

**Declaration of Protective Covenants****WALDEN**

State of Colorado)
County of El Paso)

KNOW ALL MEN BY THESE PRESENTS:

That whereas the Declarant, Custom Castles, Inc., hereinafter called Declarant, is the owner of WALDEN III, Filing 7 Tracts twenty-four (24) through thirty-eight (38) inclusive and Tracts fifty-eight (58) through seventy-two (72) inclusive and Tracts seventy-eight (78) through eighty-two (82) inclusive a total of thirty-five (35) lots, situate in the County of El Paso and State of Colorado. ("Tracts" may be referred to as "lots" in these covenants and on the plat, and if so, these terms are interchangeable.)

NOW THEREFORE, in consideration of the acceptance hereof by the several purchasers and grantees (his, her, their or its 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, said Declarant hereby declares to and agrees with each and every person who shall be or shall become owner of any of said lots, in addition to the ordinances of the County of El Paso, Colorado, that they 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, to wit:

1. INTENT: The intent of these covenants is to preserve WALDEN as an exclusive, high quality residential area of lasting value, and the covenants have been designed to that end. Property owners in WALDEN should be people who value quality, who will respect, uphold and observe the letter, spirit and intent of these covenants, and who will insist upon their strict enforcement. Further, Declarant intends that these Protective Covenants run with the land and bind the parties heirs, personal representatives, successors and assigns.

2. BUILDING TYPE AND USE: All tracts shall be known and described as residential tracts and shall be used only for custom built residential homes and country estates. No structure shall be erected, altered, converted, placed or permitted to remain on any tract; other than one single-family dwelling not to exceed two and one-half (2 1/2) stories in height, and a private garage, in keeping with the architecture of the principal residence, provided that such are not used for any commercial purpose, and subject to approval by the Architectural Control Committee, hereinafter referred to as ACC, and the appropriate governmental building department. No structure may be erected prior to construction of the main dwelling. WALDEN is intended only for custom-built homes of harmonious design to complement the natural terrain and other homes constructed in the subdivision. No mobile homes, premanufactured homes with the appearance of mobile homes or "doublewides", or domes shall be approved.

3. DWELLING SIZE: The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than sixteen hundred (1600) square feet for a one-story dwelling, nor less than eleven hundred (1100) square feet for a dwelling of more than one story, or a tri-level with the two lower levels having a total of not less than fourteen hundred (1400) square feet. Garages are required for all houses, and shall be of size to accommodate not less than two full-sized cars, and doors shall be kept closed. Oversized two car or three car garages are recommended as economical and practical storage space for extra equipment and vehicles. Automobiles and small boats will not be parked more than four (4) successive nights outside of garages.

4. BUILDING LOCATION: When the house plans are submitted, there shall be submitted to the ACC a separate plot plan showing the planned location of all improvements contemplated upon the lot, and the ACC may alter the site location or deny construction if, in the opinion of the ACC, the proposed site location would unduly interfere with adjoining lots as to view, proximity of construction, the natural growth or terrain, or cause other potential interference with existing or proposed construction on adjoining lots. Buildings should be located on lots in such a way as to minimize damage to existing foliage and natural growth. No trees may be removed other than under the provisions of Paragraph 9 hereof, and the lots shall be maintained in their natural state as nearly as possible, except that a reasonably sized lawn and garden, not to exceed two thousand (2000) square feet may be planted around the house.

A. Setbacks: No building shall be located on any lot nearer than forty (40) feet to any lot line fronting a road, nor nearer than twenty (20) feet to any other lot line. Exceptions to the setback requirements are sometimes logical and may be made by the ACC in cases where extenuating circumstances exist, provided however, that any such exceptions must be requested in writing and granted by the ACC in writing. For the purposes of this Sec. 4 A., eaves, steps and open porches shall be considered as part of the building. (See Notes and Setbacks on recorded plat.)

5. TEMPORARY RESIDENCES: No structure of temporary character, trailer, basement, tent or accessory building shall be used on any lot as a residence, temporarily or permanently.

6. TIME OF CONSTRUCTION: No construction shall be permitted upon any lot until Declarant has been paid in full for said lot (see also the provisions in Declarant's Deed of Trust) which are incorporated herein by reference.

Once construction is initiated on any structure, including walls, fences, residences, ancillary buildings or any other structure which has been previously approved by the ACC, construction of that particular structure, including landscaping, shall be completed within nine (9) months of the time such construction was initiated. The ACC may extend the time for completion under unusual circumstances, and any such time extension shall be in writing. In no event, other than inclement weather, shall fine/final grading and clean up (debris, stumps, limbs, left over building items, etc.) be delayed more than 30 days after completion of a home.

If any structure is abandoned, Declarant and/or the ACC shall have the authority to remove or complete all or portions of such structure(s) so as to prevent its being unsightly and a detriment to the area. Notice of intent to remove or complete will be mailed to the owner at his last known address, at least ten (10) days prior to such action and shall be posted on the lot ten (10) days prior to such action and, in the event that such removal becomes necessary, the owner of the lot shall be liable for all costs of such work, which costs shall constitute a lien which shall be recorded against said property, and shall be due and payable immediately and bear interest at the rate of eighteen percent (18%) per annum or two percent (2%) above the prime rate of Peoples National Bank of Colorado Springs, whichever is higher, until paid.

7. HOMEOWNERS ASSOCIATION: Owners in Walden, shall automatically become members of the "Walden Homeowners Association" (WHA); said membership is mandatory and is a condition of purchasing a lot(s). Dues shall be required in accordance with the By-laws thereof, which owners agree to pay promptly when due. This Association shall operate as a non-profit corporation, according to the provisions of its Articles of Incorporation and By-laws. Each tract shall have one vote. Remaining original inventory tracts or repossessed tracts owned by Declarant, its successors or assigns, shall not be assessable, but shall carry one vote each.

The Homeowners Association shall have a lien against all tracts the owners of which are delinquent, for non-payment of dues and assessments levied by the Homeowners Association, where such dues and assessments are in arrears by thirty (30) days or more. The Homeowners Association is empowered to file such lien with the El Paso County Clerk and Recorder, and such lien shall run with the land; provided, however, that if such tract is repossessed by Declarant, its successors or assigns, the lien shall become null and void and shall be hereby released at that time. Continued failure to pay such liens may result in foreclosure on the entire property/tract in order to enforce payment.

8. ARCHITECTURAL CONTROL AND DESIGN:

A. Purpose : The purpose of this covenant is to assure through intelligent architectural control of building design, placement, materials, colors and construction, that WALDEN shall become and remain an attractive residential community, and to uphold and enhance property values.

B. Architectural Control Committee (ACC):

(1) Composition: The ACC is composed of Declarant, its heirs, successors or assigns, represented by three (3) persons appointed by Declarant. After the completion of sixteen (16) houses within the subdivision, Declarant may appoint one (1) member of the three-member ACC from among the owner-occupants of said homes to serve for three (3) years, after which that position shall be filled by an owner-occupant elected thereto by a simple majority vote of all the then owner-occupants (one vote per tract), to serve for three (3) years. Declarant may thereafter appoint a second owner-occupant ACC member of the three-member ACC for a similar initial term and subsequent election in a similar manner. Declarant or its representative shall remain on the ACC until all lots have

completed dwelling units thereon; however, at its option and choice of time, Declarant may relinquish full control of the ACC to the owner-occupants, at which time all three (3) members shall be subject to elected as provided herein.

Any elected member of the ACC whose performance is found objectionable by other owner-occupants may be removed by a vote of a two-thirds (2/3) majority of the then owner-occupants. In the event of the death or resignation of any elected member of the ACC, the remaining members thereof shall have full authority to designate a successor elected member to fill the remaining term.

(2) Liability of ACC: Neither Declarant, ACC, nor any persons acting therefore shall be liable in damages to any person submitting requests for approval or to any lot owner by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests, or with regard to any other actions taken by the ACC under authorization of the provisions hereof, provided that they have acted in good faith and without negligence.

(3) Records retained by ACC: The ACC shall maintain records of election of its members. It shall retain a complete file of applications, home plans, and location sketches until all structures applied for thereunder have been completed and for five (5) years thereafter. If requests for additions are made, both the original plans and plans for said additions will be kept until said additions are completed.

(4) Compensation: A non-refundable architectural review fee of fifty dollars (\$50) shall be submitted along with each submittal of plans to the ACC to defray the administrative costs of the review process. Two (2) years after the recording of these covenants said fee shall be increased to one hundred dollars (\$100). Any unused portions thereof shall be deposited into the Enforcement Fund (see Paragraph 24.B.). No compensation other than reimbursement of expenses, shall be received by members of the ACC for services performed pursuant to this covenant.

C. Procedure for Obtaining Approval of Plans:

(1) Application and plans shall be submitted with review fee to Declarant.

(2) If the owner believes that his plans may encounter serious objection he should submit preliminary drawing and/or a preliminary sketch and request, in writing, preliminary review prior to incurring the expense of having detailed architectural working plans drawn. Such preliminary review shall not constitute final action.

(3) Owner (not builder) shall make written application on a form provided by and obtained from Declarant or ACC, which shall be submitted with the following attachments:

(a) Two (2) copies of site plan, drawn to scale, showing the exact location on the tract of all proposed improvements (house and other buildings even if only contemplated for the future). Exact proposed setbacks from lot lines must be delineated. Access routes (driveways) to proposed structures and any clearing, plantings or fencing must be included. Topographic maps showing terrain lines are recommended. (See also Section 4. above)

(b) Two (2) complete sets of construction plans for building(s) detailing the floor plan, elevations, site location, and exterior building materials.

(c) Color samples and, if deemed necessary by the ACC, material samples of siding, roofing, etc.

(d) A letter of commitment from a lender, guaranteeing approval of construction financing and/or permanent financing upon completion of construction, if and when requested by the ACC. Job specifications and price estimate (construction take-off sheet) for improvements intended may be required at the sole discretion of the ACC. The intent of this section is to ensure that the applicant is financially capable of completing the proposed improvements, thus reducing the possibility of an abandoned or partially finished structure on a lot.

(4) The ACC shall then meet as a group (not individually) to discuss, examine and consider plans, make field trips to the site (owner shall stake out the proposed location of building prior to submission of plans) and approve or disapprove all submissions in writing. The ACC shall return a copy of the submission form with its determination and comments as appropriate. The set of plans, site plan, and material/color samples shall be kept in the files of the ACC. The ACC may require the owner to make other submissions, to include material samples, prior to considering any application.

The ACC may take up to thirty (30) days to approve or disapprove submissions, and, if disapproved, may take an additional thirty (30) days to consider any resubmitted plans. Normally, submissions will be resolved in less time but owners should plan sufficiently in advance to give the ACC time to thoroughly examine plans, make on-site inspections and make well considered decisions. In the event that the ACC fails to approve or disapprove the

plans within thirty (30) days after receipt of any written submission, or in any event, if no suit has been filed to enjoin the construction prior to its completion, approval shall not be required, and the related covenants requiring ACC approval shall be deemed to have been fully complied with, provided that all other covenants herein have been properly observed and complied with. The foregoing notwithstanding, no plans shall be approved nor shall the above thirty (30) day automatic approval pertain, unless the owner is current in his dues to the Walden Development Homeowners Association (WHA).

(5) Voting: A simple majority vote (2/3) of the ACC shall determine approval or disapproval; however, unless all three (3) members of the ACC have been given the opportunity to vote and all three (3) have signed the submission form, the approval or disapproval is not valid. The ACC will coordinate and work in concert with each other and report their decisions as a group and not individually.

D. Authority of ACC: The ACC is empowered to approve or disapprove in writing all plans for construction, site locations, clearing, plantings, fencing and any other changes in the natural environment of lots in WALDEN. Disapproval of submissions by the ACC may be based on any grounds, including purely aesthetic grounds. If such submissions are disapproved, the ACC shall give written reason for said disapproval to applicant. The ACC may make other reasonable requirements of the applicant, including, but not limited to submission of additional plans, specifications, and material samples, and may require such changes as it deems necessary to conform to the overall intent as herein expressed.

The ACC shall have the right to alter site locations as shown on the submitted site plan, or deny construction if, in the opinion of the ACC, the proposed site locations will unduly interfere with adjoining lots as to view, proximity or type of construction, actual or proposed, or unduly damage the natural growth and terrain.

The ACC may prohibit the construction of fences, houses or any other improvements to any lot and is empowered to order their removal if written application was not made by the owner, if approval was not granted in accordance with these covenants, or if actual construction is different from the approved plans.

The ACC, upon written request, shall have the authority to grant in writing, variances from the provisions of this Declaration of Protective Covenants as they apply to construction and setbacks, in cases of irregularly shaped lots, unusual terrain, highly desirable building sites near lot lines, or other conditions wherein the strict enforcement of these covenants would result in unusual hardship. The ACC shall be the sole and exclusive judge of whether or not such hardship exists. It is the intent of these declarations that the ACC shall exercise broad discretionary powers hereunder and its decisions shall be final and conclusive. The ACC shall resolve all questions of interpretation and these covenants shall be interpreted in accordance with their general purpose and intent as herein expressed.

E. Architectural Design and Requirements: In addition to the other requirements hereof, the following pertain:

(1) Construction: No building, structure, walls, gates, hedges, fence, mailboxes, driveways, windbreaks, swimming pools, flagpoles, windmills, exterior lighting or other improvements shall be commenced, erected, converted, placed, added to, maintained or altered on any lot until the construction plans and specifications, to include design, height, material and color samples to be used, and a site plan showing the exact location of the structure(s), have been approved by the ACC in writing as to quality of workmanship and materials, harmony of external design with existing structure(s), location with respect to other structures planned, and as to topography and finished grade elevation. This requirement applies both to new construction and to subsequent changes, additions, repainting and major repairs or renovations. No construction of any such improvement shall be commenced until ACC approvals required by these covenants are obtained.

(2) Color: Structural color schemes shall be compatible with the natural environment of the subdivisions. Subdued, unobtrusive natural or earth colors will normally be required, and color samples must be submitted with plan.

(3) Facing/Siding: Exposed concrete on buildings shall be stucco, or covered with brick or stone or other material meeting the approval of the ACC. If brick or stone is used as facing, other than decoratively, it must be used on all sides of a building seen from any road. Natural wood sidings must be treated and periodically maintained with some type of preservative or stain, and color samples shall be submitted with plans.

(4) Chimneys: Spark arrestors shall be required on all chimneys, and open fires in Walden are prohibited.

(5) Roofing: Roof materials and color shall be consistent with the architecture, color, and exterior wall material of any structure. Cedar shake, tile, slate, or architectural asphalt shingles will normally be required; however, the ACC may allow variations from this requirement in those cases where such variation would be harmonious with the surrounding area and where such roofing materials would not be practical for a particular design or structure. New and modern materials with shake appearance will be considered. No T-Lock or Three Tab shingles will be permitted.

Roof mounted solar collectors, skylights and other unusual or energy conservation features should be custom designed and must be approved by the ACC.

(6) Energy features: Energy efficiency is encouraged through well-sealed and insulated construction and the use of passive solar design techniques. Solar collectors shall be located or screened so that reflections do not unreasonably defeat the intent of these covenants to maintain a natural, environment. Tall wind-powered electrical generators are prohibited.

(7) Extreme designs: Homes of extreme design may or may not be approved depending upon location and appearance, it being the intent of these covenants to establish an area of quiet, unobtrusive dignity and quality consistent with other homes in the subdivision.

(8) Materials: All materials used in the construction, alteration or remodeling of any building shall be new and of good quality and design. Used materials of good quality may be used, provided they are first approved in writing by the ACC.

(9) Driveways: in addition to obtaining approval from the ACC, purchasers must obtain a written driveway permit from the El Paso County department of Transportation prior to connection of any driveway to a public road. Owners of lots are advised that the County has no responsibility for and will not snowplow or otherwise maintain driveways whether on flag lots or other lots; such responsibility is solely that of the lot owner. Flared end extensions are required on all driveway culverts, or else concrete, masonry or stone headwalls to prevent bent culvert pipes and a consequently unattractive approach to a home. Plans submitted to the ACC must include the manner in which the driveway shall be constructed, and approval must be obtained from the ACC.

(10) Mailboxes and their support structures must be approved by the ACC. Colored plastic or metal newspaper boxes are not permitted; therefore, mailbox designs should incorporate a separate space for newspapers, as the U.S. Postal Service rules prohibit placing newspapers or anything other than U.S. mail in a mailbox.

(11) Fences and Antennas:

(a) Barbed wire fencing within the subdivision is prohibited. Declarant shall not be responsible for or defend against adverse possession suits based on external boundary survey differences. Fences must be approved in writing by the ACC prior to construction thereof. (See also paragraph 4.A. Setbacks.)

(b) Antennas: Attic antennas inside the house (as opposed to roof antennas are effective, are less vulnerable to damage and are encouraged. Tall or otherwise prominent and visible antennas are prohibited. Satellite dish antennas may be used only in areas where they will be unobtrusive, and shall be painted or screened to blend in with the natural environment; they must be approved in writing by the ACC prior to installation.

F. Penalty Fee for Violations: Written application for approval of plans shall be made and signed by the owner of the tract (not the builder) and the owner shall be held responsible for any violations of the covenants which are committed by the builder or other persons engaged by the owner. If any excavation, cutting of trees or construction is commenced by owner, or owner's representatives, prior to receipt of written approval by the ACC, then the owner agrees to pay immediately a penalty of three hundred dollars (\$300) to the enforcement trust fund (see paragraph 24.B.), which shall utilize said funds to further enforce the WALDEN covenants as necessary. Purchasers of tracts in WALDEN agree to make such payment and understand that a lien shall be filed against their property if they do not (see paragraph 24.C.). Further, if legal action is necessary to enforce this covenant, purchasers agree to pay all expenses, to include reasonable legal fees incurred by the ACC in collection of said penalty. Payment of said penalty does not preclude further action by the ACC to disapprove such areas in which clearing or construction has begun.

9. CLEARING OF TREES: Approval shall be obtained from Declarant or subsequently, the ACC, to cut down or clear any trees on any tract. Approval is not required to remove dead trees, thin of trees of four inches in diameter or less, and to control infestation. Owners of lots shall dispose of such cleared trees in a way to prevent stumps, accumulation of trash, or other materials which constitute a fire hazard or render a tract unsightly. This provision shall not operate to restrict purchasers from storing fireplace wood in neat stacks on their tracts. Owners are responsible for prompt treatment or removal of trees infected by pine beetle or other insects, which can kill trees within a year and might spread to adjacent trees and lots, and to reasonably contain any trees with slow parasitic growth such as mistletoe.

10. EASEMENTS: Easements for installation and maintenance of utilities, roadways, drainage facilities and such other purposes incident to development or the property are reserved on, over and under a strip of land ten (10) feet wide along either side of all side and rear lot lines, and twenty (20) feet along all front lot lines and along the subdivision boundaries, and as otherwise shown on the recorded plat. If purchaser buys contiguous lots, easements and setbacks shall apply unless the purchaser formally vacates the common lot line through the appropriate government agencies. Tract owners are responsible for providing access to utility company and other government agencies who have reason to use said easements, and if damage is done to fences, shrubbery or plantings in said easements, tract owners have no recourse against said agencies, Declarant, WHA or ACC. No building or similar structure may be placed within the easements unless vacated by agencies involved, and approved by the ACC. It is recommended that they be kept open and unfenced. Owners of lots fronting the "flagpole" of flag lots may use and are encouraged to use said flagpole as a driveway to their lot (to decrease the number of driveways opening onto the street). If they elect to do so, they are jointly responsible with the owner for the costs of its maintenance. No vehicles or equipment will be parked permanently or temporarily on "flagpoles". Such use by adjoining lot owners of the "flagpole" shall not constitute or create a claim to any estate in the title thereof through prescription or adverse possession.

11. VISION OBSTRUCTION AT INTERSECTIONS: No fence, wall, hedge, tree, shrub planting or other structure which unduly obstructs lines-of-sight shall be placed or permitted to remain on any corner formed by the intersection of a driveway or street with another street, The ACC shall be the sole and exclusive judge of whether said lines-of-sight are unduly obstructed.

12. REDIVISION: Further subdivision or lots in Walden is not permitted; however, the intent of this covenant is not to preclude minor lot line adjustments to resolve building hardships, provided that such variations meet all legal requirements and are approved by declarant and the ACC in writing. If a lot line has been vacated the affected property may not be again re-divided into separate lots without the prior written approval of Declarant, in addition to meeting all of the requirements of any government entities.

13. NUISANCE: Nothing shall be done or permitted on any lot which may be or become an annoyance or nuisance to the neighborhood. No noxious, noise polluting or otherwise offensive activities or commercial businesses or trades shall be carried on upon any tract. Any exterior lighting on any lot shall either be indirect or of such controlled focus and intensity as not to unduly disturb residents of adjacent or nearby property.

No trailbikes, minibikes, motorcycles, all-terrain vehicles, snowmobiles, or other such noise causing vehicles shall be operated within Walden other than on County roads and going to and from residences. No activity shall be permitted which will generate a noise level sufficient to interfere with the reasonable quiet enjoyment of the persons on any adjoining or nearby lots.

No hunting of any kind, nor the discharge of firearms shall be permitted in Walden.

14. REFUSE AND RUBBISH: Rubbish, garbage or other waste shall be kept and disposed of in a sanitary manner. Containers or other equipment for the storage or disposal of garbage, trash, rubbish or other refuse shall be kept in a clean, sanitary condition. All garbage or trash containers shall be kept at all times in a closed garage or placed in walled-in areas designed to blend in with the house, so that they shall not be visible from other tracts or from public streets. Bottled gas tanks, if any, must be underground, or concealed behind walled-in areas designed to blend in with the house, and may be subject to the approval of the Fire Department. No trash, litter, junk, equipment, boxes or other such items shall be permitted to remain exposed upon the premises and visible from public streets or from other tracts within the subdivision.

15. SIGNS: All signs displayed must be first approved in writing by Declarant or the ACC. This covenant does not preclude the display of reasonably sized builder or real estate signs not to exceed six (6) square feet in size.

Declarant or ACC reserves the right to make exceptions to size requirements, or to require modification or removal of any signs deemed not in keeping with the area and subdivision decor; however, neither Declarant nor ACC shall require real estate signs to be smaller than provided herein, and this restriction shall run with the land and may only be changed by Declarant. Declarant, its successors or assigns, reserves the right to erect and maintain an entrance sign on tracts at either side of the street at each entry point into Walden, along with gateways, posts, walls, signs and other structures both to permanently identify and market Walden. In addition, Declarant reserves the right to place signs on any lot in the subdivision as Declarant deems necessary for safety or traffic guidance, and purchasers of tracts in Walden agree thereto.

16. DRILLING: No oil drilling, oil development operations, oil refining, quarry or mining operations of any kind shall be permitted on or in any tract, nor shall gas or oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any tract. No derrick or other structure designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any tract.

17. CLOTHES DRYING AREA: Exterior clotheslines are prohibited, unless screened from view from roads and adjoining lots.

18. VEHICLE PARKING AND EQUIPMENT: No vehicles shall be stored or parked within the subdivision except in a closed garage; however, recreation vehicles to include travel trailers, horse trailers, campers, boats or a motor home and various equipment may be kept if such vehicles are screened from public view with proper garaging or fencing approved by the ACC. As most families have more than two vehicles, three car or larger garages are strongly recommended. The intent of this covenant is to prevent clutter and enhance natural appearance.

19. UTILITIES: All utility lines, including service lines of whatsoever kind or nature, shall be underground on all tracts within Walden, except poles and lines existing at the time of recording of this declaration shall not be removed and placed underground by Declarant. It shall be the responsibility of each owner to extend service to his house from existing lines or lines which may be provided by Declarant.

Water and Sewage: Any residence constructed on any lot shall be connected with the public or community water and sewage disposal system formed or created to serve the subdivision, and any residence shall be limited to two thousand (2000) square feet of lawn or garden or the combined use of both for the purpose of irrigation or sprinkling.

20. ANIMALS:

A. No animals or livestock of any kind may 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 that they are not kept or maintained for any commercial purposes.

B. Dogs shall not be permitted to run loose and shall be kept under control of owners at all times. Kennels for the commercial raising, breeding and boarding of animals are prohibited.

21. MAINTENANCE OF COMMON AREAS

A. **Title to the Common Area.** The Association shall hold title to the Common Area which may include drainage areas and Structures, entry areas and signs, and other areas. The Common Area shall be maintained and insured by the Association, which shall also maintain, repair and replace the common fences, common signs and all other maintenance within the Common Area. Subject to the limitations and restrictions of these Covenants, title to the Common Area shall be conveyed by Declarant to the Association in fee simple or granted by easement.

B. **Non-Division of Common Area.** The Common Area shall remain undivided and shall not be subject to partition by the Owners. By the acceptance of their deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Area. Each Owner specifically agrees not to institute any action therefor. Further, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. A violation of this provision, or any other provision of these Covenants, shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the actual attorney fees, costs and other damages the Association incurs in connection therewith. It is agreed by all Owners that the foregoing restrictions are necessary to preserve the rights of all Owners regarding the operation and management of the Common Area.

C. **Extent of Owners' Common Area.** The rights created hereby in the Common Area shall be subject to the following:

(1) The right of the Association to enforce the restrictions contained in these Covenants and to promulgate and publish rules and regulations with which every Owner, his family members, guests, tenants, and contractors shall strictly comply, including, but not limited to, the right of the Association to deny or limit ingress and egress at their discretion or upon requirement of any public agency, authority or utility.

(2) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes, subject to such conditions as may be imposed by the public entity; for example, if any drainage Structures are private and have not been built to County specifications and so might not be accepted by them;

(3) The rights of the Association as set forth in the Association's Articles of Incorporation and Bylaws, including, without limitation, to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan;

(4) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure;

(5) The right of the Declarant to construct improvements on the Common Area, and notwithstanding any provision of these Covenants to the contrary, Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through, and upon the Property for the purpose of installing, maintaining, repairing and replacing any utilities or related services, including but not limited to any gas, electric, water or sewer line, wells, mains or laterals, any telephone and cable television lines, any heating or cooling installations, any master television antenna system, any drainage or retention areas, or for other public purposes consistent with the intended use of the Property under these Covenants. The foregoing easements shall include, without limitation, the right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment and the right to enter into agreements relating to such utility service and easements; all of which shall be binding upon the Association and the Owners. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the Property without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded easements on the Property, including, but not limited to, any easements granted in the recorded subdivision map. The rights reserved herein for Declarant shall pass to the Association when the Declarant no longer owns any Lot or real property in the Project, or upon written transfer by Declarant to Association, and any and all of the covenants, terms, provisions, rights and duties arising from such easements granted by the Declarant and any related agreements shall thereupon pass to the Association and be assumed by it in place of the Declarant. Any consideration for any such easement shall be delivered to and become the property of the Association, whether the grant of easement was made by the Declarant or by the Association; and

(6) Declarant hereby reserves easements across the Common Area to enable Declarant to access, construct, maintain and use wells on the Common Area as may be desirable for Declarant in conjunction with Declarant's reserved water rights. If Declarant conveys or assigns its rights to those easements, Declarant covenants to require the person or entity acquiring Declarant's interest to assume and perform Declarant's obligations to the Association under this paragraph.

D. Non-Dedication of Common Area. Declarant, in recording these Covenants, has designated certain areas of land as Common Area intended for the common benefit of Owners. Nothing contained in these Covenants shall be deemed to dedicate the Common Area for benefit or use by the general public.

E. Association Maintenance. The Association shall provide all repair, replacement, improvement and maintenance of the Common Area and all improvements located thereon, including without limitation, if applicable, any landscaping, roadways, utility lines, ponds, trail easements, any drainage Structures or facilities or public improvements to the extent applicable and any, sidewalks, and pathways, or other improvements located on the Common Area. The Association shall maintain and be responsible for keeping the common drainage areas and Structures clear and free of silt to insure the areas drain properly.

F. Retention structures. Retention structures exist on lots 1 and 2, Filing 6, Phase I, and detention areas exist on lots 9 & 10, Filing 6, phase I, and Tract A, Filing 6, Phase II, as shown on the plat. Additional drainage easements and flood plain areas exist on portions of certain Lots as shown on the recorded plat of the Project. The purpose of these structures and areas is to maintain historic drainage flows within the Project property, since Home and road construction

may slightly increase drainage flow. Additionally, no structures, landscaping or other materials shall be placed within any designated flood plain area as shown on the plat or any drainage easements. Declarant, El Paso County, Soil Conservation entities, the Association, and their successors and assigns reserve the right to enter upon said easements and areas periodically for purposes of inspection and related matters. All lots and all lot owners may be subject to an obligation as set forth in that certain Private Detention Basin Maintenance Agreement and Easements, a copy of which is recorded in the real estate records of the El Paso County Clerk and Recorder, the reception number of which is noted on the final plat for this subdivision.

22. RIGHT OF DECLARANT: Declarant, its successors or assigns, expressly reserves the right:

A. From time to time to amend or revoke any restrictive covenant then in existence, but no such amendment or revocation shall apply to tracts that are sold prior thereto without the written consent of a majority of the then owners of any such tracts (one vote per tract), nor shall amendment or revocation be of such nature as to derogate property values.

B. To enter into agreements with the purchaser of any lot or lots (without the consent of the purchasers of other lots or adjoining or adjacent property) to deviate from those conditions, restrictions, limitations and agreements herein set forth and any such deviation which shall be manifested by agreement in writing shall not constitute a waiver of any such condition, restriction, limitation, or agreement as to the remaining lots in said subdivision, and the same shall remain fully enforceable on all other lots located in the said subdivision by Declarant, its successors or assigns, and the purchasers of other lots except as against the lot where such deviation is permitted.

C. To modify, change or delete any covenant as it pertains to one or more tracts which may prevent obtaining VA or FHA financing; however, any such action will not change the intent of these covenants to establish and maintain a single family residential area of the highest caliber.

D. To widen cuts in roads beyond the sixty (60) foot road right-of-way to obtain gravel to finish roads and to meet County road grade requirements, and to remove gravel from any unsold lots. Such areas will be graded and restored when no longer needed. After final road approval and acceptance of roads for maintenance by the County, this paragraph, 22. D. shall be null and void and of no further effect.

23. TERM OF COVENANTS: These covenants and restrictions are to run with the land and shall remain in full force and effect for twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a simple majority of the then owners of the tracts (one vote per tract) has been recorded, changing said covenants in whole or part; however, covenants may be amended at any time by a three-fourths (3/4) majority vote of all property owners (one vote per tract). All changes shall be legally drawn and formally recorded in El Paso County.

24. ENFORCEMENT:

A. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. Covenants are for the use, convenience and protection of all property owners. Declarant, Architectural Control Committee, WHA, or any individual lot owner may act to enforce the covenants; none of the foregoing, however, are obligated to do so. Declarant and the Architectural Control Committee, together or separately or through authorized agents or employees further reserve the right, whenever there shall have been an apparent violation of one or more of the provisions of these covenants, and after ten (10) days notice to owner, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner and such entry and abatement or removal shall not be deemed a trespass. Property owners in Walden expressly agree to abide by injunctions without necessity of bond, in order to simplify judicial proceedings to remedy covenant violations. In addition, if a judicial action is necessary to prohibit a covenant violation and a violation is established, the violator(s) shall pay and agree to pay all costs of the enforcement proceeding, including reasonable attorneys' fees. The failure to enforce any right, reservation, restriction, or condition contained herein, to do so thereafter as to the same breach or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction herein contained shall not in any way affect any of the other restrictions but they shall remain in full force and effect.

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B. Enforcement Trust Fund: Matching fees of fifty dollars (\$50) each shall be paid at closing by the purchaser of each lot and by Declarant, and said funds shall be kept in a trust fund by Declarant to be used for enforcement of the protective covenants. Any penalties that may be collected from time to time shall also be placed in said fund (see paragraph 8. F.). Said fund shall be used by Declarant, its heirs, successors and assigns, for paying future legal and other expenses involved in enforcing these covenants and said Declarant is hereby authorized to use said fund. In addition, said fund or portion thereof may be transferred into the WHA treasury for the purposes outlined in paragraphs 7 and 8 and may be used at the discretion of Declarant for continuing subdivision expenses no longer the responsibility of the developer, such as maintenance of entrance ways and signs, special mailings, etc; however, the fund shall not be depleted to the extent that insufficient funds are available to enforce the covenants. In like manner, the WHA may transfer WHA funds into the Enforcement Trust Fund if needed to enforce covenants. The ACC and/or any individual tract owner desiring to use said trust fund for the enforcement of these covenants, shall make written request of Declarant for the use of monies in said fund, and Declarant shall have sole authority to approve or deny and such request. Denial of such request shall not preclude an individual tract owner from bringing suit to enforce these covenants under the provisions of paragraph 24. A. above. Fund shall be kept by Declarant in an interest-bearing account which may be closed and funds distributed to lot owners after all lots have been built upon, or earlier, at the discretion of Declarant, or be turned over to the control of the ACC for the uses provided herein.

C. Liens: Non-payment of fees incurred by Declarant and/or ACC in enforcing correction of a bona fide violation of these covenants or in abatement or removal as covered herein and per paragraphs 6. and 8.F. hereof, shall result in a recorded lien being placed on the lot and/or lots interest owned by the violator(s), including improvements thereon, said lien to bear interest at eighteen percent (18%) per annum or two percent (2%) above the prime of the United Bank of Colorado Springs, whichever is higher, from the date filed. Declarant and/or ACC is empowered to file such lien if within thirty (30) days of written notification to owner of amount due, owner has not made payment in full. Such lien shall run with the land unless said property is repossessed by Declarant, its successors or assigns, in which case the lien shall become null and void and shall be hereby released at that time. Continued failure to pay such liens may result in foreclosure on the entire property in order to enforce payment.


25. NOTICES: Any notice required to be given to any owner or other person under the provisions of these Protective Covenants shall be deemed to have been properly given when mailed, post paid, to the last known address of the record owner of the lot in which the member has an interest.

26. DECLARANT MAY ASSIGN: Declarant, its successors or assigns, may assign any and all of its rights, powers, obligations and privileges under this instrument to any other corporation, association, committee or person.

IN WITNESS WHEREOF, the Declarant has caused its corporate name to be hereunto subscribed by its President

Dated this 7 day of May, 2002.

CUSTOM CASTLES, INC., a Colorado corporation



 William Dunston, President

STATE OF COLORADO)

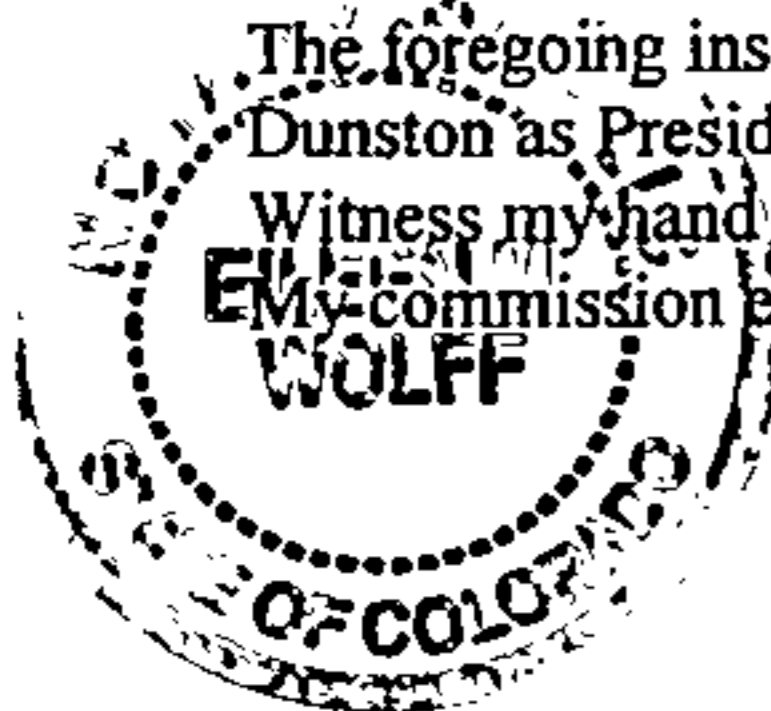
) ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 7th day of May, 2002, by William Dunston as President of CUSTOM CASTLES, INC., a Colorado corporation.

Witness my hand and official seal.

My commission expires: 4/29/06





 Notary Public

"EXHIBIT A"
LEGAL DESCRIPTION

THAT PORTION OF SECTION 14, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF LOT 3, WALDEN III, FILING NO. 5 AS RECORDED IN PLAT BOOK Y-3 AT PAGE 117 OF THE RECORDS OF SAID EL PASO COUNTY; THENCE S 87 DEGREES 35 MINUTES 51 SECONDS W (ALL BEARINGS USED IN THIS DESCRIPTION ARE RELATIVE TO THE WESTERLY LINE OF LOT 3 OF SAID WALDEN III, FILING NO. 5, WHICH WAS PLATTED AS S 39 DEGREES 02 MINUTES 02 SECONDS E), 185.00 FEET; THENCE N 46 DEGREES 17 MINUTES 34 SECONDS W, 793.55 FEET; THENCE N 17 DEGREES 57 MINUTES 41 SECONDS E, 315.00 FEET TO A POINT ON THE SOUTHERLY LINE OF WALDEN III, FILING NO. 2 AS RECORDED IN PLAT BOOK K-2 AT PAGE 40 OF THE RECORDS OF SAID COUNTY, THENCE EASTERLY AND NORTHERLY ON THE SOUTHERLY AND EASTERLY LINES OF SAID WALDEN III, FILING NO. 2, FOR THE FOLLOWING TWO (2) COURSES: 1) THENCE N 58 DEGREES 10 MINUTES 08 SECONDS E, 532.13 FEET; 2) THENCE N 25 DEGREES 05 MINUTES 10 SECONDS W, 65.42 FEET; THENCE N 65 DEGREES 26 MINUTES 22 SECONDS E, 193.08 FEET; THENCE N 24 DEGREES 33 MINUTES 38 SECONDS W, 23.53 FEET; THENCE N 60 DEGREES 35 MINUTES 28 SECONDS, 362.45 FEET; THENCE S 18 DEGREES 50 MINUTES 00 SECONDS E, 357.17 FEET; THENCE S 14 DEGREES 12 MINUTES 41 SECONDS E, 207.26 FEET; THENCE N 75 DEGREES 47 MINUTES 19 SECONDS E, 160.00 FEET TO A POINT ON THE WESTERLY BOUNDARY OF SAID WALDEN III, FILING NO. 5; THENCE SOUTHERLY AND WESTERLY ON SAID WESTERLY BOUNDARY FOR THE FOLLOWING TEN (10) COURSES: 1) S 14 DEGREES 12 MINUTES 41 SECONDS E, 60.00 FEET; 2) THENCE S 75 DEGREES 47 MINUTES 19 SECONDS W, 148.60 FEET; 3) THENCE S 14 DEGREES 07 MINUTES 00 SECONDS E, 203.82 FEET; 4) THENCE N 75 DEGREES 53 MINUTES 01 SECONDS E, 15.00 FEET; 5) THENCE S 14 DEGREES 07 MINUTES 00 SECONDS E, 255.00 FEET; 6) THENCE S 75 DEGREES 47 MINUTES 19 SECONDS W, 45.00 FEET; 7) THENCE S 12 DEGREES 56 MINUTES 11 SECONDS E, 213.39 FEET; 8) THENCE S 71 DEGREES 29 MINUTES 09 SECONDS W, 151.05 FEET; 9) S 84 DEGREES 30 MINUTES 00 SECONDS W, 105.00 FEET; 10) THENCE S 65 DEGREES 16 MINUTES 37 SECONDS W, 351.64 FEET TO THE POINT OF BEGINNING. TO BE KNOWN AS WALDEN III, FILING NO. 7, UPON RECORDING OF PLAT.

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