

Instrument **Book** **Page**
200500680398 **OR** **1049** **990**

DECLARATION OF PROTECTIVE COVENANTS

WHEREAS, MYBI PARTNERSHIP, (hereinafter referred to as "Declarant"), is the owner of all that real property shown on Exhibit "A", attached hereto and made a part hereof, known as BIG VIEW ESTATES, Lots number 79 through 92, respectfully, and

WHEREAS, the Declaration desires to preserve and protect the present and future value of said property by placing certain restrictions and covenants thereon so as to develop and maintain a high quality mountain development.

NOW THEREFORE, Declarant hereby publishes and declares that the following restrictions and covenants are for the benefit of all persons who may hereafter purchase and from time to time own and hold any parcels of the subject property, which restrictions and covenants shall be deemed to run with the land and to be binding upon the owners of any of the said parcels, their heirs, personal representatives, successors and assigns, to wit:

DEFINITIONS

The following words and expressions as used in the Covenants have the meaning indicated below unless the context clearly requires another meaning.

Association:	Big View Estates Property Owners Association, Inc.
Board:	Big View Estates Property Owners Association, Inc., Board of Directors
Declarant:	MYBI Partnership, and its successors and assigns.
Parcel:	Those portions of the property designated on the recorded plats.
Owner:	Any person, persons, or legal entity holding the recorded fee simple interest in a Parcel or Lot in Big View Estates.
Property:	Certain real property described on Exhibit A attached hereto, together with all appurtenances thereto and all improvements now or hereafter thereon.

- I. **PROPERTY OWNERS ASSOCIATION**: Big View Estates Property Owners Association, Inc. will be operated as per the By-Laws of the Association:
 - (a) Members; Every property owner will automatically be a member of the Property Owners Association. Members of the Association, including the Developer, are entitled to one vote per Parcel owned.

(b) Purpose: The purpose of the Association is to use its authority, as given in the By-Laws:

1. To enforce these Protective Covenants.
2. To assess property owners yearly dues. Should any property owner fail to pay assessments when due, the Association may file a lien against the owner for collection purposes.
3. To provide upkeep and improvements to all non-county roads in the Property and Open Space, including the repair, maintenance and installation of gates and entry features.
4. To represent all property owners in matter of mutual interest.
5. To administer and lease grazing rights on all lots of Big View Estates not fenced out.
6. To contract for and provide waste disposal services.

c) Board of Directors: The business and affairs of the Association shall be managed by its Board of Directors. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Property. Such powers and duties of the Board shall include, but shall not be limited to the following, all of which shall be done for and on behalf of the Owners of the Parcels/Lots:

- (1) To administer and enforce the Covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration, the By-Laws of the Association and supplements and amendments thereto;
- (2) To establish, make and enforce compliance with such rules and regulations as may be necessary for the operation, use and occupancy of all of the Parcels/Lots with the right to amend the same from time to time. A copy of such rules and regulations shall be delivered or mailed to each Member upon the adoption thereof;
- (3) To incur such costs and expenses as may be necessary to keep in good order, condition and repair all of the areas in the Property required to be maintained by the Association;
- (4) To obtain and maintain all insurance required or permitted under the Declaration or otherwise deemed advisable by the Association;
- (5) To obtain and retain legal counsel as deemed advisable by the Association.

(d) Control of the Property Owners Association: Notwithstanding anything else contained herein to the contrary, until all infrastructure and amenities are complete and/or as long as Developer owns in fee simple greater than twenty percent (20%) of the Property subject to the Covenants, including any subsequently annexed property, the Developer shall be entitled to appoint the majority of the Directors on the Board of Directors for the Association entitled to be elected pursuant to the By-Laws, with the remaining Directors elected by the Owners. After eighty percent (80%) of the Property is sold and all infrastructure is complete, the Developer shall turn over control of the Association to the Owners but shall remain on the Board of Directors in an advisory capacity for one (1) year.

- II. **DWELLINGS:** No primary dwelling shall be built on the Property that is less than 1200 square feet of living space. No mobile homes will be allowed; however, double-wide modulars with the minimum footage of twelve hundred square feet, meeting standards approved by the Board of Directors, will be allowed. Building plans, including plans for residential construction and outbuilding construction, must be submitted and approved by the Board before construction shall mean any building on the property not used as the primary dwelling. Approval shall be contingent on the conformity of the plans to these covenants, including square footage requirements and setback requirements.

All construction shall conform to Las Animas County Zoning Regulations.

All driveways and roads created by owners on owners' tracts must be constructed and maintained in such a manner to prevent damage and/or necessary repair to roads maintained by the Association. Said construction shall include placement of culverts (if deemed necessary by the Association) and adequate surfacing material covering a minimum of 150 feet of such roads adjacent to roads maintained by the Association in order to prevent erosion or debris buildup of roads maintained by the Association.

No commercial activity shall be permitted unless approved by the Board. Home occupation for business usage is permitted with the following restrictions:

- (1) All such home businesses must receive prior approval from the Big View Estates Board of Directors and must meet any and all of the Las Animas County Home Occupation guidelines.
- (2) Advertising and signage is prohibited within Big View Estates.
- (3) Any such home business will not involve the use of hazardous materials.
- (4) No parking areas other than normal for the residence will be allowed, nor shall there be such additional traffic as to infringe on the rights of any Big View Estates property owner(s). The Property Owners Association Board of Directors shall make the final determination of what constitutes "normal" and "infringe".
- (5) Any business which requires a special or conditional use permit from Las Animas County would not qualify as Home Occupation, and would therefore, be prohibited.

- III. **SETBACKS:** No structure, including fences, may be erected within sixty feet of the right-of way line of any road within the Property, or within fifteen foot of any side or rear line of any Parcel/Lot. No private structure of any kind for the use of individual property owners, including but not limited to walls, fences, gates, entryways, dwellings or outbuildings, shall be built or placed within the right of way line of any road as roads are described on plats; except those structures, including but not limited to gates, entryways, waste disposal facilities or mail box facilities, built or placed by the Association or by contract by the Association within the road right of way for the mutual benefit of all property owners. All setbacks may be used for recreational purposes by members/owners of the association for the purpose of hiking. Horseback riding and ATVs are restricted to the main association roads except with explicit permission of owners. Owners/Members must accompany all individual guests/invitees of the Property Owner and assume responsibility for their actions and liability to the other members of Big View Estates Property Owners Association.

- IV. **TRASH AND RUBBISH:** Rubbish, garbage or other waste shall be kept and disposed of in a sanitary manner, and all containers shall be kept in a clean, sanitary condition so as not to endanger wildlife. A centralized trash collecting area shall be provided once Big View Estates Property Owners Association has held elections for all subsequent members after the Declarant/Developer control period.
- V. **UTILITY EASEMENTS:** Utility easements are hereby set aside on each side of all side and common rear lot lines in accordance with the setback requirements set above for the purpose of individual parcel/lot owners to run utilities to their individual lots for improvements.
- VI. **NUISANCES:** No owner shall cause or allow the origination of noxious, offensive or illegal activities on any Parcel, nor shall anything be done on any Parcel that shall be or become a nuisance or unreasonable annoyance to neighbors. The Property Owners Board of Directors shall make the final determination of what constitutes a nuisance.
- VII. **ANIMALS:** Animals will be allowed on the Property for personal use of Parcel Owners. Animals raised or kept for 4-H or other educational organizations will be allowed so long as animals do not become a Nuisance (see paragraph VI. Above). Any animals raised or kept for commercial activity must be approved by the Board of Directors. Commercial feed lots, commercial swine operations and commercial poultry operations shall be prohibited.
- VIII. **MOTOR VEHICLES:** No motorized vehicle which is either non-operational or non-licensed shall be kept or stored on any Parcel, unless said vehicle is kept or stored in a fully enclosed building.
- IX. **TEMPORARY RESIDENCES:** No Structure of temporary character, recreational vehicle, camper unit, camp trailer, basement, tent or accessory building shall be used on any parcel/lot as a residence except during that period of construction of a permanent residence, with approval by the Board of Directors, for a duration not to exceed the duration of the original building permit. Upon property owner showing good cause, the Board of Directors may grant an extension of time. Any structure of a temporary character shall be serviced by a septic system and have an adequate water supply from a well or cistern. Recreational vehicles, camper units, camp trailers and tents may be used for vacation camping for periods not to exceed (90) consecutive days in any calendar year.
- X. **LAND USE:** Commercial wood harvesting, mining (including the removal of soil, gravel or rock), oil or gas production is prohibited, unless superceded by the direction or order of a governmental entity.

Any subdivision of thirty-five (35) acres or more shall remain subject to these covenants and each additional parcel created by such subdivision shall be subject to Property Owners Association dues.

XI. **ENFORCEMENT**: enforcement shall first be by following any adopted enforcement procedure by the Board of Directors of Big View Estates Property Owners Association, Inc. (refer to Paragraph II.c.1-2 of these protective covenants). Should this fail to satisfy the parties, then it shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any Covenant. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

XII. **TERMS OF COVENANTS**: These Covenants and restrictions are to run with the property and shall remain in full force and effect for a period of ten (10) years but may be amended within this 10 year period by an affirmative vote of not less than 2/3 of the Owners of the Parcels within the Property. Any Amendment shall be signed by the Association Board of Directors or its authorized representative and duly recorded. Each owner shall be entitled to one vote per parcel/lot and voting to amend these covenants shall take place only at the annual meeting. Proposed amendments to these covenants shall be mailed to each Property Owner no less than 45 days before the scheduled annual meeting. Voting may be done by mail, in person, or by proxy. These Covenants shall be automatically extended for successive periods of ten (10) years, unless not less than 2/3 of the Owners of the Parcels within the Property vote to amend in whole or in part the Covenants, in which case any Amendment shall be signed by the Association Board of Directors or its authorized representative and duly recorded.

XIII. **SEVERABILITY**: Invalidation of any of these Covenants or any part thereof by judgment or court shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

XIV. **COUNTY REGULATIONS**: To the extent that the applicable county or other governmental regulations, rules, codes, ordinances or laws are more restrictive in their allowable land utilization than these Covenants, they shall supersede these Covenants and govern at all times.

XV. **COUNTERPARTS**: This instrument may be executed in a number of counterparts, any one of which may be considered an original.

XVI. **ANNEXATION**: Developer and/or Board may from time within ten (10) years after the date of the recording of this Declaration of Protective Covenants for the Property annex property or allow to be annexed certain property the Developer and/or Board deems appropriate to the development by recording one or more Annexation Statements. Upon the recording of such Annexation Statement in the public records of Las Animas County, Colorado, all of the real property described in such Annexation Statement shall be deemed to be part of the development and subject to all of the terms and provisions of these Covenants.

XVII. **FEES AND ENFORCEMENT**: All Parcels within the Property shall be subject to assessment for Property Owners Association fees in an amount to be determined by the Association. In no event shall Assessments exceed \$550.00 per year for parcels/lots with homes and \$395 per year for vacant lot ownership, except that this amount may be increased by the greater of twelve percent (12%) per annum or the percentage increase, if any, in the "Consumer Price Index-All Urban Consumers" for Denver, Colorado, between January 1 or the year in question and of the preceding year. Emergency situations in regard to road maintenance issues will entitle the Board of Directors to call for one-time special assessments to correct any such emergency situation. Any increase in Association dues will also require written assurance that any such increase will not cause additional regulatory or other requirements to be imposed upon the Association, declarant or any property owner. Assessments for fees will commence upon conveyance

at the date of closing. Whenever the obligation to pay fees arises after the start of the calendar year, the first year's fees will be prorated to the commencement date for the Parcel/Lot involved. Fees shall be payable in advance in January of each year. Any assessments which are not paid when due shall be delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Owner's Parcel, and/or may suspend the delinquent Owner's right to vote. In the event a judgment is obtained, such judgment shall include a late charge of five percent (5%) and interest at the rate of fifteen percent (15%) per annum on the assessment, and reasonable attorneys' fees, together with the expenses and costs of the action. The Board may enforce such lien by filing with the Clerk and Recorder of Las Animas County a statement of lien with respect to the Parcel, setting forth the name of the Owner, the legal description of the Parcel and the Owner's interest therein, the name of the Association and the amount of the delinquent assessments then owing. The lien statement shall be duly signed and acknowledged by an officer of the Association and notice thereof shall be mailed to the Owner of the Parcel, at the address of the Parcel or at such other address as the Association may have in its records for the Owner of the Parcel. Such a claim of lien shall also secure all assessments, charges, fees and sums which come due thereafter until the lien, together with all costs, attorney fees, charges, and interest have been fully paid or otherwise satisfied. Thirty (30) days following the mailing of such notice, the board may foreclose the statement of lien in the same manner as provided for in the foreclosure of mortgages under the statutes and laws of the State of Colorado. Except to the extent that the lien of the Association is subordinated to the lien of a First Mortgage on a Parcel pursuant to these Covenants and except as subordinated by law to the lien or real property taxes, the lien of the Association shall be deemed to have a priority date as the date of the recording of this Declaration and shall have priority over all other liens and encumbrances against a Parcel/Lot. Developer does not pay assessments but is responsible for contributing any necessary funds so that any obligation of the Association is met by the Developer until such time as the Developer transfers his interest and control of the Association. Board Members elected to Big View Estates Property Owners Association, Inc. will serve for initial terms limited to one year unless change in term is voted upon by the majority at the annual meeting.

IN WITNESS WHEREOF, The Declarant has caused these Protective Covenants to be executed this 20th day of May, 2005.

BIG VIEW ESTATES,

[Signature]
MYBI PARTNERSHIP
Charles M. McAllister, Managing Partner

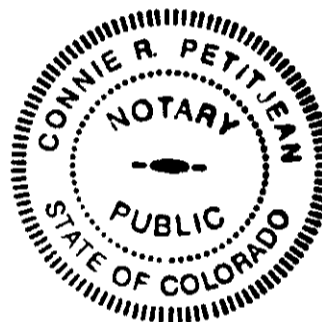
State of Colorado)
County of _____) ss.

The foregoing instrument was acknowledged before me this 20th day of May, 2005, by Charles M. McAllister, Managing Partner MYBI Partnership

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: January 9, 2007



AMENDED PLAT OF
BIG VIEW ESTATES

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A PART OF SECTIONS 8, 9, 10, TOWNSHIP 32 SOUTH,
RANGE 64 WEST OF THE 6TH P.M., LAS ANIMAS COUNTY,
IN THE STATE OF COLORADO

KNOW ALL MEN BY THESE PRESENTS:

THAT MYBI PARTNERSHIP, P.O. BOX 6797, COLORADO SPRINGS, CO 80934, BEING THE OWNER OF THAT REAL PROPERTY SITUATED IN LAS ANIMAS COUNTY, COLORADO, AND LYING WITHIN THE BOUNDARIES OF SECTIONS 8, 9, 10, TOWNSHIP 32 SOUTH, RANGE 64 WEST, 6TH P.M., LAS ANIMAS COUNTY, COLORADO.

FURTHER THAT:

THE UNDERSIGNED HAVE CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED AS "THE AMENDED PLAT OF BIG VIEW ESTATES".

LEGAL DESCRIPTION

THE DESCRIPTION OF A 580.50 ACRE, MORE OR LESS, TRACT OF LAND BEING PART OF SECTIONS 8, 9, AND 10, TOWNSHIP 32 SOUTH, RANGE 64 WEST, 6TH P.M., ALL IN LAS ANIMAS COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID SECTION 8:

THENCE N 89°45'16" W 2617.11 FEET;

THENCE N 89°47'05" W 1316.39 FEET ALONG SAID SOUTH LINE TO THE SW CORNER OF THE SE 1/4, SW 1/4 OF SAID SECTION 8;

THENCE N 00°32'23" E 1336.46 FEET ALONG THE WEST LINE OF SAID SE 1/4, SW 1/4, TO THE NW CORNER OF SAID SE 1/4, SW 1/4;

THENCE S 89°55'03" E 1319.32 FEET ALONG THE NORTH LINE OF SAID SE 1/4, SW 1/4, TO THE NE CORNER THEREOF;

THENCE S 89°57'18" E 1314.76 FEET ALONG THE SOUTH LINE OF THE NW 1/4, SE 1/4 OF SAID SECTION 8, TO THE SE CORNER OF SAID NW 1/4, SE 1/4;

THENCE N 00°59'33" E 294.33 FEET TO A POINT FOR CORNER;

THENCE ALONG THE NORTHERLY LINE OF THIS TRACT FOR THE FOLLOWING TWO (2) COURSES, ALSO BEING THE SOUTHERLY LINE OF PONDEROSA HILLS II:

1. N 58°00'16" E 2962.48 FEET;

2. N 85°40'59" E 4584.63 FEET TO AN IRON STAKE FOR THE SE CORNER OF LOT 29 OF SAID PONDEROSA HILLS II SUBDIVISION;

THENCE S 23°06'40" E 88.62 FEET TO A POINT ON THE WESTERLY LINE OF BIG VIEW DRIVE;

THENCE N 85°05'57" E 60.00 FEET ACROSS SAID BIG VIEW DRIVE TO A POINT ON A CURVE;

THENCE 117.24' ALONG A CURVE TO THE RIGHT ALONG THE SOUTHERLY LINE OF BIG VIEW DRIVE AND HAVING A CENTRAL ANGLE OF 53°58'44" AND A RADIUS 124.45 FEET TO A POINT OF TANGENCY;

THENCE ALONG SAID SOUTHERLY LINE FOR THE FOLLOWING THREE (3) COURSES:

1. N 49°04'41" E 440.18 FEET;

2. N 80°36'15" E 370.18 FEET;

3. N 71°16'16" E 92.34 FEET;

THENCE S 18°43'44" E 26.62 FEET TO AN IRON STAKE SET FOR THE NE CORNER OF THE SW 1/4, NW 1/4 OF SAID SECTION 10;

THENCE S 00°19'16" W 1324.02 FEET ALONG THE EAST LINE OF SAID SW 1/4, NW 1/4;

THENCE S 00°14'34" W 1336.10 FEET ALONG THE EAST LINE OF THE NW 1/4, SW 1/4 OF SAID SECTION 10;

THENCE N 89°29'56" W 1328.63 FEET ALONG THE SOUTH LINE OF SAID NW 1/4, SW 1/4;

THENCE N 89°30'45" W 1346.09 FEET ALONG THE SOUTH LINE OF THE NE 1/4, SE 1/4 OF SAID SECTION 9;

THENCE S 00°31'54" W 1340.92 FEET ALONG THE EAST LINE OF THE SW 1/4, SE 1/4 OF SAID SECTION 9;

THENCE N 89°36'03" W 1352.92 FEET ALONG THE SOUTH LINE OF SAID SW 1/4, SE 1/4;

THENCE N 89°36'42" W 2697.19 FEET ALONG THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 9 TO THE POINT OF BEGINNING, AND CONTAINING 580.50 ACRES OF LAND, MORE OR LESS.

BASIS OF BEARING IS THE VALUE OF N 89°36'42" W FOR THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 9.

NOTES:

1. ALL LOTS WITH DRIVEWAY EASEMENTS RESERVED FOR LOT OWNERS EITHER JOINTLY OR PRIVATELY.
2. RESERVE 10 FT. PUBLIC UTILITY EASEMENT ON SIDE AND REAR LOT LINES WITHIN SUBDIVISION BOUNDARY.
3. ELECTRIC UTILITY HAS MEANDERING EASEMENT.