

AMENDMENT AND RESTATEMENT OF THE DECLARATIONS OF PROTECTIVE COVENANTS FOR MESA CORTINA, FILING NO. 1, MESA CORTINA WEST, FILING NO. 1, AND CORTINA, FILING NO. 1.

COLLIER COUNTY
MAR 11 10 00 AM '99
CLERK OF COUNTY
RECORDS & BORDER

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Preamble

We, the undersigned owners, desiring to bring our three subdivisions under one set of protective covenants; do hereby amend and restate the Declarations of Protective Covenants for the following subdivisions:

- a. Mesa Cortina, Filing No. 1, Summit County, Colorado.
- b. Mesa Cortina West, Filing No. 1, Summit County, Colorado.
- c. Cortina, Filing No. 1, Summit County, Colorado.

This amendment, as follows, supersedes any and all prior declarations of protective covenants, amendments, or changes thereto applicable to any and all of the three subdivisions listed above.

Article I. Property Affected:

These covenants are made applicable to all land in:

- a. Mesa Cortina, Filing No. 1, Summit County, Colorado, (75% or more of the owners agreeing).
- b. Mesa Cortina West, Filing No. 1, Summit County, Colorado, (75% or more of the owners agreeing).
- c. Cortina, Filing No. 1, Summit County, Colorado, (two thirds or more of the owners agreeing).

Article II. Definition of Terms:

- a. Building Site shall mean any lot or site subject to the terms and conditions of these Protective Covenants.
- b. Improvements shall mean and include a single-family dwelling, out buildings, fences, masonry walls, hedges, mass plantings and other useful appurtenances now common to dwelling usage, or common thereto during the existence of these Protective Covenants.
- c. Subdivisions shall mean: Mesa Cortina, Filing No. 1, Mesa Cortina West, Filing No. 1, and Cortina, Filing No. 1.
- d. Association shall mean the Cortina Property Owners Association, Inc.
- e. Committee shall mean the Architectural Control Committee as described in Article VII (following) of this document.
- f. Owner shall mean the record owner, whether one or more persons or entities, of the fee simple title to any building site which is located in the subdivisions, but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation including a mortgagee or beneficiary under a deed of trust, unless and until such person has acquired fee simple title pursuant to foreclosure or other proceedings.

Article III. Cortina Property Owners Association, Inc.:

- a. Formation: The Cortina Property Owners Association, Inc., ("Association") is hereby adopted as the entity that will handle the administration and enforcement aspects of the Subdivisions and it shall be governed by this Declaration, its Articles of Incorporation, and its Bylaws.
- b. General Purpose and Powers: The Association, through its Board of Directors, shall perform functions as provided in this Declaration, its Articles of Incorporation, and its Bylaws so as to further the interests of owners of property in the Subdivisions. It shall have all powers necessary to exercise architectural and landscaping control, preserve water and other resources, negotiate as necessary for improved or expanded services and to preserve the intrinsic and natural beauty of the land.
- c. Membership: The owner of a lot in the Subdivisions shall automatically become a member of the Association. Said membership is appurtenant to the lot of said owner and the ownership of the membership in the Association shall automatically pass with fee simple title to the lot. Each

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owner shall automatically be entitled to the benefits and be subject to the burdens relating to the membership for his lot. If fee simple title to a lot is held by more than one person, each owner of a lot shall be a member of the Association.

- d. Board of Directors: The affairs of the Association shall be managed by the Board of Directors which may by resolution delegate any portion of its authority to an executive committee, or to a director for the Association. The composition of the Board, the specific number and term of office, and the method of election shall be controlled as set forth from time to time in the Bylaws.
- e. Voting of Owners: At any meeting of the Association, each owner shall be entitled to cast no more than one (1) vote for each lot owned as shown on the Subdivisions plats. Where there is more than one record owner of a lot (co-owners), all of those co-owners shall be members and may attend any meeting of the Association, but only one of those co-owners shall be entitled to exercise the single vote to which the lot is entitled. Co-owners of a lot shall from time to time designate in writing one of their number to vote. Fractional votes shall not be allowed, and the vote for each lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if the designation has been revoked, the vote for the lot shall be exercised as the co-owners owning the majority interests in the lot mutually agree. No vote shall be cast for any lot if no voting representative has been designated and the co-owners present in person or by proxy do not own a majority interest in such lot. All agreements and determinations lawfully made by the Association in accordance with the voting procedure established herein, or in the Bylaws of the Association, shall be deemed to be binding on all lot owners, their successors and assigns.
- f. Bylaws and Articles: The purposes and powers of the Association and the rights and obligations with respect to owners set forth in this Declaration may and shall be amplified by provisions of the Articles, and Bylaws of the Association. In the event of conflict of other documents with these declarations or provisions within the documents, the conflict shall be resolved as provided in the Bylaws.
- g. Compensation: No member of the Association shall be entitled to any compensation for services rendered to the Association.
- h. Non-Liability and Indemnification: No member of the Board or any other director, officer, employee or agent of the Association shall be liable to any party (other than the Association or a party claiming in the name of the Association) for injuries or damage resulting from such person's acts or omissions within what such person reasonably believed to be the scope of his Association duties, except to the extent that such injuries or damage result from such person's willful or malicious misconduct.

Article IV. Subdivision of Lots:

No lot within the Subdivisions may be subdivided without the consent and approval of a majority of the owners of the Subdivisions.

Article V. Land Uses:

- a. Structure: None of the lots or building sites may be improved, used, or occupied for other than a private residential, single-family dwelling, other than a private garage or other out buildings incidental to such residential use. No more than one private residential, single-family dwelling may be erected on any lot or building site.
- b. Size of Residential Structures: No main residential structure shall be constructed, on any building site covered by this Declaration, the habitable main floor area of which, exclusive of basements, porches and garages is less than 900 square feet.
- c. Continuity of Construction: All improvements commenced in the Subdivisions shall be prosecuted diligently to completion in accordance with the plans and specifications which have been submitted to the Architectural Control Committee and shall be completed and a Certificate of Occupancy obtained within 15 months of commencement unless some exception

- is granted in writing by the Association through the Committee.
- d. Temporary Structure: No temporary structure, excavation, basement, trailer or tent shall be permitted in the Subdivisions, except as may be determined necessary during construction and specifically authorized in writing by the Association through the Committee.
 - e. Landscaping: All surface areas disturbed by construction shall be returned promptly to their natural condition and revegetated by replanting in native grasses, or by other landscaping approved by the Committee.
 - f. Infested Trees: The Board of Directors of the Association shall have the power to contract with the Colorado State Forest Service, the United States Forest Service or an independent contractor in order to identify any pest or disease that may be infecting trees or shrubbery in the Subdivisions. The entity employed under this provision may be authorized, during regular business hours, to enter any lot for purposes of identifying infested trees or shrubbery. If an infestation is discovered, the owner will be given a notice, including a definition of the problem, proper corrective action, and adequate time to correct the problem. If the owner fails to correct the problem, within the specified time, the Board of Directors may:
 - 1. Initiate action prescribed under the Pest Control Act, C.R.S. #35-4-101 et seq. and any subsequent revisions or amendments of that statute for the removal of the diseased or infested trees.
 - 2. Have the trees treated or removed and impose a special assessment on owner for this service.
 - g. Signs: Permanent signs shall be restricted to those, affixed to the building, used to identify the street number (required) and occupants (optional). There shall be no free standing permanent signs in the Subdivisions. Temporary signs advertising property for sale or rent shall be permitted as long as they are of the type commonly used by realtors in Summit County.
 - h. Set Back Requirements: The set back requirements shall be those imposed by Summit County zoning regulations for a single-family residential subdivision.
 - i. Trash: No trash, ashes, slash or other refuse shall be thrown or dumped on any land within the Subdivision. There shall be no burning of trash or refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.
 - j. Animals: No animals or poultry of any kind, other than house pets for household enjoyment and not for commercial purposes shall be kept or maintained on any building site. Dogs, cats and other pets for household enjoyment shall not be allowed to run loose within the Subdivisions without the owner being present.
 - k. Mining: Mining or quarrying operations of any kind shall not be permitted upon or in any land within the Subdivision, nor shall tunnels, mineral excavations or shafts be permitted upon or in any of the land covered by this Declaration.
 - l. Tanks: No elevated tanks of any kind shall be permitted on a building site. Any tank for use in conjunction with any residence on the lots, including tanks for storage of LP gas or fuel oil must be buried or kept screened so as to conceal them from view from neighboring building sites or roads. No tanks for the storage of gasoline, or diesel fuel shall be permitted.
 - m. Vehicles: Vehicles not currently registered, not operable, not in driving condition, or abandoned cannot be parked or stored in public view. Earth-moving equipment or vehicles of a similar nature are permitted on the building site only during the construction of the residential dwelling on that site.
 - n. Recreational Vehicles: Motorhomes, boat trailers, horse trailers and all other recreational vehicles may be parked on an owner's building site so long as they do not interfere with, or restrict, the view from surrounding owners' building sites. If the owner of a surrounding building

site feels that any recreational vehicle is interfering with, or restricting the view from his site he may file a complaint with the Architectural Control Committee and the written approval of said Committee will need to be obtained by the owner of the recreational vehicle in order to allow the subject recreational vehicle to remain on the owner's lot.

- o. Water and Sewage: Each house on a building site shall connect with the community sanitary sewer and water facilities which may then exist to serve said lot. No individual sewage disposal systems or private wells shall be allowed.

Article VI. Violations:

Any violations of the land uses described in this Declaration listed in Article V, (a) through (n) shall be reported to the Board of Directors of the Association. If, in the opinion of the majority of the members of the Board of Directors or designated committee a violation is found to exist, notice of the violation will be mailed to the owner. If the owner declines to correct the violation, the owner shall be subject to the enforcement proceedings detailed in Article XII hereof.

Article VII. Architectural Control Committee:

The Architectural Control Committee shall be composed of three members appointed by the Board of Directors of Cortina Property Owners Association, Inc. The purpose of the Committee shall be to exercise architectural control of new residential structures in the Subdivisions, pursuant to the standards and in the manner set out in Article VIII hereof. A majority vote shall control.

Article VIII. Architectural Approval:

No improvement shall be commenced, constructed, erected or maintained, placed or altered on any building site until the building plans and landscaping plans (including plot plans and specifications) and sufficient description for each proposed improvement have been in each instance submitted to the Committee and approved by the Committee in writing; such approval to cover conformity and harmony of external design of the proposed improvement; the location thereof in relation to lot lines, topography and grades; and the location and character and method of utilization of all utilities. In passing upon plans and specifications the Committee shall consider the suitability of the improvement and of the materials as related to the building site involved, the nature of adjacent and neighboring improvements, the quality of the materials to be utilized and the effect of any proposed improvement upon the outlook, value and aesthetic quality of neighboring properties.

The Committee shall review, study, and approve or reject proposed improvements upon the building site subject to these Covenants and restrictions. The Committee agrees to use reasonable judgement in passing upon such submitted plans, but shall not be liable to any owner for its decisions, actions, or failure of actions in connection with submitted plans and descriptions, unless it shall be shown that the Committee acted with malice or wrongful intent. Approval of any plans, specifications and other matters having been previously approved by the Committee shall not be subject to further review by any subsequent Committee. If the Committee fails to approve or disapprove the submitted plans in any instance within twenty-one (21) days after the plans have been submitted to it, the approval of the Committee shall be presumed.

Any decision of the Committee may be appealed by the owner to the Board of Directors of the Association. Any owner desiring to appeal any decision of the Committee must submit a written notice of appeal within thirty (30) days after receiving written notice of the decision of the Committee which they desire to appeal. The Board of Directors of the Association will consider the matter at their next regularly scheduled meeting (or within 30 days, whichever is sooner) and their decision will be final and binding on both the Committee and the Owner.

Article IX. Easements:

Easements are hereby reserved as described in the recorded plats of the Subdivisions. The easements so reserved are for utility purposes which include, but are not limited to, electrical, gas, telephone, water, sewer and other similar lines or services.

Article X. Effect and Duration of Covenants:

The conditions, covenants and restrictions of this Declaration shall run with and bind the land and shall be for the benefit of and binding upon all of the property in the Subdivisions effected by this Declaration and each owner of property therein, his successors, representatives and assigns, and shall continue in force and effect for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless sooner amended as herein provided.

Article XI. Amendment:

This Declaration may be amended by an Instrument signed by the Owners of not less than 75% of the lots in the Subdivisions.

Article XII. Enforcement:

If any person shall violate or threaten to violate any of the provisions of this Instrument, it shall be lawful for the Association or any person or persons owning real property in the Subdivisions to institute proceedings at law or in equity to enforce the provisions of this Instrument, to restrain the persons violating or threatening to violate them, and to recover damages, actual or punitive, for such violations. Any person who is found to be in violation of these covenants by a court of competent jurisdiction shall be liable for reasonable attorneys fees and costs incurred by the Association or owner who has prevailed in seeking enforcement of the covenants contained in this Declaration.

Article XIII. Existing Improvement:

Nothing in this declaration may be used to cause improvements, existing or approved at the date of this declaration, to be brought into conformance with the covenants set forth in this declaration. Any material change, alteration or addition to an improved building site not approved at the date of this declaration shall be subject to all of the provisions of these covenants.

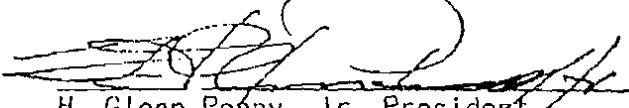
Article XIV. Severability:

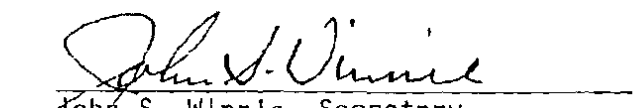
Invalidation of any one of the provisions of this Instrument by judgement or Court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

Article XV. Execution in Counterparts:

Each owner may sign this Amendment in counterparts and it is understood and agreed that each such signature and notary acknowledgement of owner will be retained with the records of the Cortina Property Owners Association, Inc.

In Witness whereof, the Cortina Property Owners Association, Inc. has caused this Instrument to be executed this 9th day of March, 1988.

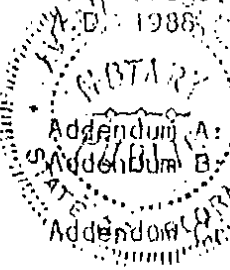

H. Glenn Penny, Jr. President


John S. Winnie, Secretary

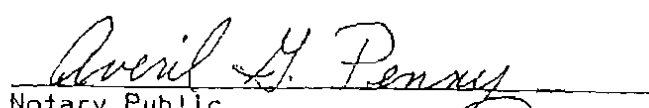
STATE OF COLORADO)
COUNTY OF SUMMIT) SS

The foregoing Instrument was acknowledged before me this 9th day of March A.D. 1988, by H. Glenn Penny, Jr. and John S. Winnie.

My Commission Expires 5-5-88
Witness my hand and official seal.



Addendum A: Mesa Cortina, Filing No. 1
Addendum B: Mesa Cortina West, Filing No. 1
Addendum C: Cortina, Filing No. 1


Notary Public

BYRON A. ANDERSON
Secretary of State

JAN 28 1974

267804

ARTICLES OF INCORPORATION

OF

CORTINA PROPERTY OWNERS ASSOCIATION, INC.

The undersigned persons acting as incorporators of a corporation under the Colorado Nonprofit Corporation Act, sign, and acknowledge the following Articles of Incorporation for such corporation:

ARTICLE I

Name

The name of the corporation is CORTINA PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE II

Duration

The period of its duration is perpetual.

ARTICLE III

Purposes

The corporation is organized for the purpose of advancing the interest of the residents and property owners of MESA CORTINA WEST FILING #1, CORTINA FILING #1, and MESA CORTINA FILING #1, subdivisions in the County of Summit, State of Colorado, and to maintain the same as high class residential subdivisions, and in general to initiate, educate, promote, and perfect any and all matters and things of mutual interest, benefit, and advantage to said subdivisions and adjacent areas and to the persons who from time to time may be the residents or owners of property within said subdivision or adjacent areas, and to cooperate with societies, associations, and persons of similar interest, enthusiasm and enjoyment and to promote clean, quiet neighborhoods in said subdivisions, to make it a better place to live and raise families. Further, to take over the responsibilities of architectural control and other covenants contained in the subdivision covenants; and to do all other matters and things desirable or necessary to further effectuate said purposes; to do and perform such things and acts as provided by and not inconsistent with the laws of the State of Colorado, and specifically, but not by way of limitation, to have such powers as set forth in the Colorado Nonprofit Corporation Act.

ARTICLE IV

Tax Status

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence

legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal Income Tax under Section 501 (c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170 (e)(2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE V

Dissolution

Upon the dissolution of the corporation, the Board of Directors, shall after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized and operated exclusively for the purposes of the corporation in such manner, or to such organization or organizations under Section 501 (C)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine.

ARTICLE VI

Registered Office

The address of the initial registered office of the corporation is 4th and Granite Streets, P.O. Box 883, Frisco, Colorado 80443, and the name of its initial registered agent at such address is William A. McGrath.

ARTICLE VII

Directors

The number of directors constituting the initial Board of Directors of the corporation is five (5) and the names and addresses of the persons who are to serve as the initial directors are:

| <u>NAME</u> | <u>ADDRESS</u> |
|-------------------|---|
| Dennis G. Black | 7446 S. Quintero Denver, Colorado 80232 |
| H. Housley | 446 S. Carr St. Lakewood, Colorado 80226 |
| Rick H. Snodgrass | P.O. Box 622 Wilton, Colorado 80435 |

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