous year's Common Expense assessment, except in the event of an emergency, wherein this annual amount can be exceeded by a fifty-one percent (51%) vote of all Tract Owners, voting on the basis of votes in the Association pursuant to Section 3.01 above.

4.03 Special Assessments. At any time and from time to time, the Association, with the consent of two-thirds (2/3) of the votes of the Tract Owners voting pursuant to Section 3.01 above, may add an annual special assessment annually for the purpose of defraying, in whole or in part, payments for any operating deficit or unbudgeted expenses in the administration of the Association and/or for the repair, maintenance, or improvement of any facilities within the Common Elements.

4.04 Notice/Quorum. Written notice for any meeting establishing a budget for Common Expense assessments or for emergency or special assessments shall be sent to all Tract Owners not less than thirty (30) nor more than sixty (60) days in advance of said meeting. At the first such meeting, the presence of members or of proxies entitled to cast fifty percent (50%) of 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 requirements, and the required quorum at the

subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

4.05 Lien for Assessments. The assessments, charges and fees, including, without limitation, any default assessment arising under the provisions of this Article, together with all interest, costs, late charges, expenses and reasonable attorney fees which may arise under the provisions of this Declaration, shall, pursuant to the Act, be a lien in favor of the Association and upon the Tract to which such assessments, charges and fees apply. The Association shall have all rights of enforcement and of collection of any sums due and the enforcement of any lien rights pursuant to the Act. Any assessment, charge or fee which is not fully paid within thirty (30) days after the due date thereof shall bear interest at the rate of eighteen percent (18%) per annum, and the Association, may, in addition, assess a monthly late charge.

4.06 First Mortgagees May Pay Assessments and Cure Defaults. In the event any assessment or monthly or other installment thereof on any Tract shall not be paid by the owner thereof within thirty (30) days after the same is due, or if a default by any Tract Owner of any provision of this Declaration, the Articles of Incorporation or By-Laws of the Association, shall not be cured within thirty (30) days after written notice thereof is given to such owner, then any first mortgagee may (but shall not be required to) pay such assessment or monthly or other installment thereof, together with any other amounts secured by the Association's lien created by this Article 4.00, and may (but shall not be required to) cure any such default.

4.07 Individual Assessments. Notwithstanding anything to the contrary contained in this Declaration, in the event that maintenance or repair of any area of the Common Elements is required, which is determined to be caused by or through the negligent or willful act or omission of a Tract Owner, his or her agent, a member of his or her family, a guest, invitee, or licensee, then the expense, costs and fees incurred by the Association for such repair and maintenance shall be a personal obligation of such Tract Owner, and if not paid to the Association within thirty (30) days after the Association shall have given notice to the Tract Owner of its determination of liability and the amount of the assessment for such expense, costs and fees, then the same may be enforced as any other assessment under this Article, and the Association shall have all lien rights against the owner's Tract for enforcement and collection of this assessment.

**ARTICLE 5.00 - ARCHITECTURAL CONTROL,  
COVENANTS AND RESTRICTIONS**

5.01 Architectural Control Committee. Contemporaneous with the filing of this Declaration, an architectural control committee

("Committee") shall be formed, which shall be the members of the Executive Board of the Association and, in addition to their Association obligations, shall have and exercise all powers, duties and responsibilities as set forth herein and promulgate rules, regulations and procedures to fairly and efficiently perform the same.

A. General Duties of Committee. The Committee shall ensure that the construction of all improvements, all landscaping, and all alterations of either on every Tract of the Property is complimentary to the natural surroundings; and the seclusion of each home from other homes shall be protected to the extent possible. All improvements shall be constructed to minimally impact the natural vegetation and landscape, and the Committee shall ensure that no structure, of a temporary or permanent nature, nor occupancy, occurs on any Tract, unless complete plans for such construction or alteration are approved in writing by the Committee prior to the commencement of work.

If the Committee fails to take action within thirty (30) days after complete plans for such work have been submitted, then all of such submitted plans shall be deemed to be approved, if construction is commenced thereafter. Approval by the Committee shall not be deemed to constitute compliance with the requirements of any local building codes, and it shall be the responsibility of the Tract Owner to comply therewith.

B. Preliminary Approvals. Persons owning or contemplating the purchase of Tracts on the Property who anticipate constructing improvements on the same may submit a preliminary design of improvements to the Committee for informal review. The Committee shall not be bound or committed by any informal review until complete design plans are submitted.

C. Variances. Where circumstances, such as topography, property lines, location of trees, vegetation, or other physical interference dictates, the Committee may, by a two-thirds (2/3) vote, allow reasonable exceptions to and modifications of these covenants.

D. Records. The Committee shall keep, for at least five (5) years, complete written 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.

E. Enforcement. The Committee shall have the right to prosecute any actions, enforce the provisions of all covenants by injunctive relief, on behalf of itself and all or part of the Tract Owners. In addition, each Tract Owner shall have the right to prosecute for injunctive relief and for damages by reason of any covenant violation.



F. Limitations. In the event any construction, site landscape work or alterations of either are commenced upon any portion of the Property in violation of these covenants and no action is commenced within sixty (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. The said sixty (60) day limitation shall not apply to injunctive or equitable relief for other violations of these covenants.

G. Non-Liability. The Committee shall not be liable in damages to any Person or entity submitting any plans for approval or to any Tract Owner by reason of any action taken, the failure to act, the approval of or the denial of plans. Any person or entity acquiring title to a Tract or submitting plans to the Committee for approval, in so doing, agrees, covenants and warrants that he or it will not bring any action or suit to recover damages against the Committee, its members individually, or its advisors, employees, agents or the Declarants.

5.02 Protective Covenants. Improvements on any Tract of the Property shall be subject to the following:

A. Zoning. All uses and structures on the Property shall be subject to the zoning laws, ordinances, resolutions, rules and regulations of Elbert County as the same presently exist or may hereinafter be amended. No provision in these Declarations shall be valid if the same is in violation of or in conflict with the aforesaid Elbert County enactments. Provisions more limiting or restrictive shall not be deemed a violation of or in conflict with such enactments.

B. Use and Occupancy. Each Tract shall be limited to residential and agricultural use and occupancy only; and occupancy shall be "single-family," defined as one (1) male and/or female head of the household and his or her blood related and/or legally adopted dependents; "multi-family," meaning two (2) or more single-family units, are expressly prohibited.

C. Environmental Impact. No live tree on a Tract may be cut, damaged or destroyed, except as necessary to permit the construction of improvements. Such damage or destruction shall be limited, to the extent possible, by the same. Further, it shall be the responsibility of each Tract Owner to prevent and control disease and insect infestation among the trees, foliage and other plant life by way of spraying, other remedial measures, and, if necessary, to remove trees, foliage and other plant life to prevent disease and insect infestation and the consequent vegetation damage and loss. Further, all Tract Owners shall prevent erosion by methods of replacing and stabilizing the topsoil, reforestation and other actions to maintain the natural terrain. Noxious weeds shall

be controlled by all Tract Owners as required by the applicable Elbert County ordinances.

D. Prohibited Uses. No oil, gas, coal, sand, gravel or other mineral development (except as provided in Article 6.00), drilling, refining, quarrying, mining, crushing, manufacturing or processing operations of any kind shall be permitted in or upon any Tract; nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted. The foregoing shall not be construed to prevent the drilling of water wells on any Tract for domestic, household or agricultural purposes nor the construction of any underground sanitary sewer facilities, septic tanks, or leaching fields, nor shall the foregoing be construed to prevent oil or gas tanks so long as the same is approved by the Committee as hereinafter set forth and such uses pose no health or safety hazards and are shielded, located, maintained and operated in such a manner that no unsightly conditions exist and no adverse environmental effects result.

E. Minimum Size Dwelling Unit. The ground floor area of each single-family dwelling, exclusive of porches, garages and basement, shall be not less than 1,800 square feet for a one (1) story structure. For a structure of one and one-half (1-1/2) stories or more, the total floor space, exclusive of porches, garages and the basement, must be not less than 2,100 square feet; not less than 1,500 square feet on the ground floor; and not less than 600 square feet on the second floor.

F. New Construction Only. Only new construction of a permanent nature will be allowed on each Tract. No used structures of a permanent nature will be allowed to be re-erected, having once been constructed on a site other than the Tract upon which such structure is proposed, nor will any used structures of a permanent nature be allowed to be moved from another site to be placed as a permanent structure on any Tract of the Property.

G. Time of the Essence. Upon the approval of the plans and specifications for the installation of any improvement by the Committee, time shall be of the essence, and the Tract Owner, with his or its builder, shall proceed diligently with the construction of the improvement for which plans and specifications have been approved, so that the same shall be completed no later than nine (9) months after such Committee approval. The Committee, upon written request, may extend this nine (9) month period for up to an additional three (3) months, if an extension is necessary by reason of inclement weather, inability to obtain material, strikes, or acts of God. Prior to occupancy of any structure, all exterior construction must be completed, including, by way of illustration and not limitation, the treating or painting of all wood surfaces and cinder block or concrete foundations, as hereinafter set forth.

H. Temporary Structures. Temporary or used structures may be used as a temporary dwelling, and the placement of a construction trailer on any Tract shall be permitted during the period of the construction of any improvement on said Tract. Although authorized temporarily during construction periods, otherwise no trailers, mobile homes, motor homes, campers, tents, shacks, tepees, basement dwellings or other structures of a temporary nature are permitted to be erected or placed on any Tract for use as a permanent structure.

I. Fencing. All fences on a road frontage for 200 feet either direction from any entrance off the main roads shall be of stone, masonry or wood construction approved by the Committee and, to the extent possible, compatible with the existing fencing and landscaping improvements. On all other boundaries, fencing may be of the same materials or may be of wire fencing. Wire fencing shall also be permitted as secondary fencing behind the approved stone, masonry, or wood fencing along a road frontage or dedicated or common access roads in conjunction with animal control. Posts shall not be placed at a distance of more than one (1) rod from each other. No fences shall be constructed on or across any easements, be they roadway easements or equestrian and trail easements, shown on the Plat, Exhibit "A" attached hereto, including gates or any other impediment to access. No fencing shall be erected closer than ten (10) feet to any Tract side lot line or closer than twenty (20) feet to any perimeter lot line of any Tract to give effect to the equestrian and trail easements as set forth on the Plat.

J. Signs. One (1) lot entrance gate sign of a style and design as approved by the Committee shall be permitted; otherwise, no advertising signs, billboards or unsightly objects shall be permitted or erected on any Tract, except signs by the Declarants to advertise Comanche Creek Ranch Planned Community and the sale of Tracts therein. Reasonable "For Sale" signs are permitted for temporary use by Tract Owners and residents.

K. Wells, Irrigation and Septic Systems. No well for domestic or irrigation use, nor septic system, shall, respectively, be drilled or constructed, altered or used, unless each is fully approved as to design, capacity, location and construction (including construction materials) by the Committee after approval by the appropriate state and local agencies, including but not limited to the State Water Engineer, the State Health Department, and Elbert County or regional health authorities. No more than 10,000 square feet shall be placed under irrigation for lawn and garden uses on any Tract, subject to other restrictions, if any, placed on each Tract by the State Water Engineer.

L. Foundations/Exterior Lighting. No foundation, cinder block or concrete shall be exposed beyond one (1) foot, unless painted or otherwise covered by suitable materials. All exterior

lighting shall be approved by the Committee, which shall develop standards for the same on each Tract of the Property.

5.03 Use Restrictions. The following restrictions shall apply to each Tract of Property:

A. General. No improvements nor noxious activities shall be permitted on any Tract, which is or might become a nuisance to adjoining Tracts or other Tracts within the Property. No hunting or discharge of fire arms will be permitted. All fireplaces, chimneys and barbecues shall be equipped and maintained with spark arresting screens. Reasonable precautions shall be taken against fire hazards, and no outdoor burning of any kind, except for family cooking in a controlled pit, grill or barbecue, shall be permitted; otherwise, no open fires will be allowed.

B. Animals. Animals are permitted on each Tract of the Property, except as hereinafter restricted; provided, however, that nothing contained herein shall be more restrictive than the current Elbert County zoning ordinances.

(1) Household pets are allowed; however, no more than two (2) mature animals of a kind are permitted without Committee approval. No pet shall be allowed off its premises, except if the same is on a leash or otherwise restrained and under the strict control of its owner.

(2) Horses are allowed, but only if they are kept corralled in an area not to exceed 10,000 square feet, except when grazing; and

(a) No more than four (4) horses are allowed per Tract; and

(b) While horses may be allowed to graze or pasture on a Tract for grass and weed control, to do so requires fifteen (15) acres or more per year per animal as the Property is not capable of extended grazing without damage to the natural grass and vegetation; hence, horses must be fed supplementarily and must be kept corralled at all times other than when grazing or pasturing.

Any Tract Owner may lease to any other Tract Owner or resident all or a portion of his or her Tract for the grazing or pasturing of horses, subject to the above restrictions.

(c) Except as provided above, pigs, goats, sheep, poultry and stallions are expressly prohibited on the Property, except temporarily for legitimate 4-H

projects or stallions for breeding purposes, if they are kept corralled.

C. Prohibited Vehicles. No one shall operate, on any Tract on the Property, on any roadway easement, or equestrian or trail easement, any dirt bike, three or four wheel all-terrain or off road vehicle or equivalent contrivance, which prohibition is necessary to protect and preserve the ground cover and general topography of the Property and preclude any erosion which would result.

D. Storage. Enclosed facilities shall be provided for all machinery parked or stored on any Tract of the Property. The open storage of building materials will be permitted during construction only. No abandoned vehicles of any kind shall be permitted on any Tract of the Property. A vehicle shall be considered "abandoned" if it remains nonoperative for a period of six (6) months or fails to have current registration and license plates, except if such vehicle is stored in an enclosed facility as above provided.

E. Parking - Roadway and Other. No parking shall be allowed within the roadway easement and equestrian and trail easements shown on the Plat. The parking of recreational or utility vehicles on any Tract must be in an inconspicuous manner, and no commercial semi-trailers may be parked, stored or used on any Tract for storage or other purposes, except as permitted in Section 5.02 H. above.

F. Service Yards and Trash. No litter or trash shall be permitted to accumulate on any Tract of the Property. All refuse and trash shall be removed from Tracts and shall not be allowed to accumulate nor be burned. Trash receptacles, woodpiles or storage areas other than for machinery and including service equipment, clothes lines, and outdoor patio or recreational furniture not placed in the immediate yard area of the dwelling, any structures or outbuildings, shall be screened by planting or fencing to conceal the same from view of neighboring Tracts, driveways and roads.

G. Businesses. No commercial businesses of any kind shall be permitted or conducted on any Tract. Nothing contained herein, however, shall preclude home offices, businesses or professional practices, so long as there is no advertising or signage concerning the same on any Tract and traffic at all times is controlled and is inconsequential or incidental. Parking shall be as provided above in Section 5.03 E. of this Article, and home offices, businesses or professional practices which meet these criteria shall not be construed as a nuisance.

H. Utilities. Except for such utility lines erected prior to the recording of this Declaration and the Plat, all



electrical, telephone, gas, water, sewer, cable television and other utility lines and pipes on any Tract or any roadway easement shall be placed underground. No transformer or gas, electric, water or other meter, of any type, or any other apparatus, shall be located on any pole. Satellite dishes are permitted with Committee approval, but only if fenced, sheltered or shielded so as not to be visible from any public roadway or from any other Tract and so long as the same are reasonable in dimension and configuration.

#### ARTICLE 6.00 - SPECIAL RIGHTS OF DECLARANTS

6.01 Sales Office. The Declarants, their successors or assigns, so long as Class B membership in the Association is maintained, shall have the right on any unsold Tracts to place a temporary building, trailer, mobile home or other structure or contrivance to be used as a sales office, which shall be removed upon the sale of said Tract and the purchasing Tract Owner's commencement of construction.

6.02 Temporary Storage. Declarants, their successors or assigns, so long as Class B membership in the Association is maintained, shall have the right, upon notice to the Association, to temporarily store construction materials, dirt, vehicles and other equipment on any unsold Tract so long as the same is kept in a neat and unobtrusive manner.

6.03 Signage. Declarants, their successors or assigns, so long as Class B membership in the Association is maintained, shall have the right to place within the Common Elements any signage appropriate with the sales and development of the Property and construction of single-family residences thereon.

6.04 Aggregates. Declarants, their successors or assigns, so long as Class B membership in the Association is maintained and so long as they either own Tract 8 or Tract 15, shall have the right, from either Tract, to mine sand, gravel and other aggregates and soil and remove the same for use on the Property within the roadway easement as road base or road surface materials.

#### ARTICLE 7.00 - MISCELLANEOUS PROVISIONS

7.01 Number and Gender. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.

7.02 Captions. The captions to the articles and sections of the table of contents at the beginning of this Declaration are

inserted herein only as a matter of convenience and for reference, and are in no way to be construed to define, limit or otherwise describe the scope of this Declaration or the intent of any provision hereof.

7.03 Primacy of Act/Conflict. The provisions of this Declaration shall be in addition to, supplemental of, and consistent with the Act, as the same currently exists and as the same may be amended from time to time, and to all other applicable provisions of law. To the extent this Declaration shall be in conflict with the Act, the provisions of the Act shall replace those contained in this Declaration. In the case of any conflict between this Declaration and the Articles of Incorporation or the By-Laws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the By-Laws of the Association, the Articles of Incorporation shall control.

7.04 Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation or By-Laws of the Association, as amended, shall be by any proceeding, at law or in equity, against any person or persons violating or attempting to violate any such provision, to enjoin or restrain such violation or attempted violation or to recover damages, or both, and the Association, any owner or any first mortgagee shall have the right to institute, maintain and/or prosecute any such proceedings.

7.05 Amendment/Termination. This Declaration may either be amended or terminated and, hence, the Planned Community established herein terminated, pursuant to the terms and conditions of the Act, and this Declaration otherwise shall be governed by all terms and conditions of the Act.

7.06 Non-Waiver. Failure by the Declarants, the Association, any Tract Owner, first mortgagee, or any other person, to enforce any covenant, condition, restriction, easement, reservation, right-of-way or other provision contained in this Declaration shall in no way or event be deemed to be a waiver of the right to do so thereafter.

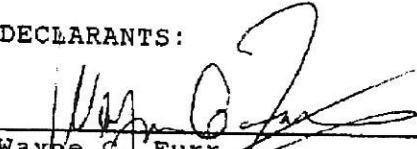
7.07 Severability. The provisions of this Declaration shall be deemed to be independent and severable, and any provision inconsistent with the Act shall be replaced by the appropriate provision of the Act. The invalidity of any one or more of the provisions hereof, or any portion thereof, by judgment or court order or decree, shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

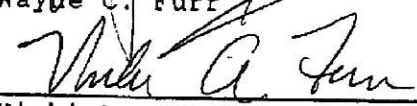
7.08 Notices. Notice of actions affecting the Tract Owners shall be given by mailing a copy of such notice, postage prepaid,

addressed to the member's last address appearing on the books of the Association or supplied by such members in writing to the Association for the purpose of notice. Such notice shall specify the action to be taken, the place, day and hour upon which the action will be taken. Any meeting of the Association shall be held upon notice given in accordance with the provisions contained in the By-Laws of the Association.

IN WITNESS WHEREOF, the undersigned Declarants, the Tract 19 Owner, and the Farm Credit Bank of Wichita have set their respective hands and seals effective the day and year first written above.

DECLARANTS:

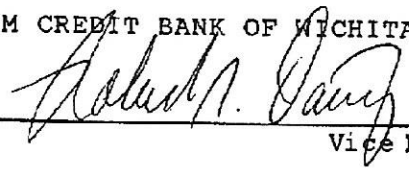
  
Wayne C. Furr

  
Vicki A. Furr

TRACT 19 OWNER:

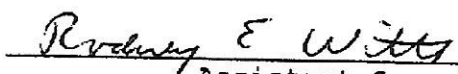
  
Lenore Allison Drelschach

FARM CREDIT BANK OF WICHITA

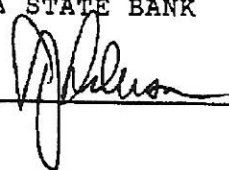
By   
Vice President

FARM CREDIT SERVICES  
DENVER LENDING OFFICE  
POST OFFICE BOX 16046  
DENVER, COLORADO 80216

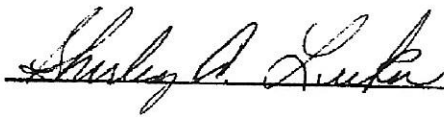
ATTEST:

  
Assistant Secretary

KIOWA STATE BANK

By   
President

ATTEST:



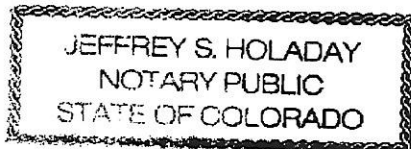
STATE OF COLORADO )  
                    JEFFERSON ) ss.  
County of Arapahoe )

The above and foregoing instrument was acknowledged before me  
this 30 day of NOVEMBER, 1995, by WAYNE C. FURR and VICKI  
A. FURR.

WITNESS my hand and official seal.

My Commission Expires:

~~MY COMMISSION EXPIRES 7/20/98~~



Notary Public

STATE OF COLORADO )  
                    Elbert ) ss.  
County of Elbert )

The above and foregoing instrument was acknowledged before me  
this 30 day of November, 1995, by LENORE ALLISON  
DREISBACH.

WITNESS my hand and official seal.

My Commission Expires:

9-4-98



Lenore J. Anderson  
Notary Public

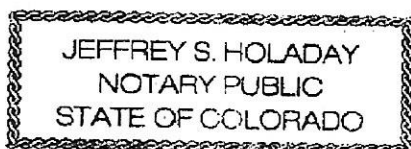
STATE OF COLORADO )  
                    JEFFERSON ) ss.  
County of JEFFERSON )

The above and foregoing instrument was acknowledged before me  
this 30 day of NOVEMBER, 1995, by ROBERT G. DAVIS,  
as Vice President, and by RODNEY E. WETTE, as Assistant  
Secretary, of FARM CREDIT BANK OF WICHITA.

WITNESS my hand and official seal.

My commission Expires:

~~MY COMMISSION EXPIRES 7/20/98~~



Notary Public