

MALLARD POINT ESTATES

(Originally Platted as a ~~part~~ of
South Village Lake Subdivision)

1. The original plat of South Village Lake Subdivision included the Recordation of a Declaration of Restrictions made 5/12/81 and recorded in Book 181, Page 626, on 7/31/81.
2. This original South Village Lake Subdivision was subsequently re-platted (1st replat), and the Declaration of Restrictions referred to above was applied to the replat.
3. This first replat was subsequently replated (second replat).
4. The second replat included a recordation of an extensive revision of the Declaration of Restrictions previously recorded. This revised Declaration of Restrictions, recorded 8/3/92 on reception No. 111807, is the current Declaration of Restrictions for South Village Lake. Also included in this replat is a resubdivision of Parcel 7, Recorded as Reception #111866, ~~and~~ platted as Mallard Point Estates, *COVERING MALLARD POINT*
5. A third replat was a resubdivision of a portion of the second replat that did not involve Parcel 7.
6. As to ECC matters, the usual set-back requirements do not appear in the current Declaration of Restrictions nor ECC Building Package chart. Instead, the Subdivision is divided into Parcels with usage defined for each Parcel. Mallard Point is Parcel 7, *OF SOUTH VILLAGE LAKE* with the following permitted:
 - A. MULTI-FAMILY DWELLINGS NOT PERMITTED.
 - B. DENSITY AND PROPERTY COVERAGE:
 - (1) On lake frontage Parcels, no building may be constructed which covers more than 30% of the total area of the Parcel. No less than eight (8) or more than eleven (11) living units per acre may be constructed on the Parcel.
 - (2) No dwelling unit shall contain less than six hundred (600) square feet of actual living area.
 - C. USES FOR PARCEL SEVEN (7):
 - (1) The parcel is subject to the terms of Paragraph 5.I. of the Declaration of Restrictions for PAGOSA made 3/13/70 and recorded 6/24/70 in Book 122, Page 224 thru 247 inclusive.

ARCHULETA COUNTY, CO 0136166 12/30/1985 01:54
BK N/A PG. 1 MARTHA VALDEZ, RECORDER

AMENDMENT OF RESTRICTIONS

SECOND RE-PLAT OF SOUTH VILLAGE LAKE

WHEREAS, Eaton International Corporation, a Delaware Corporation, was the developer of South Village Lake according to the second re-plat thereof which plat was recorded in Archuleta County, Colorado, on August 3, 1982, under Reception No. 111806; and

WHEREAS, by instrument previously recorded August 3, 1982, under Reception No. 111807 of the Archuleta County, Colorado records, South Village Lake was made subject to the terms of Declarations of Restrictions; and

WHEREAS, Fairfield Pagosa, Inc., a Delaware corporation, is the record owner of in excess of two-thirds (2/3rds) of all lots in South Village Lake; and

WHEREAS, Fairfield Pagosa, Inc. desires to amend said Declarations of Restrictions in certain respects;

NOW THEREFORE, Fairfield Pagosa, Inc. declares said Declarations of Restrictions for the second re-plat of South Village Lake shall be amended as follows:

1. Paragraph 3.A., permitted uses, is hereby amended by the addition of Parcel 7 (Mallard Point) as a parcel covered by said Paragraph 3.A. and by the addition of the following subparagraph (5):

(5) Single family residential dwelling structures.

2. Paragraph 3.D. is amended to delete the words, "except Parcel 7."

3. Paragraph 3.E. is hereby deleted in its entirety and the limitation on commercial uses for Parcel 7 is hereby eliminated.

Except as expressly herein modified, the Declarations of Restrictions
for the second re-plot of South Village Lake shall remain in full force and
effect.

Dated this _____ day December, 1985.

FAIRFIELD PACOSA, INC.
a Delaware Corporation

BY: 

Roy B. Aull,
Executive Vice President

ATTEST:


Thorp Thomas
Assistant Secretary

COLORADO LAND TITLE COMPANY
AS NOMINEE

BY: 

Robert W. Ptolemy, President

ARCHULETA COUNTY, CO 0136156 12/30/1985 01:54
RE: N/A PG 2 MARTHA VALDEZ, RECORDER

Recorded AUG - 3 1982 As 8:58 AM
Recpt. No. 111807 Mary Ann Collins - Recorder *ms*

DECLARATION OF RESTRICTIONS
SECOND REPLAT OF SOUTH VILLAGE LAKE

THIS DECLARATION is made this 23rd day of July, 1982, by Eaton International Corporation, a Delaware corporation, herein referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of all the real property set forth and described on that certain plat entitled Second Replat of South Village Lake, a subdivision of Pagosa, which plat was recorded in the records of Archuleta County, Colorado, on August 3, 1982, Reception No. 111806, Plat File No. 88H-2, and is made a part hereof and incorporated herein by reference; and

WHEREAS, the real property described in the plat has been resubdivided into numbered or lettered parcels identified on the plat as Parcels or Tracts (herein collectively called "Parcel" or "Property"), which shall be subject to the terms of these restrictions; and

WHEREAS, Declarant is about to sell and convey said Property and has subjected the Property to a Declaration of Restrictions for A Replat of South Village Lake, which document is dated February 23, 1982, and was recorded in Archuleta County, Colorado, on March 16, 1982, in Book 187 at Page 691; and *2/23/82 3/16/82*

WHEREAS, Declarant desires to replace the above-mentioned Declaration of Restrictions recorded March 16, 1982 in their entirety with the following mutual and beneficial restrictions, covenants, conditions and charges, hereinafter collectively referred to as "Restrictions", under a general plan or scheme of improvement for the benefit and complement of all the Property and the future owners of said Property;

NOW, THEREFORE, Declarant hereby declares that all the Property shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a general plan for the improvement and sale of said Property and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of a South Village Lake Subdivision and of the Development as a whole. All of the Restrictions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in and to the Property or any part or parts thereof subject to such Restrictions. Any development of the Property must comply with all laws and government regulations and together with the resulting additional restrictions must be approved by Declarant.

1. TERM

These Restrictions shall affect and run with the land and shall exist and be binding upon all parties and all persons claiming under them until January 1, 2000, after which time the same shall be extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the Property subject thereto has been recorded, agreeing to change the Restrictions in whole or in part; provided, however, with the prior approval of Declarant, that at any time before January 1, 1990, these Restrictions may be amended by the vote of the then record owners of two-thirds (2/3) of such Property and thereafter by a majority of such owners.

2. ENVIRONMENTAL CONTROL COMMITTEE

A. All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon the Property, and the proposed location thereof on the Property, the construction material, the roofs and exterior color schemes, any later changes or additions after initial approval thereof and any remodeling, reconstruction, alterations, or additions thereto on any Parcel shall be subject to and shall require the approval in writing, before any such work is commenced, of the Environmental Control Committee (herein called "Committee"), as the same is from time to time composed.

B. The Committee shall be composed of a minimum of three (3) members to be appointed by Declarant. Committee members shall be subject to removal by Declarant and any vacancies from time to time existing shall be filled by appointment of Declarant, or in the event of Declarant's failure to so appoint within two (2) months after any such vacancy, then by the Board of Directors of the Pagosa Property Owners Association, Inc. (herein called "Association"); provided, however, that at any time hereafter Declarant may, at its sole option, relinquish to the Board of Directors of the Association the power of appointment and removal reserved herein to Declarant. Such transfer of power must be evidenced in writing.

C. Purchasers should submit schematic plans to the Committee prior to submission of preliminary plans. There shall be submitted to the Committee a building application on forms approved by Declarant together with two (2) complete sets of the preliminary plans, elevations, sections, site plan, grading plan, etc., prepared by an architect licensed and registered in Colorado, to be reviewed before the final plans and specifications are submitted. Upon Committee approval of the preliminary plans, the detailed drawings and specifications can be completed with two (2) complete sets being submitted to the Committee, covering any and all proposed improvements, the erection or alteration of which is desired. No structures or improvements of any kind shall be erected, altered, placed or maintained upon the Property unless and until the final plans, elevations and specifications have received such written approval as herein provided. Such plans shall include plot plans showing the location on the Property of the building, wall, fence, or other structure proposed to be constructed, altered, placed or maintained, together with the schemes for roofs, and exteriors thereof and proposed landscape planting. A filing fee of \$25.00 per proposed unit (subject to increase without notice) shall accompany the submission of the preliminary plans, etc. to defray Committee expenses. No additional fees shall be required for subsequent submissions or resubmissions of plans revised in accordance with Committee recommendations.

D. The Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt of the preliminary plans, and within sixty (60) days from receipt of a complete set of final plans and specifications. One (1) set of said plans and specifications and details with the approval or disapproval endorsed thereon, shall be returned to the person submitting them and the other copy thereof shall be retained by the Committee for its permanent files.

E. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with all the provisions of these Restrictions; if the design materials or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such Property or with the adjacent buildings or structures; if the plans and specifications submitted are incomplete; or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the Property subject hereto, or the owners thereof. The decisions of the Committee shall be final.

F. Neither the Committee nor any architect or agent thereof or of Declarant shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

G. The Committee shall have the authority to set up regulations as to the materials, height and size requirements for all other types of outbuildings and structures, including fences, walls, copings, etc.

H. Landscaping, walls and other screening devices are utilized to provide an attractive appearance along public streets and to screen from view those uses which may be unattractive to the public eye. Landscaping materials including ground cover, shrubs and trees further facilitate the control of erosion and the reduction of glare and dust as well as the visual softening of the building masses. Walls and screening devices allow for the separation of buildings and uses and for the buffering of intensive activities. Landscaping walls and screening devices together help to effectuate privacy, logical development and enhancement of property values. A layout of specific materials by name and description shall be submitted to the Committee for approval. Landscaping may include trees, shrubs, ground cover, vines, walkways, ponds, fountains, sculpture and other organic and inorganic materials used for creating an attractive appearance as long as all is blended with the surrounding landscape and architecture. Species shall conform to native and/or those recommended for existing soil and elevation conditions.

I. No docks and/or piers shall be erected, altered, placed, or maintained in Village Lake until the final plans and specifications have received written approval of the Environmental Control Committee. Such approval shall constitute a mere revocable privilege from Declarant or its successor or successors in interest for the construction, placement and maintenance of the proposed structure. Once approved, the same dock and/or pier may be erected each subsequent year unless otherwise informed by the Environmental Control Committee.

3. LAND USE AND IMPROVEMENTS

The following are the various land uses. These land use classifications, as hereinafter described, limit and prescribe the use of the Property. Any use not specifically permitted is hereby declared to be prohibited. See attached map showing Parcel locations.

A. Uses Permitted for Parcels 1a and b; 2a, b, c, d, and e; 3a, b, and c; 4; 5; 6; 8; 9a and b; 10a, b, and c; 11a, b, c, d, e, and f; 12a, b, and c; and 13.

(1) Multiple-family dwelling structures of one to three stories, but not to exceed 50 feet in building height. Included are individual lodges, "party-wall" apartments, townhouses and condominiums subject to the provisions of the Colorado Condominium Ownership Act.

(2) Cluster, detached, multiple-family dwelling structures of one or two stories, but not to exceed 35 feet in building height.

(3) Club or recreation facilities including swimming pool, sundeck, tennis courts, boat slips, etc.

(4) Churches with off-street parking and hotel or motel structures as approved by the Committee.

B. Density and Property Coverage

(1) On lake frontage Parcels, no building shall be constructed on any Parcel or Sub-Parcel which covers more than thirty (30) percent of the total area of the Parcel. No less than eight (8) or more than eleven (11) living units per acre may be constructed on the Parcels without the prior consent of Declarant.

(2) On all other Parcels, no building shall be constructed on any Parcel or Sub-Parcel which covers more than thirty-five (35) percent of the total area of the Parcel. No less than eight (8) or more than fifteen (15) living units per acre may be constructed on the Parcels without the prior consent of Declarant.

(3) A minimum of twenty (20) percent of the total area of each Parcel must be landscaped.

C. Minimum Living Area

No dwelling unit shall contain less than six hundred (600) square feet of actual living area exclusive of porches, patios, garages, breezeways, and other appurtenances.

D. Set-back Requirements for All Parcels except Parcel 7

(1) No building or structure shall be located within twenty-five (25) feet of North Pagosa Boulevard and Park Avenue. Where parking is used within this twenty-five (25) feet, a minimum of seven (7) feet adjacent to the road must be landscaped. A minimum of ten (10) feet of landscaping shall be provided if parking is not used within the setback.

(2) No building or structure shall be located within twenty (20) feet of Davis Cup Drive, Papoa Circle, Northlake Drive, Spoon Drive, and Lake Forest Avenue (Lakeside Drive). A minimum of seven (7) feet adjacent to the street must be landscaped.

(3) No building or structure shall be located within twenty (20) feet of a street that traverses a Parcel.

(4) No building or structure shall be located within fifteen (15) feet from any common Parcel boundary line or ten (10) feet from a greenbelt/open space and within fifteen (15) feet of another detached building, except on Parcels 11c, d, e and f, buildings or structures may be located at the nearest edge of the greenbelt/open space easement.

(5) No building or structure shall be located within fifteen (15) feet of the high-water elevation of Village Lake. However, upper floor balconies may encroach to within ten (10) feet of the high-water elevation.

(6) Parking areas shall not be located within five (5) feet of any common Parcel boundary line or greenbelt/open space.

E. Limited Commercial Uses for Parcel 7

(1) Declarant desires this Parcel to be subject to the terms of paragraph 5.I of a Declaration of Restrictions made on the thirteenth (13th) day of March, 1970, and recorded on the twenty-fourth (24th) day of June, 1970, in the Public Records of Archuleta County, Colorado in Book 122, at pages 224 through 247 inclusive, thereof, which are made a part hereof and are incorporated herein by reference.

(2) In addition to the requirements of paragraph 5.1, no building or structure shall cover more than 40 percent of the total area of the Parcel, with a minimum of 20 percent of the total area of the Parcel in landscaping. A three-story building up to 50 feet in height will be allowed if it covers no more than 35 percent of the total area of the Parcel, with a minimum of 25 percent of the total area of the Parcel in landscaping.

(3) No building or structure on Parcel 7 shall be located within twenty-five (25) feet of North Pagosa Boulevard or within twenty (20) feet of Lake Forest Avenue (Lakeside Drive).

(4) Parking areas shall not be located within five (5) feet of any greenbelt/open space.

F. Parking

Adequate off-street parking shall be provided to accommodate all parking needs for residents, visitors, employees, and company vehicles.

4. GENERAL PROHIBITIONS AND REQUIREMENTS

The following general prohibitions and requirements shall prevail as to the construction or activities conducted on the Property:

A. No outside toilet shall be constructed on the Property. With the prior written consent of the Committee, water wells and septic systems may be constructed on the Property prior to its being served by central water or sewage systems; provided, however, such water or septic facilities shall comply with all requirements of the Health Department of the State of Colorado and other governmental agencies having jurisdiction thereof. All plumbing fixtures, dishwashers or toilets shall be connected to the central sewage system, or individual septic systems as permitted above. Storm water shall not be allowed to flow into the sewage system. At such time as central water or sewer facilities become available to an owner who has constructed a water well and/or septic system, the water well and/or septic system shall be abandoned and the central system made available shall be utilized exclusively. Unless otherwise determined by the entity having jurisdiction in the matter, the central water system shall be deemed to be available for purposes of this paragraph when water lines are installed, operative, and ready for connection within one hundred (100) feet of the property line. The central sewage system shall be deemed to be available when sewer lines are installed, operative and ready for connection within four hundred (400) feet of the property line.

B. No temporary house, trailer, tent, garage, or other outbuilding shall be placed or erected on the Property; provided, however, that the Committee may grant permission for any such temporary structure for storage of materials during construction. No such temporary structures as may be approved shall be used at any time as a dwelling place, nor shall any overnight camping be permitted on the Property.

C. Once construction of improvements is started on the Property, the improvements must be substantially completed in accordance with plans and specifications, as approved, within six (6) months from commencement.

D. No building or residence shall be occupied until the same has been substantially completed in accordance with its approved plans and specifications.

E. All structures constructed or placed on the Property shall be constructed with new material and no used structures shall be relocated or placed on the Property.

F. No animals or livestock of any description, except the usual household pets, shall be kept on the Property. Said pets shall be confined to the occupant's property or at all times be under the direct control of occupant when in other areas.

G. All signs, billboards or advertising structures of any kind are prohibited except upon application to and receipt of written permission from the Committee.

H. No stripped down, partially wrecked, or junk motor vehicles, or sizeable part thereof, shall be permitted to be parked anywhere on the Property. No cars or motor vehicles can be worked on for mechanical repairs on the Property. No vehicles shall be parked overnight on streets. No junk equipment which is visible to the occupants or users of any street or waterway within the Property is allowed on the Property.

I. Every tank for the storage of fuel installed outside any building on the Property shall be either buried below the surface of the ground or screened to the satisfaction of the Committee by fencing or shrubbery. All exterior storage areas, service areas, loading docks and ramps, and electrical cage enclosures are to be screened to the satisfaction of the Committee by fencing or shrubbery. Mechanical equipment on roofs shall be screened to the satisfaction of the Committee. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed and kept as not to be visible from any street or waterway within the Property at any time except during refuse collections. These requirements may be extended to any facility or activity which, in the opinion of the Committee, warrants it; the Committee, at its discretion, may also allow exceptions to these requirements.

J. All outdoor drying yards, clothes poles, clothes lines and similar equipment shall be so placed or screened by shrubbery as not to be visible from any streets or waterway within the Property.

K. Dwelling units may be used as model houses or sales offices provided they are not used in such a way as to unreasonably interfere with or disturb any unit purchaser or owner, including the use, enjoyment or access of such owner, his family or guests.

L. The Property, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent its becoming unsightly by reason of unattractive growth on such Property or the accumulation of rubbish or debris thereon.

M. No noxious, offensive or illegal activities shall be carried on on the Property nor shall anything be done that shall be or become an unreasonable annoyance or nuisance to the neighborhood. No building or operation shall be conducted on the Property which shall give off, discharge, or emit any obnoxious noises, fumes, odors, glare, vibrations, or otherwise be offensive to or injure the public health. Nuisances, if not removed within ten (10) days of notification, may be removed by the Committee and removal costs charged to owner or lessee. Storage or disposal of hazardous or radioactive material on the Property is prohibited.

N. No water, oil or natural gas drilling, refining, quarrying, or mining operations of any kind shall be permitted upon the Property and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on the Property.

O. No commercial type truck shall be parked for storage overnight or longer on the Property in such a manner as to be visible to the occupants or users of any street or waterway within the Property, unless the prior written approval of the Committee has been obtained.

P. Any dwelling or outbuilding on the Property which may be destroyed in whole or in part by fire, windstorm or for any other cause, or act of God must be rebuilt or all debris removed and the Property restored to a sightly condition with reasonable promptness; provided, however, that in no event shall such debris remain longer than sixty (60) days.

Q. No tree over three (3) inches in diameter shall be removed from the Property without the written consent of the Committee.

R. No exterior television or radio antenna of any kind shall be constructed or erected on the Property or residence after such time as a central television system has been made available to the Property at rates commensurate with those prevailing in the area.

S. No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on the Property or be thrown into or left on the shoreline of any waterway in the Subdivision. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted. In order to enhance the appearance and orderliness of the Property, the Declarant hereby reserves for itself, its successors and assigns, the exclusive right to operate, or from time to time to grant an exclusive license to a third party to operate a commercial scavenging service within the Property for the purpose of removing garbage, trash and other like household refuse. Such refuse collection and removal service shall be provided not less often than once each week on a day or days designated by the Declarant or its successors or assigns. The charge to be made for such refuse collection and removal service shall be at a reasonable rate commensurate with the rates charged by commercial scavengers serving other subdivisions of high standards in the area, and shall be subject to change from time to time.

T. No change in ground level may be made on the Property in excess of one foot from existing grades without the written approval of the Committee obtained prior to the commencement of work.

U. Overnight parking of recreational vehicles (boats, trailers, campers, etc.) is not permissible in regular parking areas or on streets, or anywhere else on the Property not specifically designated for parking of recreational vehicles. Declarant or its successors or assigns will provide an enclosed screened area for the purpose of storing recreational vehicles on the basis of one space at least 10' x 20' per 10 residential units occupying the site; provided, however, that the Committee may at its discretion adjust parking space requirements, according to the demand for recreational vehicle parking. The Committee shall have the right to move the site for parking of recreational vehicles to different locations.

V. All utilities must be installed underground.

W. Landscaped areas shall be reasonably maintained by the owner or the lessee of the Property as to pruning, trimming, watering, or other requirements, to create an attractive appearance. Any plant material not surviving shall be replaced as soon as possible in the growing season. Lack of maintenance shall constitute a violation of these Restrictions and may be accomplished by the Committee and the cost thereof charged to the appropriate owner or lessee. Maintenance of Pedestrian Easement Improvements shall be the responsibility of each adjacent Parcel owner until such time as these Improvements are conveyed to the Pagosa Property Owners Association.

X. Fishing in Village Lake is prohibited unless a permit is first obtained from the proper authority.

5. VARIANCES

The Committee may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood.

6. EASEMENTS

A. The Declarant reserves unto itself, its successors and assigns, certain easements along, across, over and upon the real estate that constitutes the Property. The easements so reserved by the Declarant are described as follows:

(1) Declarant, for itself, its successors and assigns and licensees, reserves a ten (10) foot wide easement along all present and subsequent road rights-of-way, and a ten (10) foot easement along the side lines of the Property for the purpose of installing, maintaining and operating utility lines and mains thereon, together with the right to trim, cut or remove any trees and/or brush, and the right to locate guy wires, braces and anchors wherever necessary for said installation, maintenance and operation, together with the right to install and maintain and operate utility lines and mains and appurtenances thereto, and reserving unto itself, its successors, assigns and licensees, the right to ingress and egress to such areas for any of the purposes heretofore mentioned. No permanent building shall be placed on such easements, but the same may be used for gardens, shrubs, landscaping and other purposes, provided that such use does not interfere with the use of such easements for their intended purposes.

(2) Declarant further reserves for itself, its successors, assigns and licensees, for lake and shoreline maintenance and control along that portion of the Property contiguous to the shoreline of Village Lake, an easement ten (10) feet wide. This property shall be subject to a flowage easement to an elevation on a Parcel equal to the high-water elevation of the adjacent lake.

(3) Declarant for itself, its successors, assigns and licensees, reserves a twenty-five (25) foot wide easement within all rights-of-way for the purpose of cutting and filling and drainage. Declarant further reserves unto itself, its successors and assigns and licensees, the right to cause or permit drainage of surface water over and/or through said Parcels, and further it reserves an easement on, over and under all road rights-of-way for the purpose of installing, maintaining and operating utilities or drainage.

(4) The Property shall further be subject to an easement for the maintenance and permanent stabilization control of slopes.

(5) No owner of the Property shall have any claim or cause of action against Declarant, its successors, assigns or licensees, either in law or in equity, and arising out of exercise of any easement reserved hereunder, excepting in cases of willful or wanton negligence.

7. SIGN REGULATIONS

Declarant desires the Property be subject to the terms of paragraph B. of an Amended Declaration of Restrictions for Pagosa Village Service Commercial and for Village Center made on the 6th

day of July, 1979, and recorded on the 23rd day of July, 1979, in the Public Records of Archuleta County, Colorado, in Book 166 at Pages 435 through 451 inclusive, which are made a part hereof and incorporated herein by reference.

8. PAGOSA PROPERTY OWNERS ASSOCIATION, INC.

A. Every person acquiring legal or equitable title to any of the Property, except limited commercial parcels, becomes a member of the Pagosa Property Owners Association, Inc., a Colorado non-profit corporation herein referred to as "Association", and with such ownership in the Property and membership in the Association, he then becomes subject to the requirements and limitations imposed in these Restrictions and to the regulations and assessments of the Association, with the exception, however, of such person or persons who hold an interest in any such Property merely as security for the performance of an obligation to pay money, e.g., mortgages, deed of trust, or real estate contract purchases. However, if such a person should realize upon his security and become the real owner of the Property, he will then be subject to all the requirements and limitations imposed in these Restrictions on owners and on members of the Association, including those provisions with respect to alienation and the payment of an annual charge.

B. The general purpose of the Association is to further and promote the community welfare of property owners at Pagosa and to strengthen and enhance Pagosa property values.

C. The Association shall be responsible for the maintenance, upkeep and repair, and the establishment and enforcement of rules and regulations concerning the operation and use, of all recreational facilities, and other properties at Pagosa as it may from time to time own or agree to maintain. The Association may provide police protection for the residents of the community.

In the event that the Association at any time fails to properly maintain such parks and recreational facilities, or fails to provide adequate police protection, the Declarant may in its sole discretion enter upon and make any and all repairs, or may maintain any of the properties under the responsibility of the Association, or the Declarant may adopt measures to provide adequate police protection and may charge the Association for all such repairs or protection; provided, however, that Declarant shall under no circumstances be obligated to take any such action.

D. The Association shall have all the powers that are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including (but not limited to) the power to assess and collect from every member of the Association a uniform annual charge per multiple-family residential parcel within the Subdivision. The amount of such charge is to be determined by the Board of Directors of the Association for the purposes set forth in the Articles of Incorporation, and the charge in no event shall be less than \$50.00 per each multiple-family unit.

No such charge shall ever be made against, or be payable by the Declarant, the Association itself, or any entity that may be created to acquire title to, and operate, the water or sewer utilities serving the Subdivision, any commercial operations or any waterway, beach, access tract, marina, golf course, tennis courts, swimming pool, clubhouse, clubhouse grounds, campgrounds, or other like recreational facilities within the Subdivision.

All charges are payable annually by the member to the Association on or before the first day of May of each year, for the ensuing year. The Board of Directors of the Association shall fix the amount of the annual charge per unit by the first

day of April of each year, and written notice of the charge so fixed shall be sent to each member in the event it is changed from the previous year.

Every person who shall become the legal or equitable owner of the Property by any means is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the Association all charges that the Association shall make in accordance with these Restrictions. If such payment is not made when due, it shall bear interest from the due date at the rate of twelve (12) percent per annum. Until paid, such charges together with costs and reasonable attorney's fees required to secure payment thereof shall constitute a perpetual lien on and against the Property charged. The Association may publish the name of a delinquent member and may file notice that it is the owner of a lien to secure payment of the unpaid charge plus costs and reasonable attorney's fees and may foreclose the lien in accordance with the laws of the State of Colorado.

The Association shall upon demand at any time furnish a list of members who have paid such assessments or of such members who are then delinquent in payment of such assessments.

E. The fund accumulated as a result of the charges levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the members of the Association and in particular providing police protection and the maintenance of the waterways, parks and other recreational facilities.

F. The lien of a mortgage or deed of trust placed upon the Property for the purpose of permanent financing and/or constructing a residence or other improvement thereon, shall be superior to any such lien as provided for in these Restrictions.

G. The Board of Directors of the Association shall have the right to suspend voting rights (if any) and the right to the use of the recreational facilities of any member or associate member if any charge owed remains unpaid; or for any continuing violation of the Restrictions, after the existence of the violation has been brought to the attention of the member in writing by the Board of Directors of the Association; or during the period that any utility bill for water or sewer service remains unpaid.

9. ASSOCIATION'S RIGHT TO PERFORM CERTAIN MAINTENANCE

In the event an owner of the Property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the Association shall have the right to enter upon said Property and repair and restore the Property and the exterior of any improvements erected thereon. Such right shall not be exercised unless two-thirds (2/3) of the Board of Directors shall have voted in favor of such action. The cost of such exterior restoration and maintenance shall be added to and become a part of the annual charge to which such Property is subject. The Association shall not be liable for any damage which may result from any maintenance work performed hereunder.

10. LAKE FRONTAGE PROPERTY

A. Certain portions of the Property are contiguous to Village Lake. The water in, and the land under, said lake is and will be owned by Declarant. The normal pool water elevation and the high water elevation of said lake is, and will be, as determined by the spillway elevation of said lake. The title that will be acquired by the grantee of the Declarant's title to any of said contiguous Property (and by the successors and assigns of such grantee) will and shall extend only to the shoreline of the lake to which such Property is contiguous, as said shoreline would be established on the date hereof if the

water elevation in said lake were at an elevation one vertical foot above the normal pool water elevation and as the shoreline may hereafter be established by the water, at an elevation one vertical foot above normal pool water elevation, by erosion from said shoreline. No such grantee, nor any of such grantee's successors or assigns, shall have any right with respect to any stream that is a tributary to said lake, or with respect to said lake, the land thereunder, the water therein, or its or their elevations, use or conditions, and none of said Property shall have any riparian rights or incidents appurtenant; provided further that title shall not pass by reliction or submergence or changing water elevations. The Declarant, its successors and assigns, shall have the right at any time to dredge or otherwise remove any accretion or deposit from any of said Property in order that the shoreline of the lake to which the Property is contiguous may be moved toward, or to, but not inland beyond, the location of said shoreline as it would exist as of the date hereof if the water elevation in said lake were at an elevation one vertical foot above the normal pool water elevation and title shall pass with such dredging or other removal as by erosion.

B. The Declarant reserves to itself, and to the Association, and its successors and assigns, such an easement upon, across and through Property adjacent to said lake as is necessary in connection with operating said lake. Without limiting the generality of the immediately preceding sentence, it is declared that neither the Declarant nor any successor or assign of the Declarant shall be liable for damages caused by ice, erosion, washing or other action of the water.

C. The Declarant reserves to itself, and its successors and assigns, the right to raise and lower the elevation of said lake, but neither the Declarant or any successors or assigns of the Declarant shall have an easement to raise (by increasing the height of any dam or spillway, or otherwise) the high water elevation of any of said lake to an elevation above the normal pool water elevation.

D. No fence, wall or retaining element shall be constructed within twenty-five (25) feet of the high water elevation of said lake.

11. CHARGES FOR WATER AND SEWER SERVICE

A. Every legal or equitable owner of the Property shall pay charges for water and sewer service in accordance with rates approved by the entity having jurisdiction in the matter. At such time as water or sewer service is available to the owner of the Property, he shall pay a water connection fee and/or a sewer connection fee in amounts established by the entity having jurisdiction in the matter. Unless otherwise determined by the entity having jurisdiction in the matter, water service shall be deemed to be available for purposes of this paragraph when water lines are installed, operative and ready for connection within one hundred (100) feet of any property line and sewer service shall be deemed to be available when sewer lines are installed, operative and ready for connection within four hundred (400) feet of any property line.

B. Easements in addition to those reserved throughout these Restrictions shall be granted for the practical construction, operation and maintenance of such water and sewer facilities upon request of the Declarant or the entity having jurisdiction in the matter.

12. RIGHTS OF MORTGAGEES

All Restrictions and other provisions herein contained shall be deemed subject and subordinate to all mortgages and deeds of trust now or hereafter executed upon land subject to these Restrictions, and none of said Restrictions shall supersede or in any way reduce the security or affect the validity of any such mortgage or deed of trust; provided, however, that if any

portion of said Property is sold under a foreclosure of any mortgage or under the provisions of any deed of trust, any purchaser of such sale and his successors and assigns, shall hold any and all Property so purchased subject to all of the Restrictions and other provisions of this Declaration.

13. REMEDIES

A. Violation or breach of any Restriction herein contained shall, should such violation or breach continue for a period of twenty (20) days after written notice thereof, entitle Declarant and/or the Environmental Control Committee on behalf of the Association to the right to enter upon the Property with respect to which said violation or breach exists, and summarily to remove at the expense of the owner, lessee or occupant thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof.

B. The Association or any party to whose benefit these Restrictions inure, including the Declarant, its successors and assigns, may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions; provided, however that it is expressly understood that neither Declarant nor the Association shall be liable for damages of any kind to any party for failing to either abide by, enforce, or carry out any of these Restrictions.

C. No delay or failure on the part of any aggrieved party to invoke an available remedy set forth in 12-B above in respect to a violation of any of these Restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

14. GRANTEE'S ACCEPTANCE

A. The Grantee of the Property subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such Property, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant and of the Association, and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant, the Association, and to and with the grantees and subsequent owners of portions of the Property within the Development to keep, observe, comply with and perform said Restrictions and agreements.

B. Each Grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership or occupancy attendant to such Property, including but not limited to its proximity to waterways, club or recreation facilities.

15. SEVERABILITY

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other one of the Restrictions.

16. CAPTIONS

The underlined captions preceding the various paragraphs and subparagraphs of these Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS THEREOF, the Declarant has executed this Declaration on the day and year first above written.



EATON INTERNATIONAL CORPORATION
A Delaware corporation

BY: David B. Eaton
President

ATTEST:

Fred B. Thielen
Secretary

STATE OF ARIZONA)
COUNTY OF MARICOPA) ss.

This instrument was acknowledged before me this 21st day of July, 1982, by David B. Eaton, President, and Fred B. Thielen, Secretary, of EATON INTERNATIONAL CORPORATION, a Delaware corporation.

M. Carol Becker
Notary Public

My commission expires 1/13/84



111807

BOOK 190 PAGE 1772

Recorded MAR 16 1982 9:57 A.M.
1982
Recpt. No. 109816 Mary Ann Collon -- Recorder *ja*

DECLARATION OF RESTRICTIONS
A REPLAT OF SOUTH VILLAGE LAKE

THIS DECLARATION is made this 23rd day of February, 1982 by EATON INTERNATIONAL CORPORATION, a Delaware corporation, herein referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of all the real property set forth and described on that certain plat entitled "A REPLAT OF SOUTH VILLAGE LAKE", a subdivision of Pagosa, which plat is recorded in the records of Archuleta County, Colorado on March 16, 1982, under Reception No. 109815, and is made a part hereof and incorporated herein by reference; and

WHEREAS, the real property described in the plat has been resubdivided into numbered or lettered parcels identified on the plat as Parcels or Tracts (herein collectively called "Property"), which Property Declarant desires to be subject to the terms of the Declaration of Restrictions for SOUTH VILLAGE LAKE subdivision, made on the 12th day of May, 1981 and recorded on the 31st day of July, 1981 in the Public Records of Archuleta County, Colorado, in Book 181 at Pages 626-635, inclusive, which is made a part hereof and incorporated herein by reference.

NOW, THEREFORE, Declarant hereby declares that all the Property contained in A REPLAT OF SOUTH VILLAGE LAKE is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the Declaration of Restrictions for SOUTH VILLAGE LAKE subdivision referred to above.

IN WITNESS WHEREOF, Declarant has executed this Declaration on the day and year first above written.



EATON INTERNATIONAL CORPORATION
a Delaware corporation

By: David H. Eaton
David H. Eaton, President

Fred B. Thielen
Fred B. Thielen, Secretary

STATE OF ARIZONA)
) SS.
County of Maricopa)

This instrument was acknowledged before me this 23rd day of February, 1982, by David H. Eaton as President and Fred B. Thielen as Secretary of EATON INTERNATIONAL CORPORATION, a Delaware corporation.

M. Charles [Signature]
Notary Public *me*

My commission expires January 13, 1984.

STATE OF COLORADO
ARCHULETA COUNTY 105687

I hereby certify that this instrument was filed
for Record in my office at 2:01 o'clock P. M.

DECLARATION OF RESTRICTIONS

SOUTH VILLAGE LAKE

July 31 19 81, and is duly
Recorded in Book 181 Page 626-635

Thomas G. Keller
Recorder

THIS DECLARATION is made this 12th day of May,
1981 by Eaton International Corporation, a Delaware corporation,
herein referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of all the real property
set forth and described on that certain plat entitled South Village
Lake, a subdivision of Pagosa, which plat is recorded in the records
of Archuleta County, Colorado, and is made a part hereof and incor-
porated herein by reference; and

WHEREAS, the real property described in the plat has been
subdivided into numbered or lettered parcels identified on the plat
as Parcels or Tracts (herein collectively called "Parcel" or
"Property"), which shall be subject to the terms of these restric-
tions; and

WHEREAS, Declarant is about to sell and convey said property
and before doing so desires to subject the property to mutual and
beneficial restrictions, covenants, conditions and charges, herein-
after collectively referred to as "Restrictions", under a general
plan or scheme of improvement for the benefit and complement of all
the property and the future owners of said property;

NOW, THEREFORE, Declarant hereby declares that all property
shall be held, conveyed, hypothecated or encumbered, leased, rented,
used, occupied and improved subject to the following Restrictions,
all of which are declared and agreed to be in furtherance of a
general plan for the improvement and sale of said property and are
established and agreed upon for the purpose of enhancing and pro-
tecting the value, desirability and attractiveness of South Village
Lake subdivision and of the Development as a whole. All of the
Restrictions shall run with the land and shall be binding upon all
parties having or acquiring any right, title or interest in and to
the real property or any part or parts thereof subject to such
Restrictions. Any development of the property must comply with
all laws and government regulations and together with the resulting
additional restrictions must be approved by Declarant.

1. TERM

These Restrictions shall affect and run with the land and
shall exist and be binding upon all parties and all persons claiming
under them until January 1, 2000, after which time the same shall be
extended for successive periods of ten (10) years each, unless an
instrument signed by a majority of the then owners of the property
subject thereto has been recorded, agreeing to change the covenants
in whole or in part; provided, however, with the prior approval of
Declarant, that at any time before January 1, 1990, these Restric-
tions may be amended by the vote of the then record owners of two-
thirds (2/3) of such property and thereafter by a majority of such
owners.

2. ENVIRONMENTAL CONTROL COMMITTEE

A. All plans and specifications for any structure or im-
provement whatsoever to be erected on or moved upon the property,
and the proposed location thereof on the property, the construction
material, the roofs and exterior color schemes, any later changes
or additions after initial approval thereof and any remodeling,
reconstruction, alterations, or additions thereto on any parcel
shall be subject to and shall require the approval in writing,
before any such work is commenced, of the Environmental Control
Committee (herein called "Committee"), as the same is from time to
time composed.

B. The Committee shall be composed of a minimum of three (3) members to be appointed by Declarant. Committee members shall be subject to removal by Declarant and any vacancies from time to time existing shall be filled by appointment of Declarant, or in the event of Declarant's failure to so appoint within two (2) months after any such vacancy, then by the Board of Directors of the Pagosa Property Owners Association, Inc. (herein called "Association"); provided, however, that at any time hereafter the Declarant may, at its sole option, relinquish to the Board of Directors of the Association the power of appointment and removal reserved herein to the Declarant. Such transfer of power must be evidenced in writing.

C. There shall be submitted to the Committee a building application or forms approved by Declarant together with two (2) complete sets of the preliminary plans, elevations, sections, site plan, etc. to be reviewed before the final plans and specifications are submitted. Upon Committee approval of the preliminary plans, the detailed drawings and specifications can be completed with two (2) complete sets being submitted to the committee covering any and all proposed improvements, the erection or alteration of which is desired. No structures or improvements of any kind shall be erected, altered, placed or maintained upon the property unless and until the final plans, elevations and specifications have received such written approval as herein provided. Such plans shall include plot plans showing the location on the property of the building, well, fence, or other structure proposed to be constructed, altered, placed or maintained, together with the schemes for roofs, and exteriors thereof and proposed landscape planting. A filing fee of \$25.00 per proposed unit shall accompany the submission of the preliminary plans, etc. to defray Committee expenses. No additional fees shall be required for subsequent submissions or resubmissions of plans revised in accordance with Committee recommendations.

D. The Committee shall approve or disapprove plans, specifications and details within thirty (30) days from the receipt of the preliminary plans, and within sixty (60) days from receipt of a complete set of final plans and specifications. One (1) set of said plans and specifications and details with the approval or disapproval endorsed thereon, shall be returned to the person submitting them and the other copy thereof shall be retained by the Committee for its permanent files.

E. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with all the provisions of these Restrictions; if the design materials or color scheme of the proposed building or other structure is not in harmony with the general surroundings of such property or with the adjacent buildings or structures; if the plans and specifications submitted are incomplete; or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the real property subject hereto, or the owners thereof. The decisions of the Committee shall be final.

F. Neither the Committee nor any architect or agent thereof or of Declarant shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

G. The Committee shall have the authority to set up regulations as to the materials, height and size requirements for all other types of outbuildings and structures, including fences, walls, copings, etc.

H. Whenever the Committee shall approve plans and specifications for a pier or similar structure on or extending into any waterway, such approval shall constitute a mere revocable privilege from Declarant or its successor or successors in interest for the construction, placement and maintenance of the proposed structure.

3. LAND USE AND IMPROVEMENTS

The following are the various land uses. These land use classifications, as hereinafter described, limit and prescribe the use of the property. Any use not specifically permitted is hereby declared to be prohibited.

A. Uses Permitted for Parcels 1a and b, 2a and b, 3a and b and c, 4, 5, 6, 8, 9a and b, 10, 11a and b and c, and 12.

(1) multiple-family dwelling structures of more than one story, but not to exceed three stories or 50 feet in building height. Included are individual lodges, "party-wall" apartments, townhouses and condominiums subject to the provisions of the Colorado Condominium Ownership Act.

(2) Detached (one living unit per building) multiple-family dwelling structures of more than one story, but not to exceed two stories or 35 feet in building height.

(3) Club or recreation facilities including swimming pool, sundeck, tennis courts, boat slips, etc.

(4) Churches with off-street parking and hotel or motel structures as approved by the Committee.

B. Density and Property Coverage

(1) on lake frontage parcels, no building shall be constructed on any parcel or sub-parcel which covers more than 30 percent of the total area of the parcel. No less than eight (8) or more than eleven (11) living units per acre may be constructed on the parcels without the prior consent of the Declarant.

(2) On all other parcels, no building shall be constructed on any parcel or sub-parcel which covers more than 35 percent of the total area of the parcel. No less than eight (8) or more than fifteen (15) living units per acre may be constructed on the parcels without the prior consent of the Declarant.

C. Set-Back Requirements

(1) No building or structure shall be located within twenty (20) feet of streets that may transverse any parcel.

(2) No building or structure shall be located within fifty (50) feet from any parcel boundary line and within fifteen (15) feet of another detached building.

(3) No building or structure shall be located within fifteen (15) feet of the high-water elevation of Village Lake. However, upper floor balconies may encroach to within ten (10) feet of the high-water elevation.

D. Limited Commercial Uses for Parcel 7

Declarant desires this parcel to be subject to the terms of paragraph 5.I of a Declaration of Restrictions made on the thirteenth (13th) day of March, 1970, and recorded on the twenty-fourth (24th) day of June, 1970, in the Public Records of Archuleta County, Colorado in Book 122, at pages 224 through 247 inclusive, thereof, which are made a part hereof and are incorporated herein by reference.

4. GENERAL PROHIBITIONS AND REQUIREMENTS

The following general prohibitions and requirements shall prevail as to the construction or activities conducted on the property:

A. No outside toilet shall be constructed on the property. With the prior written consent of the Committee, water wells and septic systems may be constructed on the property prior to being served by central water or sewage systems; provided, however, such water or septic facilities shall comply with all requirements of the Health Department of the State of Colorado and other governmental agencies having jurisdiction thereof. All plumbing fixtures, dishwashers or toilets shall be connected to the central sewage system, or individual septic systems as permitted above. Storm water shall not be allowed to flow into the sewage system. At such time as central water or sewer facilities become available to an owner who has constructed a water well and/or septic system, the water well and/or septic system shall be abandoned and the central system made available shall be utilized exclusively. Unless otherwise determined by the entity having jurisdiction in the matter, the central water system shall be deemed to be available for purposes of this paragraph when water lines are installed, operative, and ready for connection within one hundred (100) feet of the property line. The central sewage system shall be deemed to be available when sewer lines are installed, operative and ready for connection within four hundred (400) feet of the property line.

B. No temporary house, trailer, tent, garage, or other out-building shall be placed or erected on the property; provided, however, that the Committee may grant permission for any such temporary structure for storage of materials during construction. No such temporary structures as may be approved shall be used at any time as a dwelling place, nor shall any overnight camping be permitted on the property.

C. Once construction of improvements is started on the property, the improvements must be substantially completed in accordance with plans and specifications, as approved, within six (6) months from commencement.

D. No residence shall be occupied until the same has been substantially completed in accordance with its plans and specifications.

E. All structures constructed or placed on the property shall be constructed with a substantial quantity of new material and no used structures shall be relocated or placed on the property.

F. No animals or livestock of any description, except the usual household pets, shall be kept on the property.

G. All signs, billboards or advertising structures of any kind are prohibited except upon application to and written permission from the Committee.

H. No stripped down, partially wrecked, or junk motor vehicles, or sizeable part thereof, shall be permitted to be parked anywhere on the property. No cars or motor vehicles can be worked on for mechanical repairs on the property.

I. Every tank for the storage of fuel installed outside any building on the property shall be either buried below the surface of the ground or screened to the satisfaction of the Committee by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed and kept as not to be visible from any street or waterway within the property at any time except during refuse collections.

J. All outdoor drying yards, clothes poles, clothes lines and similar equipment shall be so placed or screened by shrubbery as not to be visible from any streets or waterway within the property.

K. Dwelling units may be used as model houses or sales office provided they are not used in such a way as to unreasonably interfere with or disturb any unit purchaser or owner including the use, enjoyment or access of such owner, his family or guests.

L. The property, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent its becoming unsightly by reason of unattractive growth on such property or the accumulation of rubbish or debris thereon.

M. No noxious, offensive or illegal activities shall be carried on on the property nor shall anything be done that shall be or become an unreasonable annoyance or nuisance to the neighborhood.

N. No water, oil or natural gas drilling, refining, quarrying, or mining operations of any kind shall be permitted upon the property and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on the property.

O. No commercial type truck shall be parked for storage overnight or longer, on the property in such a manner as to be visible to the occupants or users of any street or waterway within the property, unless the prior written approval of the Committee has been obtained.

P. Any dwelling or outbuilding on the property which may be destroyed in whole or in part by fire, windstorm or for any other cause, or act of God must be rebuilt or all debris removed and the property restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than sixty (60) days.

Q. No tree over three (3) inches in diameter shall be removed from the property without the written consent of the Committee.

R. No exterior television or radio antenna of any kind shall be constructed or erected on the property or residence after such time as a central television system has been made available to the property at rates commensurate with those prevailing in the area.

S. No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on the property or be thrown into or left on the shoreline of any waterway in the Subdivision. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted. In order to enhance the appearance and orderliness of the property, the Declarant hereby reserves for itself, its successors and assigns, the exclusive right to operate, or from time to time to grant an exclusive license to a third party to operate a commercial scavenging service within the property for the purpose of removing garbage, trash and other like household refuse. Such refuse collection and removal service shall be provided not less often than once each week on a day or days designated by the Declarant or its successors or assigns. The charge to be made for such refuse collection and removal service shall be at a reasonable rate commensurate with the rates charged by commercial scavengers serving other subdivisions of high standards in the area, and shall be subject to change from time to time.

T. No change in ground level may be made on the property in excess of one foot from existing grades without the written approval of the Committee obtained prior to the commencement of work.

U. Parking of recreational vehicles (boats, trailers, campers, etc.) is not permissible in regular parking areas or on streets, or anywhere else on the property not specifically designated for parking of recreational vehicles. The developer (builder of the units and facilities) will provide an enclosed screened area for the purpose of storing recreational vehicles on the basis of one space at least 10' X 20' per 10 residential units occupying the site; provided, however, that the committee may at its discretion waive this requirement.

V. All utilities must be installed underground.

105687

5. VARIANCES

The Committee may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood.

6. EASEMENTS

A. The Declarant reserves unto itself, its successors and assigns, certain easements along, across, over and upon the real estate that constitutes the property. The easements so reserved by the Declarant are described as follows:

(1) Declarant, for itself, its successors and assigns and licensees, reserves a ten (10) foot wide easement along all present and subsequent road rights-of-way, and a five (5) foot easement along the side lines of the property for the purpose of installing, maintaining and operating utility lines and mains thereon, together with the right to trim, cut or remove any trees and/or brush, and the right to locate guy wires, braces and anchors wherever necessary for said installation, maintenance and operations, together with the right to install and maintain and operate utility lines and mains and appurtenances thereto, and reserving unto itself, its successors, assigns and licensees, the right to ingress and egress to such areas for any of the purposes heretofore mentioned. No permanent building shall be placed on such easements, but the same may be used for gardens, shrubs, landscaping and other purposes, provided that such use does not interfere with the use of such easements for their intended purposes.

(2) Declarant further reserves for itself, its successors, assigns and licensees, for lake and shoreline maintenance and control along that portion of the property contiguous to the shoreline of Village Lake, an easement ten (10) feet wide. This property shall be subject to a flowage easement to an elevation on a parcel equal to the high-water elevation of the adjacent lake.

(3) Declarant for itself, its successors, assigns and licensees, reserves a twenty-five (25) foot wide easement along all rights-of-way for the purpose of cutting and filling and drainage. Declarant further reserves unto itself, its successors and assigns and licensees, the right to cause or permit drainage of surface water over and/or through said parcels, and further it reserves an easement on, over and under all road rights-of-way for the purpose of installing, maintaining and operating utilities or drainage.

(4) The property shall further be subject to an easement for the maintenance and permanent stabilization control of slopes.

(5) No owner of the property shall have any claim or cause of action against Declarant, its successors, assigns or licensees, either in law or in equity, and arising out of exercise of any easement reserved hereunder, excepting in cases of willful or wanton negligence.

7. PAGOSA PROPERTY OWNERS ASSOCIATION, INC.

A. Every person acquiring legal or equitable title to any of the property, except limited commercial parcels, becomes a member of the Pagosa Property Owners Association, Inc., a Colorado non-profit corporation herein referred to as "Association", and with such

ownership in the property and membership in the Association, he then becomes subject to the requirements and limitations imposed in these Restrictions and to the regulations and assessments of the Association, with the exception, however, of such person or persons who hold an interest in any such property merely as security for the performance of an obligation to pay money, e.g., mortgages, deed of trust, or real estate contract purchases. However, if such a person should realize upon his security and become the real owner of the property, he will then be subject to all the requirements and limitations imposed in these Restrictions on owners and on members of the Association, including those provisions with respect to alienation and the payment of an annual charge.

B. The general purpose of the Association is to further and promote the community welfare of property owners at Pagosa.

C. The Association shall be responsible for the maintenance, upkeep and repair, and the establishment and enforcement of rules and regulations concerning the operation and use, of all recreational facilities, and other properties at Pagosa as it may from time to time own or agree to maintain. The Association may provide police protection for the residents of the community.

In the event that the Association at any time fails to properly maintain such parks and recreational facilities, or fails to provide adequate police protection, the Declarant may in its sole discretion enter upon and make any and all repairs, or may maintain any of the properties under the responsibility of the Association, or the Declarant may adopt measures to provide adequate police protection and may charge the Association for all such repairs or protection; provided, however, that Declarant shall under no circumstances be obligated to take any such action.

D. The Association shall have all the powers that are set out in its Articles of Incorporation and all other powers that belong to it by operation of law, including (but not limited to) the power to assess and collect from every member of the Association a uniform annual charge per multiple-family residential parcel within the Subdivision. The amount of such charge is to be determined by the Board of Directors of the Association for the purposes set forth in the Articles of Incorporation, and the charge in no event shall be less than \$50.00 per each multiple-family unit.

No such charge shall ever be made against, or be payable by the Declarant, the Association itself, or any entity that may be created to acquire title to, and operate, the water or sewer utilities serving the Subdivision, any commercial operations or any waterway, beach, access tract, marina, golf course, tennis courts, swimming pool, clubhouse, clubhouse grounds, campgrounds, or other like recreational facilities within the Subdivision.

All charges are payable annually by the member to the Association on or before the first day of May of each year, for the ensuing year. The Board of Directors of the Association shall fix the amount of the annual charge per unit by the first day of April of each year, and written notice of the charge so fixed shall be sent to each member in the event it is changed from the previous year.

Every person who shall become the legal or equitable owner of any property by any means is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the Association all charges that the Association shall make in accordance with these Restrictions. If such payment is not made when due, it shall bear interest from the due date at the rate of twelve (12) per cent per annum. Until paid, such charges together with costs and reasonable attorney's fees required to secure payment thereof shall constitute a perpetual lien on and against the property charged. The Association may publish the name of a delinquent member and may file notice that it is the owner of a lien to secure payment of the unpaid charge plus costs and reasonable attorney's fees and may foreclose the lien in accordance with the laws of the State of Colorado.

The Association shall upon demand at any time furnish a list of members who have paid such assessments or of such members who are then delinquent in payment of such assessments.

E. The fund accumulated as a result of the charges levied by the Association shall be used exclusively for the purposes of promoting the recreation, health, safety and welfare of the members of the Association and in particular providing police protection and the maintenance of the waterways, parks and other recreational facilities.

F. The lien of a mortgage or deed of trust placed upon the property for the purpose of permanent financing and/or constructing a residence or other improvement thereon, shall be superior to any such lien as provided for in these Restrictions.

G. The Board of Directors of the Association shall have the right to suspend voting rights (if any) and the right to the use of the recreational facilities of any member or associate member if any charge owed (as assessed under paragraphs 7-D and 8 of these Restrictions) remains unpaid; or for any continuing violation of the restrictive covenants, after the existence of the violation has been brought to the attention of the member in writing by the Board of Directors of the Association; or during the period that any utility bill for water or sewer service remains unpaid.

8. ASSOCIATION'S RIGHT TO PERFORM CERTAIN MAINTENANCE

In the event an owner of any property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, the Association shall have the right to enter upon said property and repair and restore the property and the exterior of any improvements erected thereon. Such right shall not be exercised unless two-thirds (2/3) of the Board of Directors shall have voted in favor of such action. The cost of such exterior restoration and maintenance shall be added to and become a part of the annual charge to which such property is subject. The Association shall not be liable for any damage which may result from any maintenance work performed hereunder.

9. LAKE FRONTAGE PROPERTY

A. Certain portions of the property are contiguous to Village Lake. The water in, and the land under, said lake is and will be owned by Declarant. The normal pool water elevation and the high water elevation of said lake is, and will be, as determined by the spillway elevation of said lake. The title that will be acquired by the grantee of the Declarant's title to any of said contiguous property (and by the successors and assigns of such grantee) will and shall extend only to the shoreline of the lake to which such property is contiguous, as said shoreline would be established on the date hereof if the water elevation in said lake were at an elevation one vertical foot above the normal pool water elevation and as the shoreline may hereafter be established by the water, at an elevation one vertical foot above normal pool water elevation, by erosion from said shoreline. No such grantee, nor any of such grantee's successors or assigns, shall have any right with respect to any stream that is a tributary to said lake, or with respect to said lake, the land thereunder, the water therein, or its or their elevations, use or conditions, and none of said property shall have any riparian rights or incidents appurtenant; provided further that title shall not pass by reliction or submergence or changing water elevations. The Declarant, its successors and assigns, shall have the right at any time to dredge or otherwise remove any accretion or deposit from any of said property in order that the shoreline of the lake to which the property is contiguous may be moved toward, or to, but not inland beyond, the location of said shoreline as it would exist as of the date hereof if the water elevation in said lake were at an elevation one vertical foot above the normal pool water elevation and title shall pass with such dredging or other removal as by erosion.

105687

B. The Declarant reserves to itself, and to the Association, and its successors and assigns, such an easement upon, across and through property adjacent to said lake as is necessary in connection with operating said lake. Without limiting the generality of the immediately preceding sentence, it is declared that neither the Declarant nor any successor or assign of the Declarant shall be liable for damages caused by ice, erosion, washing or other action of the water.

C. The Declarant reserves to itself, and its successors and assigns, the right to raise and lower the elevation of said lake, but neither the Declarant or any successor or assign of the Declarant shall have an easement to raise (by increasing the height of any dam or spillway, or otherwise) the high water elevation of any of said lake to an elevation above the normal pool water elevation.

D. No fence, wall or retaining element shall be constructed within 15 feet of the high water elevation of said lake.

10. CHARGES FOR WATER AND SEWER SERVICE

A. Every legal or equitable owner of the property shall pay charges for water and sewer service in accordance with rates approved by the entity having jurisdiction in the matter. At such time as water or sewer service is available to the owner of the property, he shall pay a water connection fee and/or a sewer connection fee in amounts established by the entity having jurisdiction in the matter. Unless otherwise determined by the entity having jurisdiction in the matter, water service shall be deemed to be available for purposes of this paragraph when water lines are installed, operative and ready for connection within one hundred (100) feet of any property line and sewer service shall be deemed to be available when sewer lines are installed, operative and ready for connection within four hundred (400) feet of any property line.

B. Easements in addition to those reserved throughout these Restrictions shall be granted for the practical construction, operation and maintenance of such water and sewer facilities upon request of the Declarant or the entity having jurisdiction in the matter.

11. REMEDIES

A. The Association or any party to whose benefit these Restrictions inure, including the Declarant, its successors and assigns, may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions; provided, however that it is expressly understood that neither Declarant nor the Association shall be liable for damages of any kind to any party for failing to either abide by, enforce, or carry out any of these Restrictions.

B. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth in 11-A above in respect to a violation of any of these Restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

12. GRANTEE'S ACCEPTANCE

A. The Grantee of any property subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such property, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant and of the Association and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant, the Association, and to and with the grantees and subsequent owners of portions of the property within the Development to keep, observe, comply with and perform said Restrictions and agreements.

105687

B. Each grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership or occupancy attendant to such property including but not limited to its proximity to waterways, club or recreation facilities.

13. SEVERABILITY

Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other one of the Restrictions.

14. CAPTIONS

The underlined captions preceding the various paragraphs and subparagraphs of these Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS THEREOF, the Declarant has executed this Declaration on the day and year first above written.



EATON INTERNATIONAL CORPORATION
A Delaware corporation

BY: David H. Eaton
President

ATTEST:

Thomas H. Kent
Secretary

STATE OF ARIZONA)
) ss,
COUNTY OF MARICOPA)

This instrument was acknowledged before me this 12th day of May, 1981, by David H. Eaton, President and Thomas H. Kent, Secretary, respectively, of EATON INTERNATIONAL CORPORATION, a Delaware corporation.

M. Carol Howland
Notary Public

My commission expires 1/13/84

105687

BOOK 187 PAGE 635