

STAGECOACH
Declaration of Covenants, Conditions and Restrictions

File 7013

THIS DECLARATION, made this 19th day of November, 1971 by THE WOODMOOR CORPORATION, a Colorado corporation, having its office and principal place of business in the County of El Paso, State of Colorado, hereinafter referred to as "SUBDIVIDER", its successors and assigns:

W I T N E S S E T H :

WHEREAS, SUBDIVIDER is the owner of the real property, located in Section 6, 22 and 23, Township 3 North, Range 84 West of the Sixth Prime Meridian, and Section 1, Township 3 North, Range 85 W of the Sixth Prime Meridian, County of Routt, Colorado, described and platted as SKY HITCH and Project I and desires to create thereon a residential community with open spaces and other common facilities for the benefit of said community;

WHEREAS, SUBDIVIDER desires to provide for the preservation of the values and amenities in said community, for the maintenance of open spaces and other common facilities, and to this end desires to subject the real property described, together with such additions as may hereafter be made thereto 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, SUBDIVIDER has incorporated under the Laws of the State of Colorado, as a non-profit corporation, the STAGECOACH PROPERTY OWNERS' ASSOCIATION (hereafter referred to as the Association), for the efficient preservation of the values and amenities in said community, and has delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, it is desired to establish certain standards covering the said subdivision by means of protective covenants so as to secure to each individual owner the full benefit and enjoyment of his home and/or property with no greater restrictions upon the free and undisturbed use of his property than is necessary to insure the same advantage to other similar property owners; and to insure the lasting beauty and investment value of the property;

NOW THEREFORE, in consideration of the acceptance hereof by the several purchasers and grantees (their heirs, executors, administrators, personal representatives, successors and assigns, and all persons or concerns claiming by, through or under such grantees) of deeds to lots in said tract of land, THE WOODMOOR CORPORATION hereby declares to and agrees with each and every person who shall be or who shall become owner of any of said lots that said lots, in addition to the ordinances of the County of Routt, Colorado, shall be and are hereby bound by the covenants set forth in these presents and that the property described in these restrictions shall be held and enjoyed subject to and with the benefit and advantage of the following restrictions, limitations, conditions and agreements.

ARTICLE I

1. DEFINITIONS:

Section a. "Association" shall mean and refer to the STAGECOACH PROPERTY OWNERS' ASSOCIATION, its successors and assigns.

Section b. "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.

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Section c. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section d. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Areas to be owned by the Association at the time of the conveyance of the first Lot and described as:
All open space described and designated on the recorded plat of Sky Hitch and showing the acreage therefor.

Section e. "Lots" shall mean and refer to any plot of land shown on any recorded subdivision map of the Properties with the exception of the Common Areas.

Section f. "Declarant" shall mean and refer to THE WOODMOOR CORPORATION, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section g. "Committee" shall mean and refer to the ARCHITECTURAL CONTROL COMMITTEE, hereinafter further defined and organized.

Section h. "Resident" shall mean and include single family dwellings, duplexes, townhouses, condominiums and multiple family dwellings.

ARTICLE II

1. PROPERTY RIGHTS:

Section a. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (1) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (2) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (3) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless approved by two-thirds (2/3) of each class of members.
- (4) the right of individual owners to the exclusive use of parking spaces as provided in this article.

Section b. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section c. Townhouse lot owners are assured that the ownership of each lot shall entitle the owner or owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The association shall permanently assign two (2) vehicle parking spaces for each dwelling.

ARTICLE III

1. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS:

Section a. Every owner of a Lot shall become a member of the Association upon acquisition of said Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section b. The Association shall have two (2) classes of voting membership:
Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- (1) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (2) on December 31, 1980

ARTICLE IV

1. COVENANT FOR MAINTENANCE ASSESSMENTS:

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

- (1) annual assessments or charges and
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section b. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Areas.

Section c. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be thirty dollars (\$30.00) per Lot.

(1) 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 3% above the maximum assessment for the previous year without a vote of the membership.

(2) 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 3% by a vote of two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for this purpose.

(3) The Board of Directors of the Association may fix the annual assessment to an amount not in excess of the maximum.

Section d. Special Assessments for Capital Investments. 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 Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in

person or by proxy at a meeting duly called for this purpose.

Section e. Notice and Quorum for any action authorized under Sections c and d. Written notice of any meeting called for the purpose of taking any action authorized under Section c or d shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first meeting called, the presence of members or of proxies entitled to cast sixty per cent (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 subsequent meeting shall be one-half (1/2) the required quorum of the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section f. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section g. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the conveyance of the Common Areas. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association 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. The due dates shall be established by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section h. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from due date at the rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section i. Subordination of the Lien to the Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure of any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section j. Exempt Property. All property dedicated to and accepted by a local public authority, and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Colorado shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V ARCHITECTURAL CONTROL COMMITTEE

No building, fence, wall, swimming pool, or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or 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 Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated 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.

Section a. Building Type and Occupancy. All Lots shall be known and described as residential tracts and shall be used only for Residences. No building shall be allowed or erected on any tract in said subdivision except a Residence provided that no such building shall exceed two and one-half (2-1/2) stories in height. All porches, storage areas, garden houses, etc., must be attached to said dwelling and be constructed so as to constitute one building only except that one ancillary building in keeping with the overall architecture or schema of the dwelling will be permitted provided that it is included both as to design and location on a plan submitted to the Committee.

Section b. Dwelling Size. Individual townhouses, condominiums and apartments shall occupy a floor area of actually and fully enclosed building of not less than five hundred (500) square feet. Balconies, open porches and garages are not included in such minimum footage. Single family residences and duplexes must provide minimum floor area of one thousand (1,000) square feet for each living unit. In computing this minimum area for single family residences and duplexes only, the area of open porches and other attached structures shall be construed as equivalent to a closed area of one-half (1/2) the area of such open porches and other structures, credit for which shall not exceed, under any circumstances, two hundred (200) square feet. No fences may be built outside building setback lines without written permission of the Committee.

Section c. Building Location. All improvements shall be erected within the setback lines as shown upon the plat and the exact location shall be subject to the approval of the Committee. Variations from these setback lines may be made by the Declarant and by the Committee only.

Section d. Re-Subdividing. No further subdivision or re-subdivision of any tract or combination of tracts as shown on the plat shall be permitted except upon prior approval of the Declarant.

Section e. Easements. Easements for installation and maintenance of utilities and drainage facilities and for roadways are reserved as described on the recorded plat. No shrubbery, trees, or plantings shall be placed on said easement. No buildings, fences, or structures of any type shall be build over, across, on the line of, or in such a manner as to include such easements within the Lot or tract, but such easements shall remain open and readily accessible for service and maintenance of utility and drainage facilities and other purposes.

Section f. Temporary Residences. No structure of temporary character, trailer, basement, tent or accessory building shall be used on any tract as a residence, temporarily or permanently, and no used structure of any sort shall be moved onto any Lot. Exceptions may be granted by the Association for a period not to exceed one hundred twenty (120) days during construction of a permanent residence by the owner on his lot. Except for the above exception, no trailers of any type shall be placed or kept on any Lot unless such trailer is in an enclosed garage.

Section g. Water. There shall be no water wells drilled or placed on any Lot or tract covered by these Covenants, except as may be required for a public water system. Any sewage disposal system placed upon any Lot shall comply with the requirements of the State of Colorado Health Department and Routt County, Colorado. Any residence constructed on any Lot shall be connected with any public or community water or sewage disposal system which may be formed or created to serve the Subdivision.

Section h. Clearing of Trees. Approval shall be obtained from the Committee to cut down, clear, or kill any trees on any Lot. Further, each and every grantee agrees that all the trees cleared by him will be disposed of in such a way that all Lots, whether vacant or occupied by buildings, shall be kept free of accumulations of brush, trash, or other materials which may constitute a fire hazard of render a Lot unsightly, provided, however, that this shall not operate or restrict grantees from storing firewood in neat stacks on their Lots.

Section i. Commercial. Commercial zoning will not be allowed within the Subdivision. No commercial type vehicles and no trucks shall be stored or parked on any Lot except in a closed garage, nor parked on any residential street or alley except while engaged in transport to and from a residence. For the purposes of this Ordinance, a 3/4 ton or smaller vehicle, commonly known as a pick-up truck, and which is not used for commercial purposes, shall not be deemed to be a commercial vehicle or truck.

Section j. Nuisance. Nothing shall be done or permitted on any Lot which may be or become an annoyance or nuisance to the neighborhood. No noxious or offensive activities of commercial business or trade shall be carried on upon any tract, except that professional offices such as that of a lawyer, doctor, dentist, or engineer may be maintained within the main dwelling upon specific approval by the Declarant in each case.

Section k. Refuse and Rubbish. Rubbish, garbage, or other waste shall be kept and disposed of in a sanitary container. No tract or easement shall be used or maintained as a dumping ground for rubbish. All containers or other equipment for the storage or disposal of garbage, trash, rubbish or other refuse shall be kept in a clean sanitary condition and shall be kept inside the Residence or individually housed. No trash, litter, or junk shall be permitted to remain exposed upon the premises and visible from public roads or adjoining or nearby premises. Burning of trash will not be permitted.

Section l. No signs of any character shall be displayed or placed upon any of the premises or Lots in said Subdivision except one professional sign of not more than one square foot in area per side, advertising the property for sale, house numbers, occupant's name, or signs used by a builder approved in writing by the Declarant to advertise the property during the construction and sales period. All signs are subject to the approval of the Committee.

Section m. Animals. No animals, livestock, or poultry of any kind shall be housed, raised, or kept on any tract or property either temporarily or permanently, except that commonly accepted domestic household pets may be kept provided they are not kept or maintained for any commercial purposes.

Section n. Aerials, Antennas, Clotheslines and Exterior Tanks. No exterior aerials or antennas will be permitted. In addition, no grantee shall place upon his premises clotheslines, swimming pool filter tanks, fuel oil tanks, or similar tanks, which may be visible from the street. All tanks must be enclosed or otherwise appropriately screened so that they will not be visible from the street or from adjoining Lots. Protective enclosures to screen the above must be approved by the Committee as a part of the plans for the improvements to be located on the property.

Section o. Party Wall and Common Roof. Each wall which is built as part of the original construction of the homes upon the lots 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 negligent or willful acts

or omissions shall apply thereto.

(1) The cost of reasonable repair and maintenance of the Party Wall shall be shared by the Owners who make use of the Wall in proportion to such use.

(2) 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 others under any rule of law regarding liability for negligent or willful acts or omissions.

(3) Notwithstanding any other provisions 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.

(4) 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 successor in title.

(5) In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of the majority of all the arbitrators shall be final and conclusive of the question involved.

Section p. Exterior Maintenance. In the event an owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

Section q. Landscaping. Any barren areas on any site as a result of construction or improvements shall be re-planted by the Owner(s) of the site(s) either with flora natural to the region or in such grass or other planting as may be approved by the Association. This re-planting shall commence within six (6) months of the completion of the construction of the improvement and shall be completed within six (6) months thereafter. No person shall be permitted to interfere with or direct the natural course of any drainage or runoff so as to alter the natural flow onto or across the site or living unit of another. No site shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth.

ARTICLE VI

1. GENERAL PROVISIONS

Section a. 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 covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section b. Severability. Invalidation of any one of these covenants or restriction by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section c. 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 percent (90%) of the Lot Owners and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners.

Section d. Annexation. (a) Additional property may be annexed with the consent of two-thirds (2/3) of each class of members. (b) Additional land within the area shown in the general plan of the Declarant for its development in Routt County, Colorado or contiguous to land shown in the general plan may be annexed by the Declarant without the consent of the members within ten (10) years from the date of this instrument. Provided, however, that if FHA and VA approval has been obtained, the FHA and VA must determine that the annexation is in accord with the general plan approved by them.

Section e. FHA/VA Approval. As long as there is a Class B membership and as long as the Subdivision is approved for guaranteed loans by FHA or VA, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Areas, and amendment of this DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

Section f. Assignment. THE WOODMOOR CORPORATION may assign any and all its rights, powers, obligations and privileges under this instrument to the Association, or to any other corporation, association or person.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 30 day of November, 1971.

THE WOODMOOR CORPORATION

By John A. Thompson
John A. Thompson
Executive Vice President

ATTEST:
John J. Wilkinson
John J. Wilkinson, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 30th day of November, 1971, by John A. Thompson, Executive Vice President, and John J. Wilkinson, Secretary, of The Woodmoor Corporation.

WITNESS my hand and official seal.

NOTARY PUBLIC
My Commission Expires:
October 21, 1975

Betty A. Brash
Betty A. Brash
Notary Public