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**DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS
FOR
RIDGEWOOD HEIGHTS,
GRAND JUNCTION, COLORADO**

TABLE OF CONTENTS

Article 1. Incorporation of Statement of Relevant Facts.	1
Article 2. Definitions.	1
Article 3. Units, Lots, Common Elements, Limited Common Elements.	5
3.1. Units; Lots.	5
3.2. Ownership of a Lot.	5
3.3. Allocated Interests.	5
3.4. Common Elements.	5
3.5. Limited Common Elements.	5
3.6. Recorded Easements, Covenants, Restrictions and Other Matters of Title.	5
Article 4. Easements.	5
4.1. Owners' Easement of Enjoyment.	5
4.2. Easement for Encroachments.	6
4.3. Easement in favor of the Association.	6
4.4. Emergency Easement.	6
4.5. Utility Easements.	6
4.6. Declarant's Easements.	6
4.7. Party Walls.	6
4.8. No Dedication.	6
Article 5. The Association.	6
5.1. The Association.	6
5.2. Incorporation of the Association.	7
5.3. Powers of the Association.	7
5.4. Conveyance or Encumbrance of Common Elements.	7
5.5. Education of Owners.	7
Article 6. Membership and Voting Rights in the Association.	7
6.1. Membership.	7
6.2. Owners' Role in Governance of the Association.	8
6.3. Owners Meetings.	8
6.4. Member Votes; Allocated Interest.	8
Article 7. Board of Directors.	9
7.1. Governance of the Association.	9

7.2. Election of Directors.....	9
7.3. Removal of Directors.....	9
7.4. Election and Removal of Officers; Vacancies.....	9
7.5. Meetings of Directors.....	9
7.6. Delegation by the Board of Its Authority and Duties.....	9
7.7. Liability of Directors and Officers.....	9
7.8. Indemnification of Directors and Officers.....	10
7.9. Rules.....	10
7.10. Adoption of Rules and Policies.....	10
Article 8. Assessments.....	10
8.1. General Assessments; Procedure for Levying General Assessments.....	10
8.2. Special Assessments.....	11
8.3. Limited Assessments.....	11
8.4. Default Assessments.....	11
8.5. Reserve Fund.....	11
8.6. Surpluses.....	11
8.7. Liability for Assessments.....	11
8.8. Enforcement; Remedies.....	12
8.9. User Fees.....	12
Article 9. Maintenance of Common Elements, Lots and Owner Improvements.....	12
9.1. Responsibilities of Owners.....	12
9.2. Responsibilities of the Association.....	12
9.3. Reallocation of Responsibility for Association-Maintained Owner Improvements.....	13
9.4. Owner-Initiated Requests for Association Maintenance.....	13
9.5. Association's Standard of Care for Association-Maintained Owner Improvements.....	14
9.6. Disclaimer of Warranties.....	14
9.7. Liability of the Association-Related Parties.....	14
9.8. Waivers of Claims.....	15
Article 10. Restrictions on Use, Occupancy and Alienation.....	15
10.1. Use Restrictions.....	15
10.2. Restrictions on Alienation.....	18
10.3. General Provisions relating to Use Restrictions.....	18

Article 11. Design Control.	19
11.1. Purpose	19
11.2. Design Review Procedures	19
11.3. Design Review Committee	19
11.4. Other Procedural Matters	19
11.5. Liability of Design Review Committee Members; Indemnification	19
11.6. Owner's Submission of Improvement Plans	19
11.7. Review of Plans	19
11.8. Inspection; Certificate of Approval	20
11.9. Enforcement	20
11.10. Design Standards	20
11.11. Compliance with Zoning and Other Laws	20
Article 12. Association's Books and Records	21
12.1. Association's Financial Statements	21
12.2. Association Records	21
Article 13. Insurance.	23
13.1. Insurance Coverage to be Carried by the Association	23
13.2. Premiums	24
13.3. Provisions to Appear in Policies	24
13.4. Insurance Certificates	24
13.5. Notice of Cancellation	24
13.6. Adjustment of Claims; Proceeds Payable to the Association	24
13.7. Annual Review of Insurance Requirements	25
13.8. Insurance to be Maintained by Owners	25
Article 14. Damage or Destruction to Association Insured Property	25
14.1. Preliminary Actions of Board	25
14.2. Common Elements or Association Property	25
14.3. Association-Insured Owner Improvements	26
Article 15. Eminent Domain; Condemnation.	28
15.1. Preliminary Actions of Board if Common Elements are Condemned	28
15.2. Common Elements or Association Property	29
15.3. Association-Maintained Owner Improvements	29
15.4. Condemnation of All or Part of a Lot Where No Restoration Is Required	31

Article 16. Enforcement	31
16.1. Defaults by Owners in Performing Their Obligations under this Declaration.	31
16.2. Hearing; Due Process.	31
16.3. Association's Right to Enter onto a Lot.	32
16.4. Association's Remedies for Owner Defaults.	32
16.5. Damage or Destruction of Common Elements by an Owner.	32
16.6. Association's Duty of Care to Owners.	32
16.7. Actions by or against Other Persons under the Governing Documents.	33
16.8. Legal Costs.	33
16.9. Remedies Cumulative.	33
16.10. Statutory Limitation on Claims.	33
16.11. Alternative Dispute Resolution.	33
Article 17. Amendment of this Declaration	34
17.1. In General.....	34
17.2. Additional Consents.	34
17.3. Amendments by the Association.....	34
17.4. Amendments by Declarant.	34
17.5. Adjustment of Boundaries of Adjoining Lots.	34
17.6. Reallocation of Limited Common Elements.	35
17.7. Limiting Association's Power to Deal with Declarant.	35
17.8. Procedure for Obtaining First Mortgagee's Deemed Consent.	35
17.9. Expenses.	35
17.10. Attorney in Fact.	35
17.11. Statute of Limitations.	35
Article 18. Termination of Development; Revocation of this Declaration.	35
Article 19. Miscellaneous	35
19.1. Term of Declaration.	35
19.2. Successors and Assigns.....	35
19.3. Rules of Construction.	35
19.4. Business Days.....	36
19.5. Governing Law.	36
19.6. Severability.....	36
19.7. Unavoidable Circumstances.....	36

19.8. Mechanic's Liens.....	36
19.9. Nonwaiver.....	37
19.10. Notices.....	37
19.11. Legal Significance of Association's Approval or Consent.....	37
19.12. Counterparts.....	37
19.13. No Restrictions on Freedom of Speech.....	37
Article 20. Matters relating to Declarant.....	37
20.1. Development Rights.....	37
20.2. Special Declarant Rights.....	37
20.3. Declarant's Turn-Over of Governance and Control of Association to the Owners.....	38
20.4. Other Provisions related to Declarant.....	39

**DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS
FOR
RIDGEWOOD HEIGHTS, GRAND JUNCTION, COLORADO**

THIS DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR RIDGEWOOD HEIGHTS, GRAND JUNCTION, COLORADO (this "**Declaration**") is made as of _____, 2007, by **RIDGEWOOD HEIGHTS DEVELOPMENT LLC**, a Colorado limited liability company ("**Declarant**"), with respect to the real property located in the City of Grand Junction, Mesa County, Colorado, and legally described on Exhibit A, attached (the "**Real Property**").

STATEMENT OF RELEVANT FACTS

A. Declarant owns the Real Property.

B. Declarant wants to create a "planned community" on the Real Property under the Colorado Common Interest Ownership Act, C.R.S. Sec 38-33.3-101, et. seq., consisting of seventy-one (71) townhouses on seventy-one lots and nine tracts, in order to provide for (i) the orderly and aesthetic development of the Real Property, (ii) the ongoing maintenance of the Real Property in a safe, secure and lawful manner, and (iii) the preservation and enhancement of the value of the Real Property.

Therefore, Declarant publishes and declares that the Real Property shall be held and conveyed subject to the easements, restrictions, covenants, and conditions stated in this Declaration and the Map (*def. Article 2*) for the purpose of protecting the value and desirability of the Real Property, and that the easements, restrictions, covenants, and conditions stated in this Declaration and the Map run with the land; bind persons having a right, title or interest in all or part of the Real Property, and their respective heirs, legal representatives, successors, and assigns; and benefit each Owner. Additionally, Declarant submits the Real Property to the Act (*def. Article 2*).

Article 1. Incorporation of Statement of Relevant Facts.

The Statement of Relevant Facts is incorporated into the text of this Declaration as if included among the provisions below.

Article 2. Definitions.

Capitalized words or phrases are defined below:

"Act:" the Colorado Common Interest Ownership Act, C.R.S. Sec 38-33.3-101, et. seq., as amended from time to time.

"Additional Living Expenses:" defined in Section 9.7.

"Allocated Interests:" the Common Expenses and Votes allocated to each Unit in Article 3.

"Assessments:" defined in Article 8.

"Association:" the Ridgewood Heights Homeowners Association, Inc., a Colorado not-for-profit corporation formed on May 25, 2006.

"Association Property:" real and personal property the Association owns, leases or licenses or in which the Association has another interest, including the Common Elements and property located on one or more Lots.

"Association-Insured Betterments:" defined in Section 13.1.1.

"Association-Insured Owner Improvements:" defined in Section 13.1.1.

"Association-Insured Property:" defined in Section 13.1.1.

"Association-Maintained Property:" defined in Section 9.2.

"Association-Maintained Owner Improvements:" defined in Section 9.2.2.

"Association Records:" defined in Section 12.2.

"Association-Related Parties:" the Association, the Directors, the Officers and the Association's employees, agents and contractors, and the owners, managers, directors, officers, employees, agents and contractors of each of them.

"Betterments:" defined in Section 13.1.1.

"Betterment Reimbursement:" defined in Section 14.3.1.

"Board; Board of Directors:" defined in Section 7.1.

"Budget:" defined in Section 8.1.2.

"Bylaws:" the written Bylaws for the Association, as amended from time to time.

"Townhome Cluster:" a group of contiguous Lots on which are constructed Residences, each of which shares a Party Wall with at least one other Residence in the group.

"City:" the City of Grand Junction, Colorado.

"Common Elements:" the Real Property other than the Lots, and the Improvements located on, in or under them that are owned, leased or licensed to the Association or in which the Association has another interest. The portions of the Real Property constituting Common Elements are shown on the Plat as Tracts A through I, inclusive. Common Elements include the Limited Common Elements.

"Common Expenses:" expenditures made or liabilities incurred by or on behalf of the Association, together with allocations to the Reserve Fund, including: (a) the Association's annual costs and expenses to own, lease, use, maintain repair, replace and/or otherwise manage and administer all or part of the Common Elements; (b) expenses incurred by the Association in carrying out its responsibilities under Section 5.1 (c) single-item expenditures, such as capital expenditures; (d) insurance premiums; (e) reimbursement to Directors for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of unit owners' associations pursuant to the Act; and (f) other expenses identified in this Declaration or approved by the Board and not prohibited by the Act.

"Common Expense Liability:" the liability for Common Expenses allocated to each Lot based on its Allocated Interest.

"Condemn; Condemnation:" defined in Section 15.1.

"Condemnation Award:" defined in Section 15.1.

"Construction-Related Materials:" defined in Section 10.1.7.

"County:" Mesa County, Colorado.

"Dangerous Animal:" defined in Section 10.1.9.

"Declarant:" Ridgewood Heights Development LLC, a Colorado limited liability company.

"Declarant Control Period:" defined in Section 20.2.2.

"Declaration:" this Declaration and the Map, and all future amendments and supplements to either of them.

"Default Assessment:" defined in Section 8.4.

"Delinquency Rate:" a rate of interest equal to twenty-one percent (21%) per annum, unless the Board sets a lower rate.

"Design Standards:" defined in Section 11.3.

"Design Review Committee:" defined in Section 11.3.

"Development:" the planned community created on the Real Property under the Act and this Declaration, known as "Ridgewood Heights."

"Development Rights:" defined in the Act under C.R.S. Sec 38-33.3-103(14).

"First Mortgage:" A duly Recorded Mortgage that is subject only to liens of Governmental Authorities (including a lien for real property taxes), a portion of Assessments pursuant to the Act, and other liens made superior to first mortgages by Colorado law. A **"First Mortgagee"** is a holder, insurer, or guarantor of a First Mortgage.

"General Assessment:" defined in Section 8.1.

"Governing Documents:" This Declaration, the Map, the Design Guidelines, the Articles, the Bylaws, the Rules and other procedures, rules, regulations, restrictions, resolutions or polices adopted now or in the future under the foregoing documents.

"Governmental Authority:" the government of the United States, the State, the County and the City and other state or political subdivisions or governmental or quasi governmental entities or instrumentalities exercising executive, legislative, regulatory or administrative functions with jurisdiction over the Development, the Association or an Owner.

"Home Occupation:" defined in Section 10.1.2.

"Improvements:" buildings and other structures located anywhere in, on or under the Real Property, such as walls, fencing, outdoor lighting, benches, pipes, driveways, sidewalks, patios decks, antennae, satellite dishes, curb cuts, whether vertical or horizontal, above or below ground, and landscaping.

"Law" or "Laws:" statutes, laws and ordinances, orders, directions and requirements, implementing regulations, rules and guidelines, or the direction or order of a court or Governmental Authority in effect now or in the future.

"Lease:" defined in Section 10.2.2.

"Legal Costs:" defined in Section 16.8.

"Limited Assessment:" defined in Section 8.3.

"Limited Common Elements:" part of Common Elements reserved in this Declaration for the exclusive use of one or more, but fewer than all, Lots.

"Lot:" the plots of land shown on the Plat and numbered as follows: Lots 1 through 23, inclusive, in Block 1; and Lots 1 through 48, inclusive, in Block 2. A Lot is a "unit," as defined in the Act.

"Map:" the common interest community map depicting the Real Property Recorded with, and forming a part of, this Declaration, and all amendments and supplements to it.

"Maximum Number of Lots:" The maximum number of existing and future Lots in the Development, which is seventy-one (71).

"Member:" a member of the Association as provided in Section 6.1. Every Owner is a Member. Every Member is an Owner.

"Membership:" defined in Section 6.1.

"Mortgage." a Recorded consensual instrument, such as a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, or assignment of lease or rent intended as security, that creates a lien on a Lot or the Common Elements, as security for the payment and/or performance of other obligations, together with other security agreements constituting part of the same transaction. A **"Mortgagee"** is a holder, insurer or guarantor of a Mortgage.

"Nuisance:" defined in Section 10.1.6.

"Officer:" defined in Section 17.4.

"Owner:" (a) the owner or owners of record of the fee simple title to a Lot; (b) the buyer of a Lot under a sales contract, but only if the buyer is in possession of the Lot; or (c) the tenant of a Lot under a lease with a term of forty (40) or more years, including renewal options. Declarant is the Owner of a Lot until the Lot is conveyed to another person. A person holding a security interest in a Lot, without more, is not an Owner of that Lot.

"Owner Default:" defined in Section 16.1.

"Owner Improvements:" Improvements that are located on a Lot and that are owned or leased by the Lot Owner (or in which the Lot Owner has another possessory interest not conferred by this Declaration).

"Owners List:" defined in Section 12.2.3.

"Party Wall:" a wall between two or more adjoining Residences that constitutes a physical part of the structure of each Unit, and that is on or immediately adjacent to the boundary line of the Lots where those Residences are located. The Party Walls are identified on the Plat on or between the following Lots in Block 2: Lots 11 through 16, inclusive; Lots 22 through 26, inclusive; and Lots 35 through 44, inclusive.

"Permitted Pet:" defined in Section 10.1.9.

"Person:" a natural person, a corporation, partnership, limited liability company, association, trust or other entity or combination of any of the foregoing.

"Plat:" the plat of subdivision of Ridgewood Heights, Recorded on ^{August} ~~July~~ 21, 2007, in Book 4497, Page 25+26, and subsequent modifications and/or resubdivisions.

"Political Sign:" defined in Section 10.3.2.

"Property Insurance:" defined in Section 13.1.1.

"Proposed Budget:" defined in Section 8.1.2.

"Real Property:" the real estate legally described on Exhibit A.

"Recreational Vehicle:" defined in Section 10.1.8.

"Related User:" A person who is: (a) a member of the household that occupies the Residence on a Lot, or a guest or invitee of a member of that household; or (b) a guest or invitee of an Owner on its Lot or the Common Elements.

"Record:" (and its other forms, such as "Recorded" or "Recording,") the act of the Recorder in putting a document in the official real estate records of the County.

"Recorder:" Office of the Clerk and Recorder of Mesa County, Colorado.

"Reserve Fund:" defined in Section 8.5.

"Residence:" defined in Section 10.1.2.

"Residential Purposes:" defined in Section 10.1.2.

"Restore; Restoration:" defined in Section 14.1.

"Rules:" defined in Section 7.9.

"Sign:" defined in Section 10.1.11.

"Special Assessments:" defined in Section 8.2.

"Special Declarant Rights:" defined in Section 20.2.

“**Sprinkler System:**” defined in Section 9.2.1.

“**State:**” the State of Colorado.

“**Tenant:**” defined in Section 10.2.2.

“**Trash:**” defined in Section 10.1.7.

“**Unhabitable:**” defined in Section 9.7.

“**Unit:**” defined in the Act, and more specifically for purposes of this Declaration, a portion of the Real Property designated for separate ownership, shown as a Lot on the Plat, together with Improvements constructed on that Lot, now or in the future. A Unit is a Lot, and a Lot is a Unit.

“**Unavoidable Circumstances:**” defined in Section 19.7.

“**Vehicle:**” defined in Section 10.1.8.

Article 3. Units, Lots, Common Elements, Limited Common Elements.

3.1. Units; Lots. The Development is divided into seventy-one (71) Lots that are identified on the Plat as Lots 1 through 23, inclusive, in Block 1; and Lots 1 through 48, inclusive, in Block 2. Each Lot consists of a separate fee simple estate, and is separately assessed and taxed. Improvements located entirely within a Lot are a part of the Lot.

3.2. Ownership of a Lot. Title to a Lot may be held individually or concurrently, to the extent recognized under State Law. If ownership of a Lot is concurrent, all co-owners are jointly and severally liable for the performance and observance of the duties of an Owner with respect to that Lot.

3.3. Allocated Interests. The votes in the Association and the Common Expenses are allocated to each Lot as follows: (a) the votes in the Association are allocated on the basis of one vote per Lot; and (b) the Common Expense Liability of a Lot is a fraction (expressed as a percentage), the numerator is one and the denominator is the total number of Lots then in the Development, with the denominator increasing by 1 for each Lot that is added to the Development and decreasing by 1 for each Lot that is withdrawn from the Development.

3.4. Common Elements. The Association holds title to the Common Elements, subject to the rights of the Owners under Article 4. An Owner may delegate its right of use and enjoyment of the Common Elements to Related Users. No Owner, group of Owners or, except as otherwise provided in this Declaration the Association, may seek partition or division of the Common Elements, or, by act or omission, seek to abandon, encumber, sell or transfer any of the Common Elements. Unless otherwise provided in this Declaration, the Common Elements shall be left unobstructed, and no Owner may keep or store anything in or on them without the Board's approval. Unless otherwise provided in this Declaration, no Owner may alter or remove anything from, the Common Elements without the Board's approval. The Common Elements are assessed for real estate tax purposes as provided in C.R.S. 39-1-103(10) and 38-33.3-105(2).

3.5. Limited Common Elements. There are no Limited Common Elements.

3.6. Recorded Easements, Covenants, Restrictions and Other Matters of Title. All or part of the Development is subject to the easements, licenses, covenants and restrictions shown on recorded maps or plats affecting the Real Property and other easements of record or of use as of the Recording Date of this Declaration, a list of which is attached as Exhibit B. In addition, the Real Property is subject to easements and reservations stated in this Declaration, the Plat and the Map.

Article 4. Easements.

Declarant declares, grants, gives, reserves and conveys to the persons named below the following easements:

4.1. Owners' Easement of Enjoyment. Every Owner has a non-exclusive right and easement, which is appurtenant to and passes with title to the Lot, to enjoy and use the Common Elements (other than the Limited Common Elements) for the purposes for which they are intended, without hindering or encroaching on the lawful rights of other Owners. Every Owner of a Lot to which a Limited Common Element is assigned has, an exclusive right and easement in common with the Owners of other

Lots to which that Limited Common Element is assigned, which is appurtenant to and passes with title to that Lot or those Lots, to enjoy and use that Limited Common Element for the purposes for its is intended, without hindering or encroaching on the lawful rights of other Owners. Non-Owners may also have access to the Common Elements to the extent stated in this Declaration, the other Governing Documents or as permitted by the Board. Every Owner has a right of access to and from its Lot. No Owner or its Related Users may hinder reasonable access by another Owner or its Related Users to that other Owner's Lot. The Owners' use and enjoyment of their Lots and of the easements granted for their benefit are subject to the rights of the Association granted to it now or in the future under this Declaration and the other Governing Documents or the Act.

4.2. Easement for Encroachments. Each Lot is subject to an easement for the benefit of the Common Elements and/or other Lots to the extent the Common Elements or other Lots encroach on the subject Lot. Likewise, each Lot enjoys an easement on the Common Elements or any other Lot to the extent that the benefited Lot encroaches on the Common Elements or other Lots. This easement does not relieve Declarant, the Owner of an encroaching Lot or anyone else of liability for its willful misconduct or failure to adhere to the Plat and the Map.

4.3. Easement in favor of the Association. Each Lot is subject to an easement in favor of the Association and the Association-Related Parties, exercisable on reasonable notice to the Owner (except in the case of emergency circumstances), to enter onto the Lot when necessary or useful to perform their duties under the Governing Documents or the Act.

4.4. Emergency Easement. Each Lot and the Common Elements are subject to a non-exclusive easement in favor of: (a) the police, sheriff, fire protection, ambulance, and similar emergency agencies or persons that serve the Development now or in the future, for ingress and egress in the performance of their duties; and (b) the adjacent Lots for ingress and egress to the extent necessary for the Owners of adjacent Lots to perform emergency repairs or to perform other work reasonably necessary for the proper maintenance of their Lots and the Improvements on them.

4.5. Utility Easements. Each Lot and the Common Elements are subject to easements granted (or retained) by Declarant to the City or to public or semi-public utility companies, or to be granted (or retained) in the future, to excavate, erect, construct, maintain, repair and replace poles, wires, pipes and conduits for electricity, telecommunications and other purposes, and for sanitary sewers, storm water management, storm water drains, gas mains, water pipes and mains, and similar services, and for performing any public or quasi-public utility functions serving all or part of the Development and/or neighboring properties. The Owners may, with the prior consent of the Association (and other persons whose consent is required under the terms of an easement) use areas of their Lots where easement(s) are located to grow grass, construct and maintain driveways and similar uses, as long as the Owners' uses do not interfere with the purpose for which the easements were granted.

4.6. Declarant's Easements. Each Lot and Common Elements are subject to an easement in favor of Declarant and its successors and specific assigns for performing its obligations and exercising its rights under this Declaration or the Act, including construction-related activities, such as surveying, planning, measuring and taking samples; installing site improvements, utilities, pavement, landscaping and other Improvements; storing material and equipment; performing warranty work and ingress and egress in connection with the foregoing. Each Lot and Common Elements are further subject to an easement in favor of Declarant for its exercise of its Special Declarant's Rights.

4.7. Party Walls. Each Lot improved with a Residence that shares a Party Wall with another Residence on another Lot is subject to a reciprocal easement for mutual structural support and for maintenance and repair, in favor of the other Lot or Lots that share the Party Wall.

4.8. No Dedication. Nothing in this Article or the rest of this Declaration constitutes a dedication to public use or a grant to a Governmental Authority or utility or an assumption of responsibility for maintenance of all or part of the Common Elements by a Governmental Authority or utility in the absence of a written agreement to that effect.

Article 5. The Association.

5.1. The Association. An association of the Owners (the "Association") is responsible for maintaining the Development as a secure, attractive and desirable community, including managing the business affairs of the Development, maintaining the Common Elements and the Association-Maintained Improvements on the Lots under Section 9.2; enforcing this Declaration and the other Governing Documents, all as provided in the Governing Documents and the Act. The Association has whatever power is necessary or desirable to effectuate these purposes, subject to the Governing Documents, the Act and other Laws. Every person that acquires title to a Lot is deemed to have assented to, ratified and approved the designation of the Association as the manager of the Development.

5.2. Incorporation of the Association. The Original Declarant has caused there to be incorporated a Colorado not-for-profit corporation known as the "Ridgewood Heights Homeowners Association, Inc.," which is, and acts in the capacity of, the Association.

5.3. Powers of the Association. The Association has the powers, authority and duties assigned by the Act and by the Colorado Revised Nonprofit Corporation Act, including, subject to the limitations in this Declaration, the power to:

- (a) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Development;
- (b) make contracts and incur liabilities, including agreements for the use, lease, repair, maintenance or regulation of parking and/or recreational facilities for the benefit of the Owners or the Association, whether or not the facilities are part of the Development;
- (c) cause additional Improvements to be made as a part of the Common Elements;
- (d) acquire hold, encumber, and convey in its own name the right, title, or interest to real or personal property; however, Common Elements may be conveyed or subjected to a Mortgage or other security interest only if approved under Section 5.4;
- (e) establish from time to time, by dedication or otherwise, and vacate utility and other easements on or under the Common Elements for streets, paths, walkways, skyways, drainage, recreation areas, parking areas, driveways, ducts, shafts, flues and conduit installation areas and other purposes, and to create other reservations and exclusions for the benefit of the Owners;
- (f) grant easements, leases, licenses, and concessions through or over the Common Elements;
- (g) close or limit use of the Common Elements or portions of Lots while performing maintenance or repairs there that the Association is required to perform under Section 9.2;
- (h) as provided in Section 9.3, to assume for itself or delegate to the Owners responsibility for the maintenance, repair and/or replacements of certain Improvements on the Lots and to levy Assessments to cover the costs of doing so;
- (i) impose and receive payments, fees, or charges for the use, rental, or operation of the Common Elements (other than Limited Common Elements); and
- (j) assign its right to future income, including the right to receive Assessments for Common Expense Assessments, to the extent provided in the Act.

5.4. Conveyance or Encumbrance of Common Elements. The Association may convey title to or grant a Mortgage or other security interest in all or part of the Common Elements (and/or enter into a contract to do so), but the conveyance of an interest is subject to the prior consent of: (a) Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association have been allocated, excluding Lots owned by Declarant; and (b) if the Common Elements are Limited Common Elements, Owners and First Mortgagees of Lots to which those Limited Common Elements are allocated. Proceeds of the sale or financing of the Common Elements are an asset of the Association. A contract to convey an interest in the Common Elements is not enforceable against the Association, and a purported conveyance, encumbrance, judicial sale, or other transfer of Common Elements is void under this Declaration and the Act, unless the Owners and First Mortgagees have approved it as provided above. No conveyance or encumbrance of Common Elements shall deprive an Owner of its rights of ingress and egress to and from its Lot or its rights to support of the Lot.

5.5. Education of Owners. The Association shall provide, or cause to be provided, education to Owners on at least an annual basis as to the general operations of the Association and the rights and responsibilities of Owners, the Association, and the Board under State Law.

Article 6. Membership and Voting Rights in the Association.

6.1. Membership. Every Owner, by virtue of being an Owner, is a member of the Association ("Member"). Membership is appurtenant to and may not be separated from Ownership of a Lot. Ownership of a Lot is the sole qualification for membership in the Association ("Membership"). Regardless of the number of persons with an ownership interest in a Lot, there is only one

Membership per Lot, but all persons holding an ownership interest in a lot are entitled to rights of Membership. When more than one person holds an ownership interest in a Lot, the vote for that Lot is exercised according to the Bylaws. No Owner shall transfer, pledge or otherwise alienate its Membership, and an attempted transfer, pledge or other alienation is void, except upon the transfer of title to the Lot to which the Membership is appurtenant, and then only to the transferee of that Lot (or upon the granting of a First Mortgage on that Lot, and then only to the First Mortgagee). If ownership of a Lot is concurrent, all co-owners are jointly and severally liable for the performance and observance of the duties of an Owner with respect to that Lot. The Association has only one class of Membership.

6.2. Owners' Role in Governance of the Association. The Owners have the following rights relating to the governance and management of the Association:

- (a) to call special Owners meetings;
- (b) to approve an amendment to the Bylaws that determines the qualifications, powers and duties, or terms of office of Directors;
- (c) to approve the conveyance or encumbrance of the Common Elements under Section 5.4;
- (d) to approve whether Directors receive compensation for their services under Section 7.2;
- (e) to elect and remove Directors under Sections 7.2 and 7.3;
- (f) to veto the proposed Budget under Section 8.1;
- (g) to approve Special Assessments under Section 8.2;
- (h) to approve the reallocation of responsibility as between the Association and the Owners for the maintenance, repair and replacement of Association-Maintained Owner Improvements under Section 9.3;
- (i) to call for a review or audit of the Association's books and records under Section 12.1;
- (j) to vote on whether to Restore the Common Elements after Casualty or Condemnation under Sections 14.2 and 15.2;
- (k) to terminate the Development under Section 14.2 and 15.2;
- (l) to amend and to approve amendments to this Declaration under Article 17; and
- (m) to give consents and approvals and exercise the other rights provided to them in this Declaration or the Act.

6.3. Owners Meetings. The Owners shall meet at least once annually to elect Directors and to consider the Proposed Budget. Special meetings of the Owners may be called by the President, a majority of the Board, or by Owners of Lots to which are allocated twenty percent (20%) or more of the votes in the Association. Matters to be considered at special Owners meetings shall be submitted to the Board at least thirty (30) days before the meeting. The Secretary or another Officer shall give Owners notice of Owners meeting at least ten (10) and not more than fifty (50) days in advance of the meeting, as further provided in the Bylaws, stating the time and place of the meeting and the items on the agenda. Unless the Bylaws provide otherwise, a quorum is present throughout an Owners meeting if persons entitled to cast twenty percent (20%) of the votes that may be cast for election of the Board are present, in person or by proxy, at the beginning of the meeting. Unless otherwise expressly provided in this Declaration or the Bylaws, the majority vote or agreement of the Owners present at an Owners meeting at which a quorum is present constitutes the approval consent agreement, veto or other act of the Owners.

6.4. Member Votes; Allocated Interest. An Owner has one (1) vote for each Lot it owns. The percentage of votes in the Association allocated to a Lot is a fraction (expressed as a percentage) the numerator of which is 1 and the denominator of which is the total number of Lots then in the Development. Members may vote in person at an Owners meeting or by proxy, as provided in the Bylaws.

Article 7. Board of Directors.

7.1. Governance of the Association. The Association is governed by, and acts solely through, its Board of Directors (the "Board") according to this Declaration and the Bylaws. The Board has the power to exercise the powers and duties of the "executive board" referred to in the Act, as well as powers, duties and authority vested in it by the Colorado Revised Nonprofit Corporation Act, articles 121 to 137 of title 7, C.R.S., and other Laws. Except as provided in the Governing Documents or the Act, the Board may act in all instances on behalf of the Association.

7.2. Election of Directors. The Board is comprised of no fewer than three (3) and no more than five (5) Directors. Except for Directors appointed by Declarant under Section 20.2, the Owners elect the Directors at the annual Owners Meeting. Directors are elected at large. The Board shall prepare and disseminate information on candidates and proxies for the election of Directors as provided by the Act. Directors shall be Owners. Except for Directors appointed by Declarant under Section 20.2, if an Owner is an entity, one of its officers or employees may be a Director (but not more than one at any one time, regardless of the number of Lots that entity owns). Each Director serves for one (1) year or until his or her successor is duly elected. Except for Directors appointed by Declarant under Section 20.2, no Director may serve for more than two (2) consecutive terms. Directors' terms are staggered, such that the terms of two (2) Directors expire at the end of one year, and the terms of the other three (3) Directors terminate at the end of the following year. Votes for contested positions on the Board shall be taken by secret ballot. Directors are not entitled to compensation for their services as Directors, unless expressly authorized by the Board with the approval of Owners owning Lots to which are allocated more than fifty percent (50%) of votes in the Association. The Bylaws shall provide whether voting for Directors is on a cumulative basis. Vacancies on the Board, including vacancies due to an increase in the number of Directorships, are filled by the Owners present at the next annual Owners meeting or at a special Owners meeting called for that purpose; however, the remaining Directors may fill a Board vacancy by a two-thirds affirmative vote effective until the next Owners meeting.

7.3. Removal of Directors. The Owners, by a vote of sixty-seven percent (67%) of Owners present and entitled to vote at an Owners meeting at which a quorum is present, may remove a Director with or without cause, other than a Director appointed by Declarant.

7.4. Election and Removal of Officers; Vacancies. The Board shall elect from among its members a President, Vice President, Treasurer and Secretary ("Officers") as provided in the Bylaws. The authority and duties of the Officers, procedure for removing Officers, appointing Officers to fill vacancies and other matters concerning Officers are described in the Bylaws.

7.5. Meetings of Directors. The Board shall meet at least four (4) times per year and at other times, all with prior notice to Owners. Unless the Bylaws specify a larger percentage, a quorum is present throughout a Board meeting if Directors entitled to cast fifty percent (50%) of the votes on the Board are present at the beginning of the meeting. Directors may not vote or be considered present by proxy. Meetings of the Board and its committees (including the Design Review Committee) are open to Owners or their representatives, except as provided in the Bylaws or the Act. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Owners or their designated representatives have the right to speak regarding that issue, subject to reasonable time restrictions imposed by the Board. If more than one person desires to address an issue and there are opposing views, the Board may provide for a reasonable number of persons to speak on each side of the issue. Procedures for notice of meetings, quorums and related matters are described in the Bylaws.

7.6. Delegation by the Board of its Authority and Duties. The Board may delegate some of its authority, described in the Bylaws, to a manager or managing agent, but doing so does not relieve the Board of final responsibility for the management of the Development. A professional management agreement for the Development shall not exceed one year. If the Board delegates authority to collect, deposit, transfer, or disburse Association funds to other persons, the Bylaws shall require, among other things, that the managing agent shall: (a) maintain funds and accounts of the Association separate from the funds and accounts of other associations managed by it, and shall maintain the reserve accounts of each association separate from operational account of the association; and (b) prepare and present to the Board an annual accounting for Association funds and a financial statement by the managing agent, a public accountant, or a certified public accountant.

7.7. Liability of Directors and Officers. Except for Directors appointed by Declarant under Section 20.2, no Director or Officer is liable for actions taken or omissions made in the performance of his or her duties except for wanton and willful acts or omissions. However, Directors and Officers are subject to the standards in section 7-128-401, C.R.S. with regard to the investment of funds in the Reserve Fund (and for purposes of that statute only, a managing agent, attorney, or accountant employed or engaged by the Association is included in the definition of "officer").

7.8. Indemnification of Directors and Officers. To the extent permitted by Law, the Owners and the Association indemnify each Director and Officer against expenses and liabilities, including Legal Costs incurred by or imposed on them in a proceeding to which they are a party or in which they become involved, by reason of their current or past status as Director or Officer, whether or not he or she is a Director or Officer when the expenses are incurred; except to the extent the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties. This indemnification extends to a Director's or Officer's expenses and liabilities in settling a case or claim, but only if the Board approves the settlement and reimbursement as being in the best interests of the Association.

7.9. Rules. In furtherance of the provisions of this Declaration, the Board may establish, amend, repeal and enforce reasonable rules and regulations ("Rules") with respect to the Common Elements and Lots to carry out the intent of this Declaration, to promote the general health, safety and welfare of Owners and their Related Users, and to preserve and protect property rights. The Board may adopt and amend reasonable Rules by a majority vote of the Directors present at a meeting where a quorum exists. A Rule is not enforceable until fifteen (15) days after notice to Owners of its adoption or amendment. The Board shall interpret and enforce the Rules uniformly as among Owners, but the Rules may differentiate, and the Board may differentiate in enforcing them, among Owners, lessees, guests and members of the general public. The Board may enforce the Rules through reasonable and uniformly imposed fines and penalties, including exclusion of violators from the use of the Common Elements. Owners and their Related Users shall comply with the Rules.

7.10. Adoption of Rules and Policies. In addition to its general duties and those described elsewhere in this Declaration and the other Governing Documents, the Board shall adopt policies, procedures, and rules and regulations concerning:

- (a) collecting unpaid Assessments;
- (b) handling conflicts of interest involving Directors;
- (c) conducting meetings, which may refer to applicable provisions of the nonprofit code or other recognized rules and principles;
- (d) enforcing covenants and rules, including notice and hearing procedures and the schedule of fines;
- (e) inspecting and copying Association records by Owners;
- (f) investing funds in the Reserve Fund;
- (g) adopting and amending policies, procedures, and rules; and
- (h) addressing disputes between the Association and Owners.

Article 8. Assessments.

The Association has the power and duty to collect funds by levying assessments against Lots ("**Assessments**"). Assessments may be General Assessments, Special Assessments, Working Fund Assessments, Limited Assessments or Default Assessments.

8.1. General Assessments; Procedure for Levying General Assessments. The Association shall collect from the Owners funds sufficient to pay the Common Expenses, by means of an annual general assessment ("**General Assessment**") levied against all of the Lots. The Board shall levy a General Assessment based on the Budget, as provided below.

8.1.1. Common Expenses Requiring Affirmative Approval of Owners. The Association may not include in the Common Expenses the cost of construction, maintenance, or operation of a Common Element that is not reasonably described in or reasonably inferable from this Declaration, unless the Common Expense is approved by the vote of a majority of the votes entitled to be cast in person or by proxy, other than by Declarant, at a duly convened Owners meeting at which a quorum is present.

8.1.2. Budget. Before the end of each fiscal year, the Board shall prepare and adopt a proposed budget for the next fiscal year (the "**Proposed Budget**") based on its estimated (a) Common Expenses and the amount, if any, the Board determines should be paid into the Reserve Fund, and (b) revenues from User Fees, Limited Assessments and other sources. The Board shall deliver a summary of the Proposed Budget to each Owner no later than forty-five (45) days after the Board adopts it, and convene an Owners Meeting to consider ratification of the Proposed Budget not fewer than

fourteen (14) or more than sixty (60) days after delivering the Proposed Budget summary. At the Owners Meeting, the Board shall present the Proposed Budget to the Owners and answer questions and respond to their comments. Unless Owners of Lots to which more than fifty percent (50%) of the votes in the Association have been allocated cast votes in person or by proxy at the Owners meeting to veto the Proposed Budget, the Proposed Budget is considered ratified, and becomes the budget ("Budget") for the next fiscal year. If the Owners veto the Proposed Budget, the Budget last ratified by the Owners remains in effect until the Owners ratify a new Proposed Budget submitted to them by the Board. The Board may propose and the Owners may consider, and ratify or veto, amendments to the Budget using the same procedure for proposing and ratifying or vetoing the Proposed Budget.

8.1.3. Approving and Levying the Annual General Assessment. Upon ratification of the Budget, the Board shall formally approve the annual General Assessment for the next fiscal year, calculated as the difference between (a) the Common Expenses and the amount, if any, the Board determines should be paid into the Reserve Fund, as stated in the Budget, and (b) revenues from User Fees, Limited Assessments and other sources, as stated in the Budget; and shall levy the General Assessment against the Lots based on each Lot's Allocated Interest of the total General Assessment. The Board may require the General Assessment to be paid in a single installment or in quarterly or monthly installments, and shall determine the date or dates on which each installment is due. The Secretary or other Officer shall notify the Owner of each Lot of the amount levied against that Lot and the date that each installment becomes due and payable. The Board's failure to levy the General Assessment for a given year or its failure to notify the Owners of the terms of the new General Assessment does not constitute a waiver, modification or release by the Association of the Owners from their obligation to pay, and until the Board levies a new General Assessment, Owners shall pay an amount equal to the most recently levied General Assessment in whatever installments and at whatever times were designated in the most recently levied General Assessment.

8.2. Special Assessments. In addition to the annual General Assessment, the Board may from time to time levy special assessments ("Special Assessments") against the Lots, based on each Lot's Allocated Interest, to defray all or part of: (a) an operating deficit; (b) unbudgeted capital costs to construct, reconstruct, repair, replace or demolish Improvements that are part of the Common Elements (other than the Limited Common Elements); other Association Property or Association-Maintained owner Improvements; or (c) the acquisition cost of real property. The Board may not levy a Special Assessment that, individually or together with other Special Assessments levied during a fiscal year, exceeds \$300.00 per Lot unless the Board first amends the current Budget under Section 8.1.2 to show the items and budgeted amounts to which the Special Assessment(s) will be applied.

8.3. Limited Assessments. The Board may levy an assessment against one or more, but fewer than all of the Lots (a "Limited Assessment") as follows:

8.3.1. If the Board determines that the cost or benefit per Lot of one or more items included in the Association-Maintained Owner Improvements, measured over a reasonable maintenance, repair and replacement cycle, is not materially equivalent for all Lots, the Board shall levy against the Lot or Lots that receive a disproportionate benefit, an amount that will result in all Owners receiving the materially equivalent economic benefits and burdens.

8.3.2. The Board may allocate its utility costs, including the cost of irrigation water, against the Lots in proportion to usage.

8.4. Default Assessments. Fines, penalties, interest and other amounts payable to the Association by an Owner, including the reimbursement of expenses incurred by the Association in performing an obligation of the Owner under the Governing Documents or resulting from the non-compliance with the Governing Documents or the willful or negligent act or omission of an Owner or its Related User, constitute an Assessment ("Default Assessment") against that Owner's Lot.

8.5. Reserve Fund. The Association shall establish an adequate reserve fund ("Reserve Fund") for the maintenance, repair and replacement of the Common Elements and the portions of Improvements on Lots the Association is required to maintain under Section 9.2, based on a periodic review of the useful life of improvements on the Common Elements and periodic projections of the cost of anticipated major repairs or improvements and maintenance, repairs and replacements necessary to the Common Elements. The Reserve Fund shall be funded through the General Assessment, to the extent feasible.

8.6. Surpluses. If there are surplus funds derived from Assessments, the Board shall not refund the surplus, but shall instead either transfer the surplus funds to the Reserve Fund or use them to pay for Common Expenses for the next fiscal year (or a combination of both).

8.7. Liability for Assessments. Declarant covenants and agrees, and every Owner, by accepting the deed to a Lot, is deemed to covenant and agree, to pay the Assessments levied against the Lot or Lots it owns, whether or not this covenant is

contained in the deed or other instrument of conveyance. Assessments are payable in full in the amount levied without offset or reduction, regardless of reason, including the claim that the Association and/or the Board is not properly performing its duties under the Governing Documents. No Owner is exempt from liability for payment of Assessments because it elects not to use or enjoy the Common Elements or it abandons its Lot or Lots.

8.7.1. Assessments as the Personal Obligation of Owner. Each Owner is personally liable for Assessments levied against its Lot or Lots coming due during its ownership (shared jointly and severally among the persons holding a concurrent ownership interest). An Owner's personal obligation to pay delinquent Assessments or other amounts due to the Association does not pass to its successor in title (unless expressly assumed by the successor in title).

8.7.2. Assessment as Lien on Lot. An Assessment, together with fees, charges, late charges, interest and Legal Costs charged by the Association to a Lot Owner, constitutes a statutory perfected lien on the Lot in favor of the Association, whether or not the Association elects to Record it (the Recording of this Declaration being adequate record notice). The Association's lien arises when the Assessment is levied, unless payable in installments, in which case, a lien arises in the amount of an installment when that installment becomes due. The Association's lien has priority over other liens and encumbrances on the Lot to the extent provided in the Act. The Association's lien is not subject to a homestead exemption under State or federal Law. The Association's lien is not extinguished or diminished by a transfer in title, unless it is a transfer in, or in lieu of, foreclosure, forfeiture or cancellation, in which case, State Law determines the post-transfer status of the lien. Nothing in this Section prohibits the Association from bringing an action to recover sums secured by its lien or from taking a deed in lieu of foreclosure. A lien for an unpaid Assessment is extinguished unless enforcement proceedings are brought within six (6) years after the full amount of the Assessment became due.

8.7.3. Association's Lien if Lot is Transferred. The transferee of title to a Lot takes subject to the Association's lien for Assessments levied against the Lot up to the time of the transfer, without prejudice to the transferee's right to recover from the transferor the amount paid by the transferee to satisfy those Assessments. The Association shall furnish to an Owner or the Owner's designee (which may, but need not be, the transferee), or to the First Mortgagee of a Lot or its designee, no later than fourteen (14) days after a written request, a written statement of the amount of unpaid Assessments currently levied against the Lot. The Association's statement is binding on the Association, the Board, and every Owner. If the Association does not timely deliver the Assessment statement to the inquiring party, the Association is barred from asserting a lien upon the Lot for unpaid Assessments that were due as of the date of the request.

8.8. Enforcement; Remedies. The Association's remedies to enforce an Owner's obligation to pay Assessments when due are stated in Article 16.

8.9. User Fees. The Board may, but is not required to, impose user charges to defray the expense of providing services, facilities, or benefits that: (a) Owners may not use equally or proportionately; (b) in Board's reasonable judgment should not be charged to every Owner; or (c) the Board reasonably determines should not be allocated among Owners the same way as Common Expenses. The Association may bill user charges separately to an Owner, or add them to an Owner's share of the Common Expenses.

Article 9. Maintenance of Common Elements, Lots and Owner Improvements.

9.1. Responsibilities of Owners. Except as provided in Section 9.2, each Owner is responsible, at its cost, for maintaining its Lot or Lots and the Improvements on them in good repair, and in a safe, sanitary and sightly, condition in compliance with Laws and this Declaration.

9.2. Responsibilities of the Association.

9.2.1. Common Elements and Association Property. The Association is responsible for maintaining, repairing, and replacing the Common Elements and Improvements located there and other Association Property, wherever located in the Development, with the scope, scheduling and specifications of maintenance being decided by the Board, including:

(a) maintenance and repair of the Common Elements, including landscaping, fencing, seeding; mowing; weeding; planting; and watering; and removing Trash, leaves and brush in order to prevent a nuisance condition;

(b) stormwater drainage swales, wherever located in the Development, and other above-ground Improvements within them (such as storm pipes, catch basins, grates, etc.), including, as needed, seeding or sodding, removing Trash, leaves and brush, and mowing and weeding to prevent nuisance conditions;

(c) maintenance and repair of retaining walls, wherever located in the Development;

(d) operation, maintenance, repair and replacement of the sprinkler system that serves the Common Elements and the Lots ("Sprinkler System"), wherever located in the Development; and

(e) construction, installation, repair, alteration, replacement and maintenance of the cluster mailboxes, wherever located in the Development.

9.2.2. Association-Maintained Owner Improvements. Subject to Section 9.3, the Association is responsible for maintaining, repairing, and replacing the Association-Maintained Owner Improvements, with the scope, scheduling and specifications of maintenance being decided by the Board. "Association-Maintained Owner Improvements" means the following Owner Improvements:

(a) exterior surfaces of the Residences, including (and limited to) foundation, exterior walls and roofs,

(b) fences;

(c) utility meters, exterior CATV cable pedestals and connections and breaker boxes;

(d) landscaping, including lawns, trees, shrubs and other plantings in the front, rear and side yards; and

(e) Party Walls.

"Association-Maintained Owner Improvements" do not include Improvements installed or constructed by an Owner unless the Board agrees in writing, at the time the Design Review Committee approves the Improvement, to include the Improvement as an Association-Maintained Owner Improvement. The Association's responsibility for the Association-Maintained Owner Improvements includes, among other things, painting, cleaning, mowing, planting, weeding, watering removal of snow and ice from driveways and walkways.

9.3. Reallocation of Responsibility for Association-Maintained Owner Improvements. The Board may, without amending this Declaration, assign to the Owners responsibility for the maintenance, repair and/or replacement of one or more Association-Maintained Owner Improvements, if the Board determines that doing so would not: (a) adversely affect the uniform appearance and high standard of maintenance of the Development; (b) result in an unreasonable burden on the Association in administering and enforcing the obligations to be shifted to the Owners; or (c) impose disproportionate costs or confer disproportionate benefits on some Lots (for example, landscaping and maintenance of exterior walls of Residences at the ends of townhouse rows). Further, the Board may, without amending this Declaration, add items to the list of Association-Maintained Owner Improvements and/or re-assume responsibility for the maintenance, repair and/or replacement of one or more items it previously assigned to Owners that were originally Association-Maintained Owner Improvements, if the Board determines that doing so would: (a) preserve or enhance the uniform appearance and high standard of maintenance of the Development; or (b) alleviate disproportionate costs otherwise imposed on some Lots. In either case, before the Board assigns or re-assumes any of the foregoing responsibilities, it shall prepare and deliver to the Owners, with the Proposed Budget for the next fiscal year, the Board's proposed plan for reallocation of responsibility, as between the Association and the Owners, for Association-Maintained Owner Improvements. The proposed reallocation plan shall include a statement explaining the basis of the Board's proposal and an estimate of the reduction per Lot by in General and/or Limited Assessments. At the Owners meeting convened to consider ratification of the Proposed Budget under Section 8.1.2, the Board shall also present its proposed reallocation plan to the Owners and answer questions and respond to their comments. Unless Owners of Lots to which more than fifty percent (50%) of the votes in the Association are allocated cast votes in person or by proxy at the Owners meeting to veto the proposed reallocation plan, the proposed reallocation plan is considered ratified, and becomes effective when formally included in the Rules. Notwithstanding the general rules governing conflicts in the terms of Governing Documents, to the extent the reallocation plan in the Rules conflicts with Section 9.2.3, the Rules control.

9.4. Owner-Initiated Requests for Association Maintenance. The Owners of more than fifty percent (50%) of the Lots in a Townhome Cluster may apply to the Board for the Association to perform maintenance, repair, renovation, enhancement or replacement of the Association-Maintained Owner Improvements in that Townhome Cluster according to a plan prepared by them and approved by the Design Review Committee under Article 11. The Board shall prepare a cost estimate of the work and deliver to all of the Owners of Lots in the Townhome Cluster, and, unless the Owners withdraw their application or one or more Owners notifies the Board in writing that the Owner withdraws its support for the application, and, as a result the application is not longer made on behalf of the Owners of more than fifty percent (50%) of the Lots in the Townhome Cluster, the Board shall levy a Limited Assessment against the Lots in that Townhome Cluster (including Lots of Owners that did not

approve the application) and use the proceeds of the Limited Assessment to perform the requested work. The Limited Assessment shall be allocated equally among the Lots in that Townhome Cluster.

9.5. Association's Standard of Care for Association-Maintained Owner Improvements. Repairs and replacements made by the Association to Owner Improvements shall be at least equal in quality and cost to the original work and comply with Laws. In carrying out its obligations under Sections 9.2, or 9.4 or Articles 14 or 15, the Association may erect scaffolding and other structures; take construction materials through parts of the Lots (including the Residences); store construction materials on Lots; temporarily close public entry ways and parts of the Common Elements; and interrupt or temporarily suspend services or facilities for which the Association is otherwise responsible. The Association's obligations under Section 9.2 are not limited, discharged or postponed because maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Common Elements or the Association-Maintained Owner Improvements.

9.6. Disclaimer of Warranties. THE ASSOCIATION DISCLAIMS WARRANTIES AND LIABILITY ON THE PART OF THE ASSOCIATION-RELATED PARTIES FOR DEFECTS ARISING OUT OF FAULTY WORKMANSHIP, MATERIALS AND THE CONSTRUCTION AND DESIGN OF WORK PERFORMED BY OR ON BEHALF OF THE ASSOCIATION UNDER SECTIONS 9.2, OR 9.4 OR ARTICLES 14 OR 15. EACH OWNER ACKNOWLEDGES THAT THE ASSOCIATION HAS NOT MADE, AND NO ONE HAS MADE ON THE ASSOCIATION'S BEHALF, ANY REPRESENTATION, WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, WITH RESPECT TO WORK PERFORMED BY OR ON BEHALF OF THE ASSOCIATION UNDER SECTIONS 9.2, OR 9.4 OR ARTICLES 14 OR 15, INCLUDING THE PRESENT OR FUTURE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, FITNESS OR SUITABILITY OF THE WORK IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF ANY OWNER, OR OTHER REPRESENTATION, GUARANTEE, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, AND THE ASSOCIATION-RELATED PARTIES ARE NOT LIABLE FOR LATENT OR PATENT DEFECTS IN WORK PERFORMED BY OR ON BEHALF OF THE ASSOCIATION UNDER SECTIONS 9.2, OR 9.4 OR ARTICLES 14 OR 15. EACH OWNER AGREES THAT THE LIABILITY OF THE ASSOCIATION-RELATED PARTIES UNDER SECTIONS 9.2, AND 9.4 AND ARTICLES 14 AND 15 IS LIMITED AS PROVIDED IN THIS SECTION 9.6 AND IN SECTIONS 9.7 AND 9.8. IN ADDITION TO, AND WITHOUT LIMITING THE GENERALITY OF THE DISCLAIMERS ABOVE, THE ASSOCIATION SPECIFICALLY EXCLUDES AND DISCLAIMS THE IMPLIED WARRANTY OF HABITABILITY AND OTHER IMPLIED WARRANTIES, WHETHER CREATED JUDICIALLY, STATUTORILY OR BY COMMON LAW, INCLUDING THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

9.7. Liability of the Association-Related Parties. This Declaration does not constitute a contract between the Association and an Owner or its Related Users, and the Association-Related Parties have no contractual liability to the Owners or their Related Parties under this Declaration, including Sections 9.2, or 9.4 or Articles 14 or 15. No Owner has a claim against the Association-Related Parties for reimbursement or otherwise for maintenance, repairs or replacements performed by that Owner, if the maintenance, repairs or replacements are the responsibility of the Association under Sections 9.2, or 9.4 or Articles 14 or 15. To the extent permitted by Laws, the Association's liability to Owners and their Related Users is limited to the following:

(a) claims for injury or death to an Owner or its Related Users, whether brought against an Owner or an Association-Related Party (including Legal Costs incurred by an Owner in defending a claim brought against it), resulting from the Association's performance of, or failure to perform, its obligations under Sections 9.2, or 9.4 or Articles 14 or 15, but only to the extent of insurance proceeds collectible under policies carried or required to be carried by the Association under this Declaration (and for this purpose, applicable deductibles are not treated as collectible);

(b) fines or penalties imposed by a Governmental Authority against an Owner because an Association-Maintained Owner Improvement does not comply with a Law as a result of the Association's failure to perform its obligations under Sections 9.2, or 9.4 or Articles 14 or 15;

(c) claims for loss of or damage to property, including Owner Improvements, whether brought against an Owner or an Association-Related Party (including Legal Costs incurred by an Owner in defending a claim brought against it), resulting from the Association's performance of, or failure to perform, its obligations under Sections 9.2, or 9.4 or Articles 14 or 15, or caused by water, rain, snow or ice that leaks or flows from the Common Elements or any part of the Association-Maintained Owner Improvements, but only to the extent any of the foregoing loss or damage is not covered by the proceeds of insurance collectible under policies required to be carried by an Owner under this Declaration (and for this purpose, applicable deductibles are treated as collectible); and

(d) Additional Living Expenses incurred by an Owner and its Related Users if the Residence they occupy is rendered Unhabitable for more than ten (10) consecutive days after notice of Unhabitability by the Owner to the Association, as

a result of the Association's failure to perform its obligations under Sections 9.2, or 9.4 or Articles 14 or 15. "**Additional Living Expenses**" means the reasonable increase in living expenses necessary to maintain the normal standard of living of the occupants of the Residence, but not in excess of the amounts customarily payable for this type of coverage under townhome insurance policies. **Unhabitable**" means that more than twenty-five percent (25%) of the Residence cannot be occupied by its occupants because of exposure to the elements, lack of utilities, or conditions that are unsafe, unsanitary, illegal or unreasonably uncomfortable, and in fact the occupants are not doing so. Additional Living Expenses are payable for each day after the tenth (10th) day of consecutive Unhabitability until the Association renders the Residence habitable (but, if the Owner is responsible for rendering the Residence habitable, Additional Living Expenses are payable only for the time it would reasonably take to render the Residence habitable). The amount due to the Owner under this Section shall be credited against Assessments levied on that Owner's Lot as they come due. The Association-Related Parties are not liable to Owners or their Related Users for inconvenience, discomfort, business interruption and the like arising from the performance or non-performance by the Association of its obligations under this Declaration.

The Association-Related Parties are not liable to an Owner or its Related Users under Section 9.2 for maintenance repair or replacement resulting from the negligent or intentionally wrongful act or omission of that Owner or its Related Users, except to the extent of insurance proceeds collectible by the Association under policies carried or required to be carried by the Association under this Declaration (and for this purpose, applicable deductibles are not treated as collectible).

9.8. Waivers of Claims.

9.8.1. By the Owners. Each Owner, for itself and its Related Users, waives and releases claims against other Owners and the Association-Related Parties for loss of or damage to the Common Elements, Association Property, Owner Improvements or personal property located anywhere in the Development to the extent the loss or damage is covered by proceeds of insurance collectible under insurance policies required to be carried by that Owner (and for this purpose, applicable deductibles are treated as collectible).

9.8.2. By the Association. The Association waives claims against an Owner and its Related Users for loss or damage to the Common Elements, Association Property, another Owner's Improvements or property wherever located in the Development if the loss or damage is caused by the acts or omissions of the Association-Related Parties, but only to the extent the loss or damage is covered by insurance proceeds collectible by the Association under insurance policies it carries or is required to carry under this Declaration (and for this purpose, applicable deductibles are not treated as collectible).

Article 10. Restrictions on Use, Occupancy and Alienation.

Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of its Lot is affected by this Article and the other Governing Documents, and that the restrictions on use, occupancy and alienation in this Article, the rest of this Declaration and the other Governing Documents are subject to change.

10.1. Use Restrictions. The following use restrictions apply to the Lots and Common Elements:

10.1.1. Compliance with Laws. No Owner may create or allow a condition, or engage in or allow anyone else to engage in, an activity on its Lot that violates a Law. No Owner or its Related Users may create a condition or engage in an activity on the Common Elements that violates a Law.

10.1.2. Residential Use. No Owner may use or allow anyone else to use, its Lot for other than Residential Purposes. "**Residential Purposes**" means a Residence occupied in compliance with the City Zoning Ordinance. "**Residence**" means a single-family attached townhouse-style dwelling unit and other Improvements permitted under Article 11 and the City's Zoning Ordinance without a rezoning, variance, special use or special exception or similar approval. Except for Home Occupations, no Owner may conduct, or permit anyone to conduct, in its Lot, or conduct, or permit its Related Users to conduct, on the Common Elements, an industry, business, trade, occupation or profession, whether commercial, religious, educational or otherwise, and whether designed for profit, altruism, exploration or otherwise. "**Home Occupation**" means a limited professional office or home occupation on a Lot that complies with the City Zoning Ordinance, without a rezoning, variance, special use or special exception or similar approval, and that:

- (a) does not interfere with the residential character of the Residence or neighborhood, and is clearly subordinate to the use of the Residence as a dwelling;

- (b) does not result in greater traffic or parking than would be generated by a typical Residence where a Home Occupation is not being conducted;
- (c) does not exhibit the outward appearance of business or commercial use;
- (d) does not employ more than one (1) person who is not a permanent member of the household that occupies the Residence.
- (e) is not apparent or detectable by sight, sound, or smell from outside the Lot; and
- (f) does not involve regular visits by clients, customers, suppliers, or other business invitees.

10.1.3. Improvements. No Owner may construct, install or maintain an Improvement in or on its Lot, or permit anyone else to do so, unless in compliance with Article 11.

10.1.4. No Hazardous Activities. No Owner may create or allow a condition or engage in, or allow anyone else to engage in, an activity in its Lot (including the storage, use or disposal of substances) that poses an unreasonable risk of personal injury or death, loss or damage to property or other physical harm to anyone in the Development, including blasting, discharging firearms or fireworks or lighting or maintaining an open fire except a fire for outdoor cooking or recreation in a grill, fireplace or other equipment specifically designed for outdoor residential uses. Paper or cardboard may be used as a starting device but not as the primary component to burn. No Owner or its Related Users may do any of the foregoing on the Common Elements.

10.1.5. Compliance with Insurance Requirements. Unless approved by the Board, no Owner may create or allow a condition or engage in, or allow anyone else to engage in, an activity in its Lot that would result in a material increase in rates of insurance carried by the Association, the cancellation of insurance carried by the Association or the need for the Association to obtain additional insurance coverage. No Owner or its Related Users may do any of the foregoing on the Common Elements.

10.1.6. Nuisance. No Owner may create, or allow anyone else to create, a Nuisance on its Lot. "Nuisance" means noise, light, odor or other condition or activity that is defined as such by a Law or that would be found a by reasonable persons to be obnoxious, embarrassing, offensive or dangerous, or to unreasonably interfere with their peaceful enjoyment of their Lots or the Common Elements. The following are a Nuisance per se: (a) horns, whistles, bells, wind chimes, other sound devices that can be heard from another Lot or the Common Elements; and (b) blinking or flashing lights or lights that causes glare, such as exterior spot lights or searchlights that are visible from another Lot or the Common Elements. "Nuisance" does not include Declarant's activities that are reasonably necessary to develop and construct Improvements in the Development and normal construction-related activities of Improvements that comply with Section 10.1.12. No Owner or its Related Users shall create a Nuisance on the Common Elements.

10.1.7. Trash. No Owner may allow Trash or Construction-Related Materials anywhere in its Lot other than in sanitary, "animal-proof" containers stored inside of the Residence or another Improvement and not visible from another Lot, the Common Elements or a street in the Development. "Trash" means waste, litter, junk, refuse, boxes, containers, bottles, cans and other items intended for discard. Other than during permitted construction on the Lot subject to Section 10.1.12, no Owner shall allow Construction-Related materials anywhere in its Lot except inside of the Residence or another Improvement, "Construction-Related Materials" means tools, equipment, machinery, lumber and other building materials. Burning refuse, indoors or outdoors, is not permitted anywhere in the Development.

10.1.8. Vehicles. "Vehicle" means an automobile, motorcycle, moped, truck, van, Recreational Vehicle or other motorized device for carrying passengers, goods or equipment, and accessories or equipment, such as trailers, relating to any of the foregoing. "Recreational Vehicle" means a boat, mobile home, trailer, camper, all-terrain vehicle, snowmobile or similar Vehicle used or intended for primarily recreational purposes. Vehicles may not be parked overnight on the streets in the Development for more than three (3) consecutive nights and for more than twelve (12) nights in a single calendar year, unless the Board adopts a different Rule. No Owner may park or store, or permit anyone else to park or store, Vehicles on or in its Lot other than in the garage or on the driveway. No Recreational Vehicle shall remain on a Lot outside of the garage for more than forty-eight (48) hours per month. No Owner may store, or permit to be stored, in or on its Lot an abandoned or inoperable Vehicle. A Vehicle is "abandoned or inoperable" if it is non-operative for a period of one month or does not have current registration and license plates. No Owner shall park or store, or permit to be parked or stored, in or on its Lot an oversized Vehicle other than in the garage, except oversized Vehicles parked temporarily in the driveway for loading, delivery of goods or services, or emergency. Vehicles of household guests shall be garaged after two (2) weeks.

No Vehicle shall be used for temporary or permanent sleeping or living purposes while located in the Development. Maintenance, repair, rebuilding, dismantling, repainting, or servicing of Vehicle (other than cleaning the interior and exterior of the Vehicle) shall be performed on a Lot only if in a structure and not visible from another Lot, the Common Elements or a street.

10.1.9. Animals.

10.1.9.1. Animals on Lots. No Owner may bring onto or keep, or allow anyone else to bring onto or keep, in or on its Lot, animals other than Permitted Pets. "Permitted Pets" means an aggregate of two (2) domesticated dogs, three (3) cats (but no combination of cats and dogs greater than three); and any number of small domesticated pets, permanently confined indoors, that are commonly kept as pets in single-family townhouse-style residential neighborhoods, such as birds, fish, hamsters and small reptiles. No Dangerous Animal is a Permitted Pet. "Dangerous Animal" means an animal that: (a) belongs to a species whose bite, sting, skin or secretions are poisonous to humans or pets; (b) belongs to an undomesticated predator species whose prey is known to have included humans or pets; (c) has been found to be dangerous or vicious by a Governmental Authority; (d) has a history of aggressive behavior without provocation anywhere in the Development; or (e) on a single occasion has engaged in aggressive behavior without provocation anywhere in the Development that results in bodily injury to a person or another pet (or would have, but for defensive action by a person or pet). Outdoor dog runs and dog houses are prohibited. Puppies or kittens that increase the number of dogs and cats on a Lot above the permitted number must be weaned no later than six (6) weeks from birth and removed from the Lot.

10.1.9.2. Pets on the Common Elements. Pets must be Under Control at all times when in the Common Elements. "Under Control" means the pet is accompanied by a responsible person, and is physically subject to that person's will, in one or more of the following ways: (a) confined in a cage, pet carrier, crate or similar escape-proof container; (b) confined in a Vehicle; (c) on a leash or harness held by that person that is strong enough to restrain the pet to a heeling position; and/or (d) if necessary or prudent, further controlled by a muzzle or similar device. No pet may engage in aggressive behavior on the Common Elements. Pets may not urinate, defecate or leave other bodily deposits in or on any part of the Common Elements. Whenever a pet is in the Common Elements, the person accompanying it must have on his or her person a means of removing and cleaning up the pet's bodily deposits (examples: paper towel, plastic bag, "pooper scooper"), and must immediately remove and properly dispose of the pet's bodily deposits.

10.1.9.3. Nuisance. Pets may not create a Nuisance. An example of a pet-related Nuisances is barking audible from outside the Lot if repeated intermittently over a period of more than thirty (30) minutes or continuously or incessantly for more than ten (10) minutes.

10.1.9.4. Indemnity. Each Owner indemnifies and holds harmless the Association, the Directors, the Officers and their employees, contractors and agents from and against costs, damages, fines, penalties and Legal Fees arising out of personal injury, loss or damage to property, loss of business, nuisance or otherwise, to the extent resulting from the presence of an animal brought into or kept within the Development, regardless of length of time, by the Owner or its Related User.

10.1.9.5. Assistive Animals. The provisions of this Section 10.1.9 are suspended or modified to the extent necessary to enable a person with a disability to fully exercise his or her legal rights in connection with his or her Assistive Animal. "Assistive Animal" means an animal that provides assistance, support or service to a person with a disability or as otherwise defined by Laws.

10.1.10. Hunting, Mining and Drilling. Hunting, mining, and/or drilling are not permitted anywhere in the Development.

10.1.11. Signs and Advertising Devices. No Sign shall be erected or maintained anywhere in the Development unless otherwise provided in this Declaration or approved in advance by the Board. "Sign" means a sign, poster, banner, display or other item that visually conveys verbal or non-verbal information that can be seen from another Lot, the Common Elements or a street in the Development, but excluding "for sale" or "for rent" signs that comply with size and other requirements imposed by the Board.

10.1.12. Construction-Related Activities. During the construction of the Residence and related Improvements on a Lot, Declarant and/or its contractor(s) and their employees and subcontractors, may, without being in violation of this Section 10.1, engage in activities reasonably necessary to efficiently pursue and complete construction, including maintaining in or on a Lot or Lots a temporary office, storage areas, trash bins, construction yards and equipment and parking areas. Declarant may also place signs in the Common Elements and in or on the Lots, indicating its identity, the name of its

Mortgagee and sales-related information. Owners engaged in construction or installation of Improvements approved by the Design Review Committee under Article 11 are subject to Rules governing the time and manner of their construction-related activities.

10.2. Restrictions on Alienation.

10.2.1. Deeds and Mortgages. An Owner is free to transfer title to its Lot without restrictions in favor of the Association, such as a right of first refusal or similar right to restrict a transfer of title. An Owner is free to mortgage or otherwise encumber or grant a Mortgage on its Lot without restrictions in favor of the Association, subject to the Association's lien for Assessments.

10.2.2. Leases. "Lease" means an agreement, written or oral, between an owner and another person that grants the other person the right to occupy or possess all or part of the Lot in return for monetary or other compensation to the Owner, and regardless of the length of time: "Tenant" means the person that is granted occupancy rights under a Lease. Leases shall: (a) be in writing; (b) be for the entire Residence and for the occupancy of a single household; (c) have a term of at least ninety (90) days (and may be on a month-to-month basis after that); and (d) provide that the Lease provisions and the Tenant's occupancy of the Lot are subject to the provisions of the Governing Documents, and that the Tenant's failure to comply with the Governing Documents is a default under the Lease, enforceable by the Owner of the leased Lot and/or the Association. An Owner that leases its Lot shall forward a copy of the lease to the Board within ten (10) days after it is signed. The Board may adopt additional Rules affecting Leases.

10.2.3. Timeshares. No Owner shall convey any right to its Lot pursuant to a timesharing arrangement described in C.R.S. §§38-33-110 to 113 of the Act.

10.3. General Provisions relating to Use Restrictions.

10.3.1. Board's Waiver of Restrictions in this Section. The Board may, in a specific case, waive the strict application of the limitations and restrictions in this Article that are waivable under the Act, in order to prevent unreasonable hardship under the circumstances. The Board's decision in one case has no precedential weight in deciding another case.

10.3.2. Limit of Restrictions on Use, Occupancy and Alienation. Nothing in this Article or elsewhere in this Declaration or the other Governing Documents prohibits Owners from:

(a) displaying the American flag on a Lot on a flagpole or otherwise, in a manner consistent with the federal flag code, P.L. 94-344; 90 stat. 810; 4 U.S.C. secs. 4 to 10, and subject to the Association's reasonable rules regarding the placement, size and manner of display.

(b) displaying, on the inside window or door of a Residence, a service flag bearing a star denoting the service of an occupant or family member in active or reserve military service during a time of war or armed conflict, subject to the Association's reasonable rules regarding the size (but only if larger than 9 inches by 16 inches) and manner of display.

(c) displaying Political Signs on a Lot before and after elections that meet the following criteria: (a) no more than one Political Sign per political office or ballot issue to be voted on in the election; (b) for the period beginning forty-five (45) days before, and ending seven (7) days after, the election; and (c) of a size allowed by the City if it has adopted an ordinance regulating political signs on residential property, or, if there is no ordinance, no larger than 36 inches by 48 inches. "Political Sign" means a Sign that carries a message intended to influence the outcome of an election.

(d) parking a Vehicle on a street, driveway, or guest parking area in the Development if the Vehicle is used by a provider of emergency services, such as fire fighting, law enforcement, ambulance or emergency medical services, and satisfies the other conditions in Section 106.5(1)(d) of the Act.

(e) removing trees, shrubs, or other vegetation on a Lot to create defensible space around the Residence for fire mitigation purposes under a defensible space plan that satisfies the conditions of Section 106.5(1)(e) of the Act, as long as the Owner otherwise complies with the standards in this Declaration and the other Governing Documents regarding Trash removal, stump height, revegetation, and contractors.

(f) using roofing materials other than cedar shakes or other flammable materials.

Article 11. Design Control.

11.1. Purpose This Article establishes design standards for Improvements on Lots, and procedures for ensuring those standards are met, in order to:

- (a) ensure the harmonious appearance of the Development and to avoid visual monotony by balancing variety in the design of improvements with an integrated character for the Development;
- (b) encourage secure and maintain attractive and harmonious landscaping of Lots and Common Areas; and
- (c) enhance the value of investments by Owners in their Lots and the Improvements on them by creating and maintaining a well planned, visually harmonious, attractive residential community.

11.2. Design Review Procedures. No Owner may construct, install, maintain or alter an Improvement in or on its Lot, or allow anyone else to do so, that: (a) is located entirely or partially outside the Lot's boundaries; (b) is visible from outside the Residence; (c) could affect a Common Element other than a Limited Common Element allocated exclusively to the Lot; (d) attaches to or affects the exterior or structural components of the Residence or the other Residences to which it is attached; (e) entails entry into another Owner's Lot; or (f) requires a building permit, unless the Improvement materially complies with plans that have been reviewed and approved by the Design Review Committee under this Article.

11.3. Design Review Committee. "Design Review Committee" means a committee appointed by the Board (except for persons appointed to the Design Review Committee by Declarant under Section 20.2) to establish design standards for the Development ("Design Standards") and to review plans for Improvements submitted to it by Owners to ensure compliance with the Design Standards. The Design Review Committee is composed of at least three (3), but no more than five (5), persons who serve for a term of one (1) year (except for persons appointed to the Design Review Committee by Declarant under Section 20.2). Design Review Committee members need not be Directors or Owners, but must have professional training and/or experience in architecture, landscape architecture, urban planning, construction or a related field. If the Board (or the Declarant under Section 20.2) has not appointed members to the Design Review Committee, then the Design Review Committee is the Board.

11.4. Other Procedural Matters. The Board appoints the chairperson of the Design Review Committee. The chairperson convenes, with reasonable advance notice, and presides over, Design Review Committee meetings. The majority vote of the members of the Design Review Committee at which a quorum is present constitutes the act of the Design Review Committee. The Design Review Committee may engage consultants to review plans or advise it on technical or aesthetic matters, but the Design Review Committee makes the final decisions. The expenses of the Design Review Committee are Common Expenses; however, the Board may require the Design Review Committee to charge Owners a reasonable review fee to defray a portion of its costs. The Design Review Committee shall maintain records of plans submitted to it, written communications with Owners and decisions on applications. The records of the Architectural Review Committee are available to Owners on the same basis as other Association Records. The Board may approve additional or more detailed procedural rules for the Design Review Committee.

11.5. Liability of Design Review Committee Members; Indemnification. The Design Review Committee is not liable for its review and approval of (or failure to review or approve) Owners' plans, except to the extent members acted with malicious or wrongful intent. The Design Review Committee's review and approval (or withholding of approval) of an Owner's plans is not a representation or warranty by the Design Review Committee that an item is complete or suitable for its intended purpose, complies with Laws; or conforms with this Declaration. The Design Review Committee assumes no responsibility or liability for the completeness, suitability or compliance with Laws of an Owner's plans. The Owners and the Association indemnify each member of the Design Review Committee to the same extent as Directors and Officers under Section 7.8.

11.6. Owner's Submission of Improvement Plans. Plans submitted to the Design Review Committee for alterations or additions to existing Improvements shall include enough detail to enable the Design Review Committee to determine whether the Design Standards have been met.

11.7. Review of Plans. The Design Review Committee shall review plans, first for completeness, and, if complete, for compliance with the Design Standards and the purposes stated in Section 11.1. The Design Review Committee may (but is not obligated to) relax the Design Standards, on a case by case basis if it reasonably believes their strict application would result in unreasonable hardship, and deviation from them would not have a material adverse impact on the purposes of this Article. The Design Review Committee's decision in one case has no precedential weight in deciding another case. Within sixty (60) days after submittal of a complete set of plans, the Design Review Committee shall give its written approval of the plans, with or

without conditions, or written rejection of the plans, stating the reasons for rejection with enough specificity to enable the Owner and its design professional to make corrections (but not in such great detail that the Design Review Committee has done the Owner's corrective design work for it). Failure by the Design Review Committee to approve or disapprove the plans within the 60-day period constitutes the Design Review Committee's unconditional approval.

11.8. Inspection; Certificate of Approval. The Design Review Committee shall inspect an Improvement after construction or installation is complete, and if the Improvements comply with the Design Guidelines, the Design Review Committee shall issue a certificate of compliance evidencing its finding to that effect.

11.9. Enforcement. The Association shall enforce the procedural and substantive standards in this Article 11 as provided in Article 16.

11.10. Design Standards. The Design Standards in this Section 11.10 are minimum requirements and the Design Review Committee may in its reasonable discretion adopt stricter or more detailed standards and guidelines in a separate design guide, which, when approved by the Board, becomes one of the Governing Documents.

11.10.1. Maximum Size of Residence. The maximum size of a Residence within the perimeter of the main building, (exclusive of garage, porches, patios, breezeways and similar additions), measured along the exterior walls, is 2,400 livable square feet.

11.10.2. Residence Height; Roof Pitch. No Residence shall contain more than two (2) stories above grade, and no Residence or other Improvement shall exceed thirty-six (36) feet in height, as measured from the point of a finished grade to the highest point on the roof. Chimneys, if allowed, are not included in determining height. Residences shall have pitched roofs with a pitch of 4:12 pitch or greater, or as approved by the Design Review Committee.

11.10.3. Facades. Exterior colors of Residences shall fall within generally accepted definitions of earth tones. The front façade of each dwelling (except for the eaves) shall not be vinyl, aluminum or steel siding.

11.10.4. Garages and Driveways. Each Residence shall have a private, enclosed attached garage for two (2), and only two (2), automobiles. The location of garage door(s), whether front or side entry, is subject to the approval of the Design Review Committee. Driveway access is limited on all corner lots per the Plat.

11.10.5. Landscaping. Landscaping includes driveway, deck, patio, sidewalk and plantings and other Improvements not attached to the Residence. Except for removal of dead or diseased plant materials replaced by the same or similar plant species, trees, landscaping, and other plantings, except those in the location of the proposed dwelling, patio, walks and driveways, may not be altered or removed without the approval of the Design Review Committee. Landscaping shall include at least one tree in the front yard. Russian olives, cottonwoods and willows are prohibited in the Development. The Design Review Committee encourages xeriscaping. Ornamentation in yards, such as figurines, plastic flowers, colored lights, windmills, bird baths or feeders, that is visible from another Lot, the Common Elements or the streets within the Development constitute Improvements for purposes of this Section.

11.10.6. Only New Improvements. Residences shall be constructed on-site from new materials. No prefabricated or previously constructed Residences shall be located or relocated onto a Lot; however, pre-manufactured building components are permitted if they meet the Design Standards to the same degree as other building components.

11.10.7. Fencing Fencing on Lots shall be of a consistent height, color and style throughout the Development, no higher than six (6) feet. No fencing is permitted in the front yard of a Lot. The Design Review Committee may modify the fencing requirements without amending this Declaration.

11.10.8. Stormwater Easements. No Improvements (including driveways, fences and landscaping consisting of trees or shrubs) shall be installed or maintained in stormwater drainage easements.

11.10.9. Utilities; Antennae, Satellite Dishes. Utilities, including electrical, television, radio, and telephone line installations and connections from a Lot line to a Residence or other Improvement on the Lot shall be placed underground after completion of construction. Satellite dishes shall not exceed twenty-four (24) inches in diameter. Towers and antennae, whether free-standing or attached to or on the Residence or another structure, are not permitted on Lots.

11.11. Compliance with Zoning and Other Laws. In addition to the Design Standards, Improvements on Lots are subject to the City Zoning Ordinance and other Laws. If the Design Standards conflict with a City ordinance, the strictest provision controls.

The Design Review Committee does not review Improvement plans for compliance with the City Zoning, Subdivision or Building Codes.

Article 12. Association's Books and Records

12.1. Association's Financial Statements. The Board shall cause financial statements for the Association's to be prepared using generally accepted accounting principles on the cash or tax basis of accounting.

12.1.1. Review of Association's Financial Statements. The Board may, and, if requested by the Owners or First Mortgagees of at least thirty-three and one-third percent (33-1/3%) of the Lots, shall, cause the books and records of the Association to be reviewed, using statements on standards for accounting and review services, by an independent and qualified person selected by the Board who need not be a certified public accountant, but shall have at least a basic understanding of the principles of accounting as a result of prior business experience, education above the high school level, or bona fide home study.

12.1.2. Audit of Association's Financial Statements. The Board may, and, if requested by the Owners or first Mortgagees of at least thirty-three and one-third percent (33-1/3%) of the Lots, with respect to a year when the Association's revenues or expenditures are \$250,000.00 or more, shall, cause the books and records of the Association to be audited, using generally accepted auditing standards, by a certified public accountant selected by the Board.

12.1.3. Owners' Right to Copies of Reviews and Audits. The Board shall, upon request, make available to Owners and First Mortgagees the results of a review or audit within thirty (30) days after completion.

12.2. Association Records. The Association shall maintain Association Records in written or electronic or other form capable of conversion into written form within a reasonable time. "**Association Records**" include all items referred to in this Article.

12.2.1. Association Records to Be Kept at Association's Principal Office. The Association shall keep the Association Records listed below at its principle office.

- (a) Governing Documents;
- (b) Board resolutions relating to the characteristics, qualifications, rights, limitations, and obligations of Owners;
- (c) minutes of Owners' meetings, and records of actions taken by them in lieu of a meeting, for the past three years;
- (d) written communications within the past three years to Owners generally as Owners;
- (e) list of the names and business or home addresses of Directors and Officers then holding office;
- (f) most recent annual report; and
- (g) financial audits or reviews conducted pursuant to Section 12.1 during the immediately preceding three years.

12.2.2. Permanent Association Records. The Association shall keep the following Association Records permanently:

- (a) minutes of Owners meetings and Board meetings;
records of actions taken by Owners or Directors by written ballot or written consent in lieu of a meeting,
- (c) records of actions taken by a committee of the Board pursuant to the authority delegated to it (including the Design Review Committee), unless the Board later formally ratifies or takes the same action, and
- (d) records of waivers of notices of Owners meetings, Board meetings and meetings of committees of the Board (including the Design Review Committee).

12.2.3. Owners List. The Association (or its agent) shall maintain a list of the names and addresses of Owners, identifying each Owner's Lot or Lots and the number of votes each Owner is entitled to vote ("**Owners List**"). Without the Board's prior approval, no one shall obtain or use the Owners List, for a purpose unrelated to an Owner's interest as an Owner, including: (a) soliciting money or property other than to solicit Owners' votes before an Owners meeting; (b) for a commercial purpose; or (c) for sale.

12.2.4. Association Records Unconditionally Available to Owners. The Association shall make the following information available to Owners and First Mortgagees at their request:

- (a) the name of the Association, the Development and the Association's designated agent or management company, if any;
- (b) a physical address and telephone number for both the Association and its designated agent or management company, if any;
- (c) the date, book number and page number for the Recording of the Original Declaration;
- (d) the date the Association's fiscal year starts;
- (e) the current Budget;
- (f) a list of the currently levied General and Special Assessments per Lot;
- (g) the annual financial statements for the most recently available fiscal year, including the amount in the Reserve Fund;
- (h) the results of the most recently completed financial audit or review;
- (i) a list of insurance policies carried by the Association, including property, general liability, association director and officer professional liability, and fidelity policies, with the names of the insurers, policy limits, deductibles, additional named insureds, and expiration dates for each listed policy;
- (j) copies of the Governing Documents;
- (k) copies of the minutes of Board meetings and Owners meetings for the preceding fiscal year; and
- (l) the Association's responsible governance policies adopted under the Act and Section 7.10.

The Board has the widest possible latitude in methods and means of disclosure, as long as the information listed above is readily and conveniently available to Owners at no cost. For example, the Association may disclose information by posting it on a web site with accompanying notice of the web address via first-class mail or e-mail; maintaining a "literature table" or binder at the Association's principal place of business; or mail or personal delivery. The Association's cost of distributing the foregoing information is a Common Expense.

12.2.5. Association Records Conditionally Available to Owners and First Mortgagees. The Board shall make Association Records (other than the Owners List) reasonably available for Owners and First Mortgagees (or their authorized agents) to examine and copy. "Reasonably available" means, for purposes of this Section 12.2.5, available during normal business hours after five business days' notice, or at the next regularly scheduled Board meeting within thirty (30) days after the request, but only to the extent that:

- (a) the request is made in good faith and for a proper purpose;
- (b) the request describes with reasonable particularity the Association Records sought and the purpose of the request; and
- (c) the records are relevant to the purpose of the request.

The Association may require reimbursement of its actual copying cost per page, before giving an Owner or first Mortgagee copies of the Association Records requested. This Section 12.2.5 does not affect:

- (a) an Owner's or First Mortgagee's right to inspect records:
 - (i) under corporation statutes governing the inspection of lists of members before the annual meeting; or
 - (ii) in the course of litigation with the Association, to the same extent as any litigant; or

(b) the power of a court to compel the production of Association Records for examination on proof by an Owner or First Mortgagee of proper purpose.

Article 13. Insurance.

13.1. Insurance Coverage to be Carried by the Association. After Declarant transfers title to the first Lot to someone other than a successor Declarant, the Association shall maintain the insurance required under this Article from financially responsible companies authorized to do business in the State of Colorado, to the extent then reasonably available.

13.1.1. Property Insurance on Association-Insured Property. The Association shall maintain Property Insurance on the Association-Insured Property. "**Association Insured Property**" means: (a) the Common Elements and Improvements on them, (b) Association Property wherever located in the Development, and (c) Association-Insured Owner Improvements. "**Property Insurance**" means insurance on loss of or damage to property, written on an "All Risk" or "Special Perils" policy form, on a one hundred percent (100%) replacement cost basis (excluding land, excavations, foundations, and other items not normally covered under property insurance policies), based on the appraised value of the insured property, and waiving co-insurance or endorsed as Agreed Amount. The Board shall, at least every three (3) years, obtain an appraisal from a qualified real estate or insurance appraiser of the replacement value, without deduction for depreciation, on the Common Elements, the Association Property and the Association-Insured Owner Improvements on a Lot-by-Lot basis. The Board shall determine the amount of Property Insurance based on the most recent appraisal. "**Association-Insured Owner Improvements**" means the Residence, up to, and including the unfinished surfaces of perimeter and partition walls, floors and ceilings; however, an Owner may request the Board to include Betterments as part of that Owner's Association-Insured Owner Improvements. "**Betterments**" means fixtures, finishes, installations that are located within the unfinished interior surfaces of the perimeter walls, floors, and ceilings of the Owner's Residence that: (a) were initially installed (or replacements made according to the original plans and specifications); (b) were installed by or at the expense of the Owner; or (c) are subject to the lien or security interest of a First Mortgage. The Owner's request shall be in writing, accompanied by a description of the Betterments, together with the Owner's reasonable estimates of their then replacement cost. The Board shall approve the Owner's request unless the Board determines the request does not comply with the letter or intent of this Section. After approving the Owner's request, the Board shall take whatever steps are required to insure the Betterments under the Association's Property Insurance, after which, the Betterments shall be "**Association-Insured Betterments**" and included as part of the Association-Insured Owner Improvements, and the replacement cost of the Association-Insured Owner Improvements on that Lot shall include the replacement cost of the Association-Insured Betterments. The Board shall levy a Limited Assessment against the Lot in the amount of insurance premium charged for the Association-Insured Betterments. If the Owner does not pay the Limited Assessment when due, and the non-payment ripens into an Owner Default, then in addition to any other rights and remedies available under this Declaration, the Board may, after written notice to the Owner (and the Owner's First Mortgagee if the First Mortgagee has requested notice of this type of matter) that, unless the Limited Assessment is paid within ten (10) days after the notice, the Board may, without any further notice, cancel the insurance on the Owner's Association-Insured Betterments.

13.1.2. Commercial General Liability Insurance. The Association shall maintain commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements, in an amount determined by the Board, not less \$1,000,000.00 in respect to bodily injury and/or property damage arising out of one accident or disaster, insuring the Association, Directors, Officers, the management agent, and their respective employees, agents, and persons acting as agents, and if higher limits become customary to protect against possible tort liability, the Association shall obtain insurance with those limits. Declarant shall be included as an additional insured in its capacity as an Owner and Director. Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Elements. The insurance shall cover claims of one or more insured parties against other insured parties.

13.1.3. Workers Compensation Insurance. The Association shall maintain worker's compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms required by Law.

13.1.4. Officers' and Directors' Personal Liability Insurance. The Association shall maintain officers' and directors' personal liability insurance to protect the Directors, Officers and members of the Design Review Committee and other committees of the Board from personal liability in relation to their duties and responsibilities in acting in their respective offices on behalf of the Association.

13.1.5. Fidelity Insurance. The Association shall maintain fidelity insurance or fidelity bonds to protect against dishonest acts on the parts of Officers, Directors, members of the Design Review Committee and other committees of the Board, employees of the Association and others who handle or are responsible for handling the Association's funds, including persons who serve the Association with or without compensation. The fidelity coverage or bonds shall cover the maximum funds that will be in the control of the Association, the Officers, Directors and employees, and, if the Development has thirty (30) or more Lots, coverage shall be at least the aggregate of two (2) months' current Assessments plus reserves. The policy or bond shall name the Association as an insured and contain waivers of defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. If the Association engages an independent contractor to act as its manager, the Association may name that person as an insured employee in the Association's fidelity insurance, or may require the manager to obtain its own fidelity insurance in the amount stated above, or whatever greater amount the Board requires.

13.1.6. Other Insurance. The Association shall maintain other insurance the Board considers appropriate, including insurance on Lots or Improvements it is not obligated to insure, to protect the Association or the Owners.

13.2. Premiums. Unless otherwise stated in this Declaration, insurance premiums are a Common Expense.

13.3. Provisions to Appear in Policies. Each insurance policy carried by the Association shall:

13.3.1. show the Association as the named insured and loss payee, for the use and benefit of the Owners;

13.3.2. also name as additional insureds the Association-Related Parties, the Owners and their First Mortgagees, as their interests appear;

13.3.3. may include a deductible determined by the Board consistent with good business practice and the requirements of the First Mortgagees, but not more than the greater of \$5,000.00 or one percent (1%) of the face amount of the policy;

13.3.4. contain a standard non-contributory mortgagee clause or equivalent endorsement that names in the policy the First Mortgagees and their successors and assigns, and beneficiaries;

13.3.5. be endorsed to provide that it shall not be terminated or modified without sixty (60) days' advance written notice to the Association and to each and to each scheduled First Mortgagee;

13.3.6. waive defenses based on invalidity arising from the acts of Owners (other than the act or omission of an Owner that, under the terms of the policy, would void coverage for that Owner only);

13.3.7. with respect to Property Insurance or other coverage for loss or damage to property, waive the carrier's right of subrogation against Persons insured under its policy;

13.3.8. provide that validity of the policy and the right of recovery under it are not affected if, before loss or damage, the Association, in writing, releases Owner or anyone else from liability or waives claims against Owner or anyone else; (f) be deemed primary coverage; and

13.3.9. provide that if, at the time of loss there is other insurance in the name of an Owner covering the same risk covered by the Association's policy, the Association's policy provides primary insurance, with the Owner's insurance being excess coverage.

13.4. Insurance Certificates. Each insurance carrier shall issue a certificate or memorandum of insurance to the Association and, upon request, to an Owner or First Mortgagee, together with a duplicate original of the policy, if requested. Unless otherwise provided by Laws, the insurer may not cancel or refuse to renew a policy on less than thirty (30) days prior notice, and each Owner and First Mortgagee to which a certificate or memorandum of insurance was issued, at their respective last-known addresses.

13.5. Notice of Cancellation. If Property Insurance or General Liability Insurance is not reasonably available, or if one of those policies is cancelled or not renewed and not immediately replaced, the Association shall hand-deliver or mail prompt written notice to Owners, and to First Mortgagees that have previously requested in writing to receive these notices.

13.6. Adjustment of Claims; Proceeds Payable to the Association. The Board shall adjust losses and claims under the insurance policies it carries, and proceeds under those policies are payable to the Association as trustee for each Owner and its First Mortgagee. Each Owner and its First Mortgagee are beneficiaries of the insurance policies, as their interests appear in the

policies. The Board shall disburse insurance proceeds as provided in Article 14, and each Owner constitutes and appoints the Association as its true and lawful attorney in its name, place and stead to deal with the Owner's Association-Insured Owner's Improvements according to Article 14. The Association may adopt written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and other matters of claims adjustment.

13.7. Annual Review of Insurance Requirements. The Board shall review the insurance carried by the Association at least annually, for the purpose of determining the amounts and types of insurance required.

13.8. Insurance to be Maintained by Owners. Insurance carried by the Association does not obviate the need for Owners to obtain insurance for their own benefit. Each Owner shall maintain insurance that covers one hundred percent (100%) of the replacement cost of its Owner Improvements and other personal property (whoever owns it) on the Lot, to the extent not covered by insurance policies maintained by the Association, including furnishings and personal property on the Lot. The Owner's insurance policy shall contain a waiver of subrogation by the insurer. In addition, inasmuch as the Property Insurance carried by the Association does not pay for lodging, meals or other expenses an Owner might incur in the event of damage to Owner Improvements, the Association encourages, but does not require, Owners to obtain insurance coverage for these types of expenses. Finally, inasmuch as Owners may be held responsible for injury or death to persons or damage to their property, whether in, on or off their Lots, if caused by them, the Association encourages, but does not require, Owners to obtain liability insurance.

Article 14. Damage or Destruction to Association Insured Property.

14.1. Preliminary Actions of Board. If all or part of the Association-Insured Property is damaged or destroyed by fire or other casualty, the Board shall take the following actions in the order it considers practical under the circumstances:

- (a) assess the level of damage or destruction, and determine whether Restoration is legal under Laws governing zoning, health and safety;
- (b) obtain an estimate of the cost to Restore the Association-Insured Property, including professional fees, permits and licenses, performance bonds and other customary "soft" costs;
- (c) work with the insurance carrier to adjust the claim and reach agreement on the amount of insurance proceeds;
- (d) if the Common Elements or Association Property is damaged or destroyed, notify all Owners and each First Mortgagee that previously requested in writing to receive this type of notice, of the estimate of Restoration and the insurance proceeds available to carry it out; and
- (e) if only Association-Insured Owner Improvements are damaged or destroyed, notify the Owner(s) of the affected Lot(s) and its or their First Mortgagee(s) that previously requested in writing to receive this type of notice, of the estimate of Restoration and the insurance proceeds available to carry it out.

"Restoration, Restore" and other forms of the word means repairing, replacing or rebuilding damaged or destroyed Improvements, to the extent feasible and subject to City zoning and other Laws: (a) in the case of the Common Elements and Association Property, to substantially the condition they were in before the damage or destruction; and (b) in the case of Association-Insured Owner Improvements up to, and including the unfinished surfaces of perimeter and partition walls, floors and ceilings as provided in the original plans for those Improvements.

14.2. Common Elements or Association Property.

14.2.1. Decision on Whether to Restore Common Elements or Association Property. The Association shall Restore the damaged or destroyed Common Elements and Association Property, whether or not there are sufficient insurance proceeds to do so, unless:

- (a) the Owners terminate the Development as a common interest community;
- (b) Restoration would be illegal under Laws governing zoning, health or safety;
- (c) sixty-seven percent (67%) of the Owners vote against Restoration of all or part of the Common Elements and/or Association Property, including every Owner and First Mortgagee of a Lot or assigned Limited Common Element that will not be Restored; or

(d) if Declarant has not yet transferred title to the first Lot to someone other than a successor Declarant, the Mortgagee of the damaged Common Elements and/or Association Property rightfully demands all or a substantial part of the insurance proceeds.

14.2.2. Restoration of Common Elements and Association Property. Unless the Development is to be terminated as a common interest community under Section 14.2.1(a), the Board shall arrange for and supervise the prompt Restoration of the Common Elements and Association Property (or the parts approved for Restoration), and shall take whatever action is required to leave the un-Restored parts of the Common Elements and/or Association Property in a safe, sanitary, lawful and aesthetic condition. As attorney-in-fact for the Owners, the Association may take necessary or appropriate action to effect the Restoration without the Owners' further consent. Assessments do not abate during the period from the damage or destruction to completion of Restoration.

14.2.3. Funds for Restoration of Common Elements and Association Property. The Association shall use the insurance proceeds it receives for Restoration (and for putting the un-Restored Common Elements and Association Property in a safe, sanitary, lawful and aesthetic condition), and, if those proceeds are not sufficient, the excess cost is a Common Expense, and the Board may, without a vote of the Owners, levy a Special Assessment to cover the shortfall or procure funds in whatever other way is not prohibited under this Declaration or the Act.

14.2.4. Disbursement of Funds for Restoration of Common Elements and Association Property. Insurance proceeds and the amounts received from Special Assessments constitute a fund to pay for Restoration (and putting un-Restored Common Elements and/or Association Property in a safe, sanitary, lawful and aesthetic condition). Insurance proceeds in the fund are deemed entirely spent before Special Assessments. After the Restoration costs are paid, the Board shall distribute the remaining balance in the fund in the following order:

(a) If part of the Common Elements and/or Association Property is not Restored, and if the un-Restored portion includes Limited Common Elements or Improvements on and benefiting a Lot, the Board shall distribute an amount equal to the insurance proceeds allocable to those Limited Common Elements or Common Elements and/or Association Property to the First Mortgagees of the affected Lots up to the amount secured by the First Mortgages, and then to the Owners of the affected Lots.

(b) The Board shall then, at its election: (a) transfer the fund balance to the Reserve Fund, or (b) credit the fund balance against Assessments next due from the Owners, in proportion to the Allocated Interests of their Lots.

14.2.5. Limited Assessments for Deductibles. The Association may levy a Limited Assessment on the Lots of Owners whose negligence caused the loss, for the amount of deductible paid by the Association.

14.3. Association-Insured Owner Improvements.

14.3.1. If There Are Sufficient Insurance Proceeds. If the Board determines that insurance proceeds are sufficient to Restore damaged or destroyed Association-Insured Owner Improvements and to pay the Owner(s) the replacement cost of its or their Association-Insured Betterments ("**Betterments Reimbursement**"), the Board shall first pay the Owner(s) its or their Betterments Reimbursement, and then arrange for and supervise the prompt Restoration of the Association-Insured Owner Improvements, using the insurance proceeds it receives, and, if Restoration is to be performed on more than one Lot, the remaining insurance proceeds shall be pooled and used as needed to complete the Restoration, without allocating the proceeds between or among the affected Lots. As attorney-in-fact for the Owners, the Association may take necessary or appropriate action to carry out the Restoration without the further consent of the affected Owners or their First Mortgagees. Assessments do not abate during the period from the damage or destruction to completion of Restoration. If insurance proceeds remain after Restoration is completed, the Board shall either transfer the remaining balance to the Reserve Fund or apply it to the Common Expenses.

14.3.2. If There Are Insufficient Insurance Proceeds – Non-Material Damage. If the Board determines that insurance proceeds will cover at least ninety percent (90%), but less than one hundred percent (100%) of the sum of the Restoration costs for damaged or destroyed Association-Insured Owner Improvements and the payment of the Betterment Reimbursement, if any, the excess cost is a Common Expense, and the Board shall, without a vote of the Owners, levy a Special Assessment to cover the shortfall (or procure funds in whatever other way is not prohibited under this Declaration or the Act), and then proceed in the same manner as in Section 14.3.1.

14.3.3. If There Are Insufficient Insurance Proceeds – Material Damage or Destruction. If the Board determines that insurance proceeds are less than ninety percent (90%) of the estimated sum of the Restoration costs for the damaged or

destroyed Association-Insured Owner Improvements and the payment of Betterment Reimbursement, if any, the Board shall proceed as follows:

14.3.3.1. Election of Owner to Restore the Damaged or Destroyed Owner Improvements. The Board shall notify the Owner and First Mortgagee of the affected Lot that insurance proceeds are less than ninety percent (90%) of the estimated sum of the Restoration costs for the damaged or destroyed Association-Insured Owner Improvements and the payment of the Betterment Reimbursement, and offer the Owner and First Mortgagee the option to have the Association to Restore the damaged or destroyed Association-Insured Owner Improvements, by paying to the Association, within thirty (30) days after its notice, an amount that, when added to the available insurance proceeds, equals ninety percent (90%) of the sum of the Restoration costs for the damaged or destroyed Association-Insured Owner Improvements and the Betterment Reimbursement. This amount shall be treated as a Limited Assessment against the affected Lot. If the Owner and its First Mortgagee elect to exercise the Restoration option and timely pay the required amount, the Board shall then treat the remaining ten percent (10%) as a Common Expense; without a vote of the other Owners, levy a Special Assessment to cover the shortfall. (or procure funds in whatever other way is not prohibited under this Declaration or the Act); and then proceed in the same manner as in Section 14.3.1, except as provided in the next sentence. If, after the Restoration costs and Betterment Reimbursement are paid in full, there are remaining funds: (a) if the Restoration costs and Betterment Reimbursement are less than the Limited Assessment paid by the Owner, the Board shall disburse the unspent portion of the Limited Assessment to the First Mortgagee up to the amount secured by the First Mortgage, and then to the Owner of the affected Lot; and (b) if there are still funds remaining, the Board shall either transfer them to the Reserve Fund or apply them to the Common Expenses.

14.3.3.2. Election of More than One Owner to Restore the Damaged or Destroyed Owner Improvements. On More than One Lot. If the fire or other casualty causes loss of or damage to Association-Insured Owner Improvements on more than one Lot in a Townhome Cluster, and Restoration of the Association-Insured Owner Improvements on one Lot is not feasible without the Restoration of the Association-Insured Owner Improvements on one or more other Lots in the Townhome Cluster, then the Board shall notify the Owners and First Mortgagees of all the affected Lots in the Townhome Cluster that insurance proceeds are less than ninety percent (90%) of the sum of the estimated sum of the Restoration costs for the damaged or destroyed Association-Insured Owner Improvements and the Betterment Reimbursements, if any, and offer them the option to have the Association Restore the damaged or destroyed Association-Insured Owner Improvements, by paying to the Association, within thirty (30) days after its notice, an aggregate amount that, when added to the available insurance proceeds, equals ninety percent (90%) of the sum of the Restoration costs for the damaged or destroyed Association-Insured Owner Improvements and the payment of Betterment Reimbursements. If, and only if, the Owner or First Mortgagee of every affected Lot in the Townhome Cluster timely exercises its Restoration option and timely pays the required amount, the Board shall proceed in the same manner as in Section 14.3.3.1. Unless the Owners of the affected Lots and their First Mortgagees agree otherwise among themselves, each Owner's share of the aggregate amount paid to the Association to exercise the Restoration option is a fraction, the numerator of which is the number of affected Lots in the Townhome Cluster owned by that Owner and the denominator of which is the total number of affected Lots in the Townhome Cluster. The amounts paid by the Owner's are treated as Limited Assessments against their respective affected Lots.

14.3.3.3. Action To Be Taken If the Owner or Owners of affected Lots Do Not Elect to Restore the Damaged or Destroyed Owner Improvements. If the Owner(s) of the affected Lot(s) do not elect to have the Association Restore the damaged or destroyed Association-Insured Owner Improvements under Sections 14.3.1 or 14.3.2, the Board shall cause the Association to promptly acquire the affected Lot(s) for a price per Lot equal to the sum of the insurance proceeds payable with respect to the Association-Insured Owner Improvements on that Lot and the Betterments Reimbursement payable in connection with that Lot. At the closing of the sale of each affected Lot, the Association shall cause the purchase price to be applied first to satisfy outstanding liens and encumbrances on the Lot in their order of priority (including liens of the Association on the Lot), with the balance, if any, to be paid the Owner. The Association shall take title to the Lot subject to all remaining unpaid liens and encumbrances, including the First Mortgage. The Board may keep one or more the Lots intact or, subject to Laws, resubdivide all or part of one or more of the Lots, in which case the Association shall Record an amendment to this Declaration under Article 17. As long as the Association holds title to a Lot, the Allocated Interest of that Lot is automatically reallocated to the remaining Lots in proportion to their respective Allocated Interests before the Association's acquisition of that Lot. No later than ninety (90) days after the Association has acquired the affected Lots, the Board shall call a special Owners meeting, the notice for which shall: (i) identify the Lots acquired by the Association; (ii) describe the courses of action available to the Association, summarizing the pros and cons of each; and (iii) state that the purpose of the special Owners meeting is to vote on one of those courses of action. The courses of action available to the Association are these:

(a) retain one or more of the acquired Lots as Units in the Development, in which case, the Board shall either:

(I) Restore the Association-Insured Owner Improvements on one or more of those Lots or restore or reconstruct Residences according to new plans and specifications approved by the Design Review Committee, the cost of which shall be paid by one or more of third-party mortgage financing as permitted under this Declaration; funds from the Reserve Fund; one or more special Assessments or General Assessments for one or more of the following fiscal years; and after completion of the Owner Improvements either rent or, with the affirmative vote of the Owners of Lots to which are allocated at least sixty-seven percent (67%) of the votes in the Association, sell the Lots, with the net rental or sales proceeds being revenue to the Association; or

(II) ground lease or, with the affirmative vote of the Owners of Lots to which are allocated at least sixty-seven percent (67%) of the votes in the Association, sell, one or more of the remaining acquired Lots under a contract or lease that requires the buyer or ground lessee to take the actions described in Section 14.3.3(a)(i), with the net rental or sales proceeds being revenue to the Association; or

(b) with the affirmative vote of the Owners of Lots to which are allocated at least sixty-seven percent (67%) of the votes in the Association,, convert one or more of the remaining acquired Lots to part of the Common Elements by an amendment to this Declaration under Article 17, in which case, the Allocated Interest of each Lot converted to part of the Common Elements is automatically reallocated to the remaining Lots in proportion to their respective Allocated Interests before the conversion of the affected Lot or Lots; and the Board shall take whatever action is required to put the converted Lots in a safe, sanitary, lawful and aesthetic condition, or may demolish or modify the existing Improvements on them or make new Improvements to them for the benefit of the Owners, the cost of which shall be a Common Expense; or

(c) with the affirmative vote of the Owners of Lots to which are allocated at least sixty-seven percent (67%) of the votes in the Association,, withdraw one or more of the acquired Lots from the Development, this Declaration and the Act by an Amendment to this Declaration under Article 17, in which case the Allocated Interest of each withdrawn Lot is automatically reallocated to the remaining Lots in proportion to their respective Allocated Interests before the withdrawal of the affected Lot or Lots; and after the withdrawal sell the withdrawn Lots, with the net sales proceeds being revenue to the Association.

The Board shall pursue the course of action approved by the requisite percentage of votes of the Owners. If the requisite percentage of votes of Owners is not cast for any of the options above, the Board shall retain the Lots; Restore them; and after construction is completed, rent them.

Article 15. Eminent Domain; Condemnation.

15.1. Preliminary Actions of Board If Common Elements are Condemned. If all or part of the Common Elements are Condemned, the Board shall take the following action in the order it considers practical under the circumstances:

(a) assess the level of damage or destruction to the Un-Condemned remainder of the Common Elements, and determine whether Restoration would be legal under Laws governing zoning, health and safety;

(b) obtain an estimate of the costs to Restore the Un-Condemned remainder of the Common Elements, including professional fees, permits and licenses, performance bonds and other customary "soft" costs;

(c) participate in negotiations and Condemnation proceedings with the Governmental Authority bringing the Condemnation, to obtain a reasonable reward or purchase price for the Condemned property ("**Condemnation Award**");

(d) if the Common Elements or Association Property is Condemned, notify all Owners and each First Mortgagee that previously requested in writing to receive this type of notice, of the estimate of Restoration and the insurance proceeds available to carry it out; and

(e) if only Association-Insured Owner Improvements are Condemned, notify the Owner(s) of the affected Lot(s) and its or their First Mortgagee(s) that previously requested in writing to receive this type of notice, of the estimate of Restoration and the Condemnation Award available to carry it out; and

"Condemnation or Condemn" means the transfer of title to property to a Governmental Authority under its exercise of eminent domain or the voluntary transfer to title to property by its owner to the Governmental Authority under threat of eminent domain.

15.2. Common Elements or Association Property.

15.2.1. Decision on Whether to Restore the Un-Conderned Remainder of the Common Elements or Association Property. The Association shall Restore the un-Conderned Remainder of the Common Elements and Association Property, whether or not there the Condemnation Award is sufficient to do so, unless:

- (a) the Owners terminate the Development as a common interest community;
- (b) Restoration would be illegal under Laws governing zoning, health or safety;
- (c) sixty-seven percent (67%) of the Owners vote against Restoration of all or part of the un-Conderned Remainder of the Common Elements and/or Association Property; or
- (d) if Declarant has not yet transferred title to the first Lot to someone other than a successor Declarant, the Mortgagee of the Common Elements and Association Property rightfully demands all or a substantial part of the Condemnation Award.

15.2.2. Restoration of Un-Conderned Remainder of the Common Elements and Association Property. Unless the Development is to be terminated as a common interest community under Section 15.2.1(a), the Board shall arrange for and supervise the prompt Restoration of the un-Conderned Remainder of the Common Elements and Association Property (or the parts approved for Restoration), and shall take whatever action is required to leave the un-Restored parts of the un-Conderned Remainder of the Common Elements and Association Property in a safe, sanitary, lawful and aesthetic condition. As attorney-in-fact for the Owners, the Association may take necessary or appropriate action to effect the Restoration without the Owners' further consent. Assessments do not abate during the period from the Condemnation to completion of Restoration.

15.2.3. Funds for Restoration of Un-Conderned Remainder of the Common Elements and Association Property. The Association shall use the Condemnation Award it receives for Restoration (and for putting the un-Restored portion of the un-Conderned Remainder of the Common Elements and Association Property in a safe, sanitary, lawful and aesthetic condition), and, if the Condemnation Award is not sufficient, the excess cost is a Common Expense, and the Board may, without a vote of the Owners, levy a Special Assessment to cover the shortfall or procure funds in whatever other way is not prohibited under this Declaration or the Act.

15.2.4. Disbursement of Funds for Restoration of Un-Conderned Remainder of the Common Elements and Association Property. The Condemnation Award and the amounts received from Special Assessments constitute a fund to pay for Restoration (and putting the un-Restored portion of the un-Conderned Remainder of the Common Elements and Association Property in a safe, sanitary, lawful and aesthetic condition). The Condemnation Award in the fund is deemed entirely spent before Special Assessments. After the Restoration costs are paid, the Board shall distribute the remaining balance in the fund in the following order:

- (a) If part of un-Conderned Remainder of the Common Elements and Association Property is not Restored, and if the un-Restored portion includes Limited Common Elements or Improvements on and benefitting a Lot, the Board shall distribute an amount equal to the Condemnation Award allocable to those Limited Common Elements or Common Elements and/or Association Property to the First Mortgagees of the affected Lots up to the amount secured by the First Mortgages, and then to the Owners of the affected Lots.
- (b) The Board shall then, at its election: (a) transfer the fund balance to the Reserve Fund, or (b) credit the fund balance against Assessments next due from the Owners, in proportion to the Allocated Interests of their Lots.

15.3. Association-Maintained Owner Improvements.

15.3.1. If the Condemnation Award is Sufficient. If the Board determines that Condemnation Award is sufficient to Restore the un-Conderned remainder of the Association-Maintained Owner Improvements, the Board shall arrange for and supervise the prompt Restoration of the un-Conderned remainder of the Association-Maintained Owner Improvements, using the Condemnation Award it receives, and, if Restoration is to be performed on more than one Lot, the

Condemnation Award shall be pooled and used as needed to complete the Restoration, without allocating the proceeds between or among the affected Lots. As attorney-in-fact for the Owners, the Association may take necessary or appropriate action to carry out the Restoration without the further consent of the affected Owners or their First Mortgagees. Assessments do not abate during the period from the Condemnation to completion of Restoration. If a portion of the Condemnation Award remains after Restoration is completed, the Board shall either transfer the remaining balance to the Reserve Fund or apply it to the Common Expenses.

15.3.2. If the Condemnation Award is Insufficient – Non-Material Damage. If the Board determines that Condemnation Award will cover at least ninety percent (90%), but less than one hundred percent (100%) of the Restoration costs for the un-Condemed remainder of the Association-Maintained Owner Improvements, the excess cost is a Common Expense, and the Board shall, without a vote of the Owners, levy a Special Assessment to cover the shortfall (or procure funds in whatever other way is not prohibited under this Declaration or the Act), and then proceed in the same manner as in Section 15.3.1.

15.3.3. If the Condemnation Award is Insufficient – Material Damage or Destruction. If the Board determines that Condemnation Award is less than ninety percent (90%) of the estimated Restoration costs for the un-Condemed remainder of the Association-Maintained Owner Improvements, the Board shall proceed as follows:

15.3.3.1. Election of Owner to Restore the Un-Condemed Remainder of the Association-Maintained Owner Improvements. The Board shall notify the Owner and First Mortgagee of the affected Lot that the Condemnation Award is less than ninety percent (90%) of the estimated sum of the Restoration costs for the un-Condemed remainder of the Association-Maintained Owner Improvements, and offer the Owner and First Mortgagee the option to have the Association to Restore the un-Condemed remainder of the Association-Maintained Owner Improvements, by paying to the Association, within thirty (30) days after its notice, an amount that, when added to the available Condemnation Award, equals ninety percent (90%) of the Restoration costs for the un-Condemed remainder of the Association-Maintained Owner Improvements. This amount shall be treated as a Limited Assessment against the affected Lot. If the Owner and its First Mortgagee elect to exercise the Restoration option and timely pay the required amount, the Board shall then treat the remaining ten percent (10%) as a Common Expense; without a vote of the other Owners, levy a Special Assessment to cover the shortfall. (or procure funds in whatever other way is not prohibited under this Declaration or the Act); and then proceed in the same manner as in Section 15.3.1, except as provided in the next sentence. If, after the Restoration costs are paid in full, there are remaining funds: (a) if the Restoration costs are less than the Limited Assessment paid by the Owner, the Board shall disburse the unspent portion of the Limited Assessment to the First Mortgagee up to the amount secured by the First Mortgage, and then to the Owner of the affected Lot; and (b) if there are still funds remaining, the Board shall either transfer them to the Reserve Fund or apply them to the Common Expenses.

15.3.3.2. Election of More than One Owner to Restore the Un-Condemed Remainder of the Association-Maintained Owner Improvements. On More than One Lot. If the Condemnation causes loss of or damage to Association-Maintained Owner Improvements on more than one Lot in a Townhome Cluster, and Restoration of the un-Condemed remainder of the Association-Maintained Owner Improvements on one Lot is not feasible without the Restoration of the un-Condemed remainder of the Association-Maintained Owner Improvements on one or more other Lots in the Townhome Cluster, then the Board shall notify the Owners and First Mortgagees of all the affected Lots in the Townhome Cluster that the Condemnation Award is less than ninety percent (90%) of the Restoration costs for the un-Condemed remainder of the Association-Maintained Owner Improvements, and offer them the option to have the Association Restore the un-Condemed remainder of the Association-Maintained Owner Improvements, by paying to the Association, within thirty (30) days after its notice, an aggregate amount that, when added to the Condemnation Award, equals ninety percent (90%) of the Restoration costs for the un-Condemed remainder of the Association-Maintained Owner Improvements. If, and only if, the Owner or First Mortgagee of every affected Lot in the Townhome Cluster timely exercises its Restoration option and timely pays the required amount, the Board shall proceed in the same manner as in Section 15.3.3.1. Unless the Owners of the affected Lots and their First Mortgagees agree otherwise among themselves, each Owner's share of the aggregate amount paid to the Association to exercise the Restoration option is a fraction, the numerator of which is the number of affected Lots in the Townhome Cluster owned by that Owner and the denominator of which is the total number of affected Lots in the Townhome Cluster. The amounts paid by the Owner's are treated as Limited Assessments against their respective affected Lots.

15.3.3.3. Action To Be Taken if the Owner or Owners of affected Lots Do Not Elect to Restore the Un-Condemed Remainder of the Owner Improvements. If the Owner(s) of the affected Lot(s) do not elect to have the Association Restore the un-Condemed remainder of the Association-Maintained Owner Improvements under

Sections 15.3.1 or 15.3.2, the Board shall cause the Association to promptly acquire the affected Lot(s) for a price per Lot equal to the Condemnation Award payable with respect to the Association-Maintained Owner Improvements on that Lot payable in connection with that Lot (allocated based on the Association's most recent appraisal of the replacement cost of those Improvements). At the closing of the sale of each affected Lot, the Association shall cause the purchase price to be applied first to satisfy outstanding liens and encumbrances on the Lot in their order of priority (including liens of the Association on the Lot), with the balance, if any, to be paid the Owner. The Association shall take title to the Lot subject to all remaining unpaid liens and encumbrances, including the First Mortgage. The Board may keep one or more the Lots intact or, subject to Laws, resubdivide all or part of one or more of the Lots, in which case the Association shall Record an amendment to this Declaration under Article 17. As long as the Association holds title to a Lot, the Allocated Interest of that Lot is automatically reallocated to the remaining Lots in proportion to their respective Allocated Interests before the Association's acquisition of that Lot. No later than ninety (90) days after the Association has acquired the affected Lots, the Board shall call a special Owners meeting, the notice for which shall: (a) identify the Lots acquired by the Association; (b) describe the courses of action available to the Association, summarizing the pros and cons of each; and (c) state that the purpose of the special Owners meeting is to vote on one of those courses of action. The courses of action available to the Association are the same as those described in Section 14.3.3.3.

15.4. Condemnation of All or Part of a Lot Where No Restoration Is Required. If only part of a Lot is Condemned, and the remainder can practically and legally used for the purposes permitted by this Declaration without the need for Restoration under Section 15.3, then the only effect on the Owner's rights and obligations under this Declaration is that the boundaries of the Lot are adjusted, but the Lot's Allocated Interest remains the same. If an entire Lot is Condemned, or if the Owner is left with a remnant that cannot practically or legally be used for the purposes permitted by this Declaration, then, unless the Condemnation decree provides otherwise, the Owner shall transfer title to the remnant to the Association without compensation, free and clear of Mortgages and other security interests and liens (with the Owner receiving directly from the Governmental Authority a Condemnation Award for the Lot and its Owner Improvements), and, upon the Association's acquisition of the remnant, that Lot's Allocated Interest is automatically reallocated to the remaining Lots in proportion to their respective Allocated Interests before the Condemnation, and the remnant becomes part of the Common Elements. The Association shall, without need for consent by the Owners, including the Owner(s) and First Mortgagees of the affected Lot(s), amend this Declaration and the Map to reflect the reallocation of Allocated Interests and the revised boundaries of the Lot and/or Common Elements affected by the Condemnation under this Section.

Article 16. Enforcement

16.1. Defaults by Owners in Performing Their Obligations under this Declaration. The occurrence of any of the following constitutes a default by an Owner of its obligations under this Declaration ("Owner Default"):

- (a) failing to pay an Assessment or other amount due to the Association within five (5) days after the Association's notice of non-payment;
- (b) failing to correct, within thirty (30) days after the Association's notice, a physical condition that violates this Declaration that Owner has created or allowed to exist or continue on its Lot or that Owner has created elsewhere in the Development; and
- (c) failing to stop, within two (2) days after the Association's notice, an activity engaged in by the Owner or its Related Users that violates this Declaration.

The Board may adopt Rules that shorten the cure periods for conditions or activities that pose an imminent threat of injury to person or loss of or damage to property, are criminal in nature or constitute a serious nuisance. The Board may also, on a case-by-case basis, lengthen the cure period for conditions or activities that cannot, using reasonable diligence, be corrected within the cure periods above, provided that the Owner starts the cure during the original cure period and then diligently pursues it to completion. If requested in writing by a First Mortgagee, the Association shall, at the same time it sends a default notice to an Owner, send a copy of the default notice to the address included with the First Mortgagee's request; however, neither Association, the Directors, the Officers or their employees, contractors or agents, are liable to a First Mortgagee for failing to comply with this sentence.

16.2. Hearing; Due Process. The Board shall establish procedures in the Bylaws or the Rules that give an Owner an opportunity to be heard before the Board exercises its rights and remedies under this Article, but the Board may, in its discretion,

elect to not provide an opportunity to be heard if the Owner Default is the non-payment of a General Assessment, Special Assessment or Limited Assessment.

16.3. Association's Right to Enter onto a Lot. The Association, the Directors and Officers and their respective employees, contractors and agents may, on reasonable advance notice, enter onto a Lot to ascertain whether the Lot, its Owner and/or its Related Users comply with this Declaration and the other Governing Documents, and, at the election of Declarant or the Association, to perform remedial action.

16.4. Association's Remedies for Owner Defaults.

16.4.1. Monetary Owner Default. An Assessment or other amount payable to the Association that is not fully paid within ten (10) days after it is due bears interest from the due date until paid in full at the Delinquency Rate. In addition, the Association shall assess a monthly late charge for each month an Assessment is not paid in full. If an installment of an Assessment or other amount payable to the Association remains unpaid in full for thirty (30) days after the due date, the Board may, and if the installment remains unpaid in full for ninety (90) days after the due date, the Board shall: (a) declare the balance of the Assessment immediately due and payable; and (b) exercise its remedies at law or in equity, individually, sequentially or together, including seeking money damages against the Owner and/or foreclosing on the Association's lien against the Lot. The Association's Legal Costs are added to the delinquent Assessment as they are incurred, and are recoverable by the Association from the delinquent Owner or from the proceeds of the foreclosure sale of its Lot. The Association may bring a foreclosure action to enforce its lien against a Lot without being estopped or otherwise precluded from doing so again for the same or subsequent delinquent Assessments. The Association may bid on a Lot at a foreclosure or other legal sale, and if the successful bidder, may purchase it and then hold, lease, mortgage and/or convey title to it, and, until title is transferred, cast the votes appurtenant to the Lot. If the Owner abandons or vacates its Lot after a foreclosure action is filed, the Association may take possession of the Lot or apply for the appointment of a receiver without notice to the Owner, and may thereafter rent the Lot pending the foreclosure judgment. The rights of the Association with respect to a Lot (but not with respect to the Lot Owner) are, to the extent permitted by the Act, subordinate to the rights of a First Mortgagee as stated in its Mortgage (including any assignment of rents).

16.4.2. Non-Monetary Owner Default. After complying with the procedures adopted by the Board under Section 16.2, the Association, may cause the condition giving rise to the Owner Default to be corrected and levy a Default Assessment against the Lot for the cost of the corrective action (plus fifteen percent (15%) for overhead).

16.4.3. All Owner Defaults. In addition to, and not in lieu of, the specific remedies above, if an Owner Default exists, the Association may, after complying with the procedures adopted by the Board under Section 16.2, enforce the provisions of this Declaration and enforce and protect its rights under it by:

(a) after ten (10) days notice (which is in addition to the notice periods in Section 16.1):

- (i) suspending the Owner's voting rights with respect to the Lot or Lots until the owner Default is cured;
- (ii) suspending an Owner's use of the Common Elements (other than for ingress or egress);
- (iii) posting on its web site or on a bulletin board at a conspicuous place within the Common Elements, notices of Owner Defaults (but posting an Owner Default is not a precondition to the Association's exercise of its other remedies);

(b) levying the fine or fines provided for in Rules adopted by the Association; and/or

(c) suing in equity or at law for specific performance by the Owner of its obligations, or for other legal or equitable relief.

16.5. Damage or Destruction of Common Elements by an Owner. If an Owner or its Related User damages or destroys part of the Common Elements, whether or not the occurrence constitutes an Owner Default, the Board may, but is not required to, cause the damage or destruction to be repaired or replaced to its condition before the damage or destruction, and levy a Default Assessment against the Lot for the cost of the repair or replacement (plus fifteen percent (15%) for overhead).

16.6. Association's Duty of Care to Owners. Unless otherwise expressly stated in this Declaration, the duty of care the Association owes to Owners is that of a landowner to a licensee, notwithstanding the interest the Owners hold in the Common Elements through their Membership in the Association. Notwithstanding the Association's duty to maintain and repair the Common Elements, and except to the extent covered by insurance carried by the Association, the Association is not liable to

Owners for injury or damage to the Common Elements caused by a latent condition or by Owners, other persons or Unavoidable Circumstances. Neither Declarant, the Association, the Directors, Officers or their respective owners, managers, directors, officers, employees or agents is liable for incidental or consequential damages for failure to inspect, maintain or repair a Lot or Improvements, or for failure to enforce the Governing Documents.

16.7. Actions by or against Other Persons under the Governing Documents. Except to the extent otherwise expressly stated in the Act or this Declaration, an Owner or class of Owners may enforce this Declaration and the other Governing Documents against the Association, the Directors, the Officers, the managing agent of the Association and their respective employees, contractors and agents, or against another Owner or Owners and other persons, by proceedings at law or in equity for monetary or injunctive relief.

16.8. Legal Costs. If legal action, arbitration or other similar proceeding is initiated to enforce or interpret a provision of the Act, this Declaration or the other Governing Documents, the prevailing party is entitled to an award of its Legal Costs. The "prevailing party" is the party that receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. "Legal Costs" are the reasonable attorneys' fees, court costs and litigation expenses incurred by a party in enforcing or defending its rights or taking other legal action or seeking legal advice under or in connection with the Act, this Declaration or the other Governing Documents or in pursuing claims or defending itself against claims by third parties in connection with the Act, this Declaration or other Governing Documents.

16.9. Remedies Cumulative. Whenever this Declaration provides a specific remedy, unless otherwise expressly stated it is in addition to, and not in limitation of, other rights or remedies available to a party under this Declaration or at law or in equity.

16.10. Statutory Limitation on Claims. Pursuant to the Act, neither the Association or an Owner may bring an action to enforce a building restriction contained in this Declaration or the other Governing Documents or to compel the removal of an improvement that violates a building restriction unless the action is commenced within one (1) year after the date the person bringing the action knew or in the exercise of reasonable diligence should have known of the violation.

16.11. Alternative Dispute Resolution

16.11.1. Introduction. The Act recognizes that the cost, complexity, and delay inherent in court proceedings make litigation a particularly inefficient means of resolving neighborhood disputes, and consequently requires associations of common interest communities such as the Development to adopt by January 1, 2007, written policies of their procedures to address disputes between them and the unit owners in their common interest communities, that make use of mediation or arbitration as alternatives or preconditions to filing a complaint between a unit owner and the association in certain circumstances. This Section states the basic guidelines under the Act to be followed by the Board in developing and maintaining written policies for alternative dispute resolution, which may be contained in the Bylaws or the Rules.

16.11.2. Voluntary Mediation in Certain Cases. In a controversy between the Association and an Owner that does not involve an imminent threat to the peace, health or safety of the Development, either party may submit the matter to mediation before legal proceedings are commenced. Either party may terminate the mediation process without prejudice to the rights of either party. If the parties reach agreement through mediation, either one may present the agreement to the court with jurisdiction over the matter as a stipulation, and if a party later violates the stipulation, the non-violating party may immediately apply to the court for relief.

16.11.3. Binding Arbitration. The Board has the authority and discretion to specify situations that do not involve an imminent threat to the peace, health or safety of the Development, in which the Association and the Owners must resolve disputes between them by binding arbitration under the "Uniform Arbitration Act", part 2 of article 22 of title 13, C.R.S.

16.11.4. Party Wall Disputes. If a dispute arises between or among Owners in connection with the Party Wall their Lots share, it shall be settled by non-binding arbitration as follows: One or more of the disputing Owners shall apply to the Board for resolution of the dispute, and within twenty (20) days after the Owner's application, the President shall appoint three (3) individuals (including one or more Directors or Owners, or a combination of them), none of which is a party to the dispute, to act as an arbitration panel. The arbitration panel and the Owners shall proceed with arbitration following the process set forth in the Colorado Uniform Arbitration Act, C.R.S. §§ 13-22-201, et seq. The findings and decision of the arbitration panel shall be as determined by the majority of the panel members.. No party to the dispute may bring legal action against another party to the dispute until the arbitration panel has rendered its findings and decision. No claim or dispute shall be arbitrated under this Section if, when arbitration is requested, the applicable statute of limitations would bar a legal proceeding for that claim or dispute.

Article 17. Amendment of this Declaration.

This Declaration may be amended (and, as used in this Article, the word "amend" and its forms includes "modify" and "supplement," "in whole or part," by a written instrument, effective when Recorded, as provided below.

17.1. In General. This Declaration may be amended by the affirmative vote or agreement of Owners of Lots to which more than sixty-seven percent (67%) of the votes in the Association are allocated, subject to the other requirements of this Article. The amendment shall bear the notarized signature of the Association and either: (a) the notarized signature of each Owner that voted in favor of or agreed to the amendment, or (b) a certification, signed by an Officer and notarized, that Owners of Lots to which the requisite votes in the Association are allocated voted in favor of or agreed to the amendment.

17.2. Additional Consents. The following additional approvals or consents are required under the circumstances below:

17.2.1. An amendment that would create or increase Special Declarant Rights, increase the Maximum Number of Lots, or change a Lot's boundaries or Allocated Interest requires the approval by the vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, including sixty-seven percent (67%) of the votes allocated to Lots not owned by Declarant.

17.2.2. An amendment that would have a disproportionate, material and adverse effect on a Lot or its Owner (for example, changing a Lot's boundaries; changing a Lot's Allocated Interest other than in common with the other Lots; reallocation or re-assignment of a Limited Common Element assigned to a Lot; or imposing restrictions on the use of a Lot that are not imposed on the other Lots), requires the consent of that Lot Owner and the First Mortgagee of that Lot, evidenced by the notarized signatures of the Owner and First Mortgagee on the amendment (or, in lieu of the First Mortgagee's signature, a certification, signed by the Secretary and notarized, that the First Mortgagee's consent is deemed given pursuant to Section 17.8)

17.2.3. An amendment that is to go into effect while Declarant holds title to more than one Lot requires Declarant's consent, evidenced by Declarant's notarized signature on the amendment.

17.3. Amendments by the Association. The Association may amend this Declaration without the affirmative vote or agreement of Owners:

(a) to comply with requirements of the Small Business Administration, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Department of Veteran's Affairs (formerly known as the Veteran's Administration), or other governmental agency, public, quasi-public or private entity that performs functions similar to those named above,

(b) to induce any of the entities identified in clause (a) above to make, purchase, sell, insure or guarantee first mortgages on Lots;

(c) to bring this Declaration into compliance with the Act,

(d) to correct clerical or typographical or similar errors in this Declaration or the Map;

(e) to reallocate Limited Common Elements between or among Lots, pursuant to Section 17.5;

(f) in the case of Condemnation as provided in Section 15.6; and

(g) as otherwise provided in the Act.

17.4. Amendments by Declarant. Declarant may amend this Declaration by an instrument bearing its notarized signature, without the consent of Owners, First Mortgagees or the Association:

(a) until Declarant transfers title to the first Lot to someone other than a successor Declarant; and

(b) for the reasons described under clauses (a), (b) and (c) in Section 17.3.

17.5. Adjustment of Boundaries of Adjoining Lots. On the application to the Board by Owners of two or more adjoining Lots, the Association may amend this Declaration to adjust the adjoining Lot boundaries. The Owners' application shall be in

writing, signed by the Owners, and include reasonable evidence that the Owners have complied with Laws and the adjustment of boundaries would not violate the terms of Mortgages on the Lots. The Owners shall also prepare, at their cost, the form of amendment, including an amended Map that conforms to the Act. The application shall also contain whatever other information the Board reasonably requests. The Board may also require the Owners to make a cash deposit against Legal Costs and other expenses the Association estimates it may incur in reviewing and effectuating the application.

17.6. Reallocation of Limited Common Elements. On the application to the Board by the Owners of Lots to which a Limited Common Element is assigned, the Association may amend this Declaration to reallocate the Limited Common Element between or among those Lots. The Owners' application shall be in writing, signed by the Owners, and include reasonable evidence that the Owners have complied with Laws and the reallocation of the Limited Common Element would not violate the terms of Mortgages on the Lots. The Owners shall also prepare, at their cost, the form of amendment, including an amended Map that conforms to the Act. The application shall also contain whatever other information the Board reasonably requests. The Board may also require the Owners to make a cash deposit against Legal Costs and other expenses the Association estimates it may incur in reviewing and effectuating the application.

17.7. Limiting Association's Power to Deal with Declarant. This Declaration may not be amended to limit the power of the Association to deal with Declarant unless those limitations apply equally to other Owners.

17.8. Procedure for Obtaining First Mortgagee's Deemed Consent. When the consent of a First Mortgagee is required for an amendment, the First Mortgagee's notarized signature is not required on the face of the amendment if the amendment contains a certification, signed by an Officer and notarized, that the First Mortgagee's consent is deemed given because the Association sent, by certified mail, a notice of the proposed amendment, together with a copy of the amendment, to the First Mortgagee at its most recent address as shown on the Recorded Mortgage, and the Association did not receive a negative written response from the First Mortgagee within forty-five (45) days after the date of delivery of the Association's notice.

17.9. Expenses. Expenses associated with preparing and Recording an amendment and obtaining the necessary consents of Owners, First Mortgagees and/or Declarant are a Common Expense, except that: the expenses shall be paid by: (a) the Owners that initiated an amendment to reallocate Limited Common Elements among them or the resubdivide their Lots; and (b) Declarant, as to amendments it initiates under Section 17.4(a) and 17.4(b).

17.10. Attorney In Fact. This Declaration reserves and grants to the Board a power coupled with an interest to make or consent to an amendment on behalf of each Owner and First Mortgagee. Each Owner, by accepting its deed, and each First Mortgagee, by accepting a security interest in a Lot as evidenced by the Recorded mortgage, is deemed to have acknowledged and consented to the reservation and grant to the Board of the power to make, sign and Record an amendment on behalf of that Owner and First Mortgagee.

17.11. Statute of Limitations. Pursuant to the Act, no action to challenge the validity of an amendment made according to this Section may be brought more than one (1) year after the amendment is Recorded.

Article 18. Termination of Development; Revocation of this Declaration.

This Declaration may be revoked, and the Development terminated as a common interest community under the Act, as provided in the Act; however, no termination of this Declaration is effective unless the Recorded instrument effecting the termination is approved by the City, as evidenced by its notarized signature on the instrument terminating this Declaration..

Article 19. Miscellaneous.

19.1. Term of Declaration. The term of this Declaration shall be perpetual.

19.2. Successors and Assigns. Each provision of this Declaration and the other Governing Documents extends to, binds and benefits Declarant, the Association and the Owners and their respective heirs, legal representatives, successors and permitted assigns, and runs with the land and binds persons having a right, title or interest in all or part of the Real Property, and their respective heirs, legal representatives, successors, and assigns.

19.3. Rules of Construction. In interpreting this Declaration, the following rules apply, unless this Declaration expressly provide otherwise in a particular case:

19.3.1. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for the development of the Lots and promoting and effectuating the fundamental concepts stated in the Statement of Relevant Facts.

19.3.2. If a conflict arises among the terms of the Governing Documents, or between the Governing Documents and the Act: (a) the Bylaws govern the Rules, but only to the extent that the Rules, if applied, would violate a specific provision in the Bylaws; (b) this Declaration governs the Bylaws, but only to the extent that the Bylaws, if applied, would violate a specific provision in this Declaration; and (c) the Act governs this Declaration, but only to the extent that this Declaration, if applied, would violate a specific provision in the Act.

19.3.3. The headings of Sections, Exhibits and Schedules are for convenience only and do not limit, expand or construe the contents of the Sections, Exhibits or Schedules. References to Sections, Schedules and Exhibits are to sections, schedules and exhibits included in or attached to this Declaration unless otherwise specified. Schedules and Exhibits attached to this Declaration are incorporated in this Declaration by reference.

19.3.4. Whenever context requires: (a) the singular includes the plural, and vice versa (and in that connection, when "(s)" is added to the end of a word, it means either or both the singular and plural form of that word, for example, "person(s)" means "the person or persons"); and (b) the masculine includes the feminine and neuter genders, and vice versa.

19.3.5. The words "including" or "such as", or words of similar import do not limit the statement to which they refer to specific items, whether or not language of non-limitation (such as "without limitation", or "but not limited to") is used, but include all items that reasonably fall within the broadest scope of the statement.

19.3.6. The expression "and/or" means either or both, for example, "x and/or y" means "either x or y, or both."

19.3.7. When an obligation is imposed on a party to take an action under this Declaration or the other Governing Documents, but no time frame is specified, the party shall take the action promptly.

19.3.8. When a party's consent or approval is to be given or denied, unless otherwise stated, it shall be given or denied in advance in writing and shall not be unreasonably delayed, conditioned or withheld.

19.3.9. If a party is authorized to take an action "at any time," it is also authorized to take that action from time to time.

19.4. Business Days. If a date specified in this Declaration for taking an action or giving notice, or for the occurrence of an event or satisfaction of a condition is not a business day, then the date is postponed to the next business day. A "business day" means a day other than Saturday, Sunday or a holiday observed by national banks.

19.5. Governing Law. This Declaration is governed by the internal laws of the State of Colorado without regard to the laws regarding conflicts of laws.

19.6. Severability. If a court determines all or part of a provision of this Declaration is invalid or unenforceable as written, the parties agree to limit the provision so as to render it valid and enforceable or, if it is not feasible to do so, to delete it from this Declaration, as circumstances require, to enable the court to construe the provision in question as if it had originally appeared in this Declaration in its limited form, or as if it had never been included in the first place, as the case may be. The invalidity of a provision of this Declaration does not impair or affect the validity, enforceability or effect of the rest of this Declaration.

19.7. Unavoidable Circumstances. If Declarant, the Association or an Owner fails to timely perform its obligations under this Declaration or the other Governing Documents as a result of Unavoidable Circumstances, then the failure does not constitute a default and the time for performance provided for in this Declaration and the other Governing Documents is extended by the period of delay resulting from Unavoidable Circumstances. "**Unavoidable Circumstances**" means events or circumstance beyond the party's reasonable control, including so-called "acts of God," fire, flood, other natural calamities, accidents, unusual delays in deliveries, unavoidable casualties, labor disputes, strikes, lockouts or picketing (legal or illegal), wars, riots, acts of terrorism, changes in or unexpected interpretations of Laws, adverse weather conditions, Condemnation or other actions of Governmental Authorities or utility companies or shortages of labor, fuel, power or materials. An Owner may not claim unavailability of funds as an Unavoidable Circumstance unless the lack of funds results from the Association's failure to pay the Owner funds to which the Owner is entitled.

19.8. Mechanic's Liens. The Recording of this Declaration serves as notice to persons with the right to file mechanics liens against real property in the State that, except as provided in the following sentence, the Association expressly denies its consent

for labor or material to be furnished to or for the Common Elements or the Lots, to the extent the furnishing of labor or material would provide the basis for the filing of a mechanic's lien against the Common Elements or against a Lot other than the Lot to which labor or materials are to be furnished. Notwithstanding the immediately preceding sentence, the furnishing of labor or materials to or for the Common Elements and/or a Lot shall be the basis for the filing of a mechanic's lien, to the extent permitted by Laws: (a) against the Common Elements and/or that Lot if the Board authorizes in writing the furnishing of labor and materials; and (b) against another Lot if the furnishing of labor and materials if the Owner of the other Lot authorizes in writing the filing of a lien against its Lot. The Owner requesting and contracting for labor or materials (or on whose behalf the Owner's agent, contractor or sub-contractor requests or contracts) for labor or materials to be furnished to or for its Lot is solely responsible for the payment of that labor and material, and only that Owner's Lot is subject to a mechanic's lien. Each Owner indemnifies and holds harmless the other Owners and the Association, the Board, the Officers and their respective owners, managers, directors, employees, agents and contractors, from liability arising from claims and liens by persons that furnished labor or materials to the indemnifying Owner's Lot or at the request or direction or on behalf of the indemnifying Owner.

19.9. Nonwaiver. Unless otherwise expressly provided in this Declaration, a party's waiver of a condition precedent to its performance or the other party's breach of this Declaration does not constitute a waiver of another condition precedent or breach (whether preceding or succeeding, or similar or different in nature). By accepting payment or performance from a breaching party, the non-breaching party does not waive the breach, even if the breach was known when it accepted payment or performance. Failure or delay in exercising a right arising out of a party's breach of this Declaration or the other Governing Documents does not waive the breach, limit or prevent the non-breaching party from later exercising its rights or modify the terms of this Declaration or the other Governing Documents, even if the breach continues or is repeated.

19.10. Notices. Each Owner shall file its correct mailing (or e-mail) address with the Association and shall notify the Association promptly in writing of changes. Notices, elections and demands to be given by one party to the other under this Declaration, shall, unless otherwise expressly stated in this Declaration or the Bylaws, be written and: delivered: (a) in person; (a) by overnight courier service, with evidence of receipt or refusal, (b) by United States mail, postage prepaid, or (c) electronically, either by direct e-mail; however, electronic notice shall be accompanied by notice using one of the other means unless an Owner agrees in writing to waive notices other than electronic notice. Notices to an Owner shall be addressed to the last mailing address (or e-mail address) on file with the Association. Notices and demands are given and effective: (i) upon receipt or refusal, if by personal delivery; (ii) one (1) business day after deposit with an overnight courier service, (iii) three (3) days after deposit in the United States mails, if mailed, and (iv) at the recorded time of transmittal if during regular business hours on a business day, otherwise on the following business day, if by e-mail.

19.11. Legal Significance of Association's Approval or Consent. The Association's review, approval and consent powers are for its benefit only, and its review, approval or consent does not constitute a representation concerning legality, safety or other matters.

19.12. Counterparts. This Declaration may be signed in two or more identical counterparts, any one of which may contain the signatures of fewer than all of the parties, but all of which are construed together as a single instrument.

19.13. No Restrictions on Freedom of Speech. No provision, covenant, condition or restriction contained in this Declaration or the other Governing Documents may impair the rights guaranteed by the First Amendment to the Constitution of the United States, the Constitution of the State of Colorado, or may be applied to discriminate against an individual in a manner prohibited by Laws.

Article 20. Matters relating to Declarant.

20.1. Development Rights. Declarant has reserved no Development Rights to itself.

20.2. Special Declarant Rights. Declarant reserves to itself and successor Declarants the following rights ("**Special Declarant Rights**"), which, unless otherwise provided in this Declaration, may be exercised without the consent or approval of the Association, the Owners or, except as otherwise provided below, the City:

- (a) construct or install improvements indicated on the Plat or Map until Declarant has completed all those improvements, and any warranty period associated with them expires;
- (b) maintain sales offices, management offices, signs advertising the Development and models within Lots owned by Declarant and in the Common Elements until Declarant transfers title to the last Lot it owns to someone other than a successor Declarant;

(c) use, and permit others to use, easements through the Common Elements (including Limited Common Elements) for ingress and egress and otherwise, to make improvements in the Development and/or discharge Declarant's obligations under this Declaration or the Act, until Declarant has no further rights or obligations under this Declaration;

(d) appoint and remove Directors and Officers until the end of the Declarant Control Period;

(e) appoint and remove members of the Design Review Committee until the earlier of the date that the Design Review Committee approves the plans for the last Residence on the last Lot, or that Declarant transfers title to all the Lots (other than to a successor Declarant); and Improvements that Declarant installs or constructs in the Development while Declarant has the power to appoint and remove members of the Design Review Committee are deemed approved by the Design Review Committee without need for written evidence; and

(f) maintain Signs on the Common Elements and in Lots owned by Declarant advertising the Development and the availability of Lots for sale and Lots or space in Lots for lease until Declarant transfers title to the last Lot it owns to someone other than a successor Declarant

20.2.2. Declarant Control Period. "Declarant Control Period" means the period beginning the date this Declaration is Recorded and ending on the earlier of: (a) sixty (60) days after Declarant has conveyed to Owners (other than a successor Declarant) title to seventy-five percent (75%) of the sum of the existing Lots; or (b) two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business. Declarant may voluntarily relinquish its power as the Declarant before the end of the Declarant Control Period by Recording a notice to that effect, and, in doing so, may, if provided in its notice, require that during the remainder of the Declarant Control Period, specified actions of the Association or Board are not effective until the Declarant approves them.

20.2.3. Owners; Right to Elect Directors during Declarant Control Period. During the Declarant Control Period, the Owners other than Declarant have the right to elect one or more Directors on the following schedule:

(a) within sixty (60) days after the conveyance to Owners (other than a successor Declarant) of title to twenty-five percent (25%) of the sum of the existing Lots, at least one Director but no fewer than twenty-five percent (25%) of the Directors; and

(b) within sixty (60) days after the conveyance to Owners (other than a successor Declarant) of title to fifty percent (50%) of the sum of the existing Lots, no fewer than thirty-three and one-third percent (33-1/3%) of the Directors.

20.2.4. Standard of Care for Directors and Officers Appointed by Declarant. Directors and Officers appointed by Declarant shall, in the performance of their duties during the term of their appointment, exercise the care required of fiduciaries of the Owners.

20.2.5. Transfer of Special Declarant Rights. Declarant may, without the approval of the Association or the Owners, transfer some or all of the Special Declarant Rights to a successor Declarant by a recorded instrument evidencing the transfer signed by Declarant and the successor Declarant.

20.2.6. Declarant's Liability for Initial Common Expenses. Until the Association levies the first General Assessment (which may, but need not be, before the end of the Declarant Control Period), Declarant pays one hundred percent (100%) the Common Expenses.

20.2.7. Declarant Not Liable for Funding Reserve Fund. Declarant is not responsible in its capacity as Declarant for funding or contributing to the Reserve Fund; however, Declarant is not relieved of its obligation to pay Assessments on the Lots it owns.

20.3. Declarant's Turn-Over of Governance and Control of Association to the Owners.

20.3.1. First Owners Meeting to Elect New Board. No later than the end of the Declarant Control Period, Declarant shall convene an Owners meeting to elect a new Board. At the Owners meeting at which a quorum is present, the majority of Owners present at the meeting in person or by proxy (other than Declarant) shall elect the majority of the Directors, and the newly elected Directors constituting the majority shall be Owners other than Declarant (and for that purpose, owners, managers, directors, officers and employees of Declarant are considered to be the Declarant). If Declarant, after making a reasonable effort, is unable to convene an Owners meeting at which a quorum is present, Declarant may resign as

Declarant after thirty (30) days notice to the Owners. If Declarant fails to timely convene an Owners meeting, the Owners holding ten percent (10%) of the Allocated Interests in the Association may call the Owners meeting.

20.3.2. Declarant's Turn-Over of Documents, Property and Control. Within sixty (60) days after the new Board is elected under Section 20.3.1, Declarant shall deliver to the Association possession and control of property belonging to the Owners or the Association that had been in Declarant's possession or control, including:

- (a) the original or a certified copy of this Declaration, the Articles, Bylaws, Rules, the minute book and other books and records of the Association;
- (b) an accounting of Association funds and financial statements, from the date the Association received the funds through the last day of the Declarant Control Period, audited (at no cost to the Association) by an independent certified public accountant and accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons why.
- (c) Possession or control of the Association's funds;
- (d) Declarant's tangible personal property (accompanied by an inventory) that Declarant previously represented as owned by the Association, or that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Elements;
- (e) a copy, for the Association's nonexclusive use, of plans and specifications the Declarant used in constructing Improvements in the Common Elements or elsewhere in the Development;
- (f) insurance policies then in force in which the Owners, the Association or the Directors and Officers are named as insureds;
- (g) copies of certificates of occupancy issued with respect to Improvements in the Development installed or constructed by Declarant;
- (h) copies of other permits issued by Governmental Authorities applicable to the Development that are currently in force or were issued within one year before the Turn-Over Date;
- (i) unexpired written warranties from contractors, suppliers, and manufacturers;
- (j) a roster of Owners and First Mortgagees and their addresses and telephone numbers, if known;
- (k) employment contracts to which the Association is a party, and
- (l) service contracts to which the Association is a party or that obligate the Association or the Owners to pay a fee to persons performing the services.

20.3.3. Termination of Pre-Turn-Over Contracts and Leases. The Board elected by the Owners after the Turn-Over Date may terminate the following contracts and/or leases previously entered into by the Association without penalty on at least ninety (90) days' notice to the other party:

- (a) management contracts, employment contracts, or leases of recreational or parking areas or facilities, regardless of the other contracting party's identity;
- (b) contracts or leases between the Association and Declarant or an affiliate of Declarant; or
- (c) contracts or leases that, based on circumstances when they were entered into, were not in good faith or were unconscionable to the Owners.

20.4. Other Provisions related to Declarant

20.4.1. Declarant's Right to Transfer. Declarant reserves the right to transfer, assign, mortgage or pledge all or part of its privileges, rights, title and interests under this Declaration. Upon assignment, the assignee becomes the successor Declarant, and, to the extent permitted by the Act, the assigning Declarant is relieved from liability arising from the

performance or non-performance of the obligations of Declarant accruing after the Recording of the assignment. Except as may be provided in the Act, no successor Declarant has or incurs liability for the obligations or acts of a predecessor Declarant. If the Declarant ceases to exist or resigns and has not made an assignment, the Owners of Lots to which sixty-seven percent (67%) of the votes in the Association are allocated may appoint a successor to the Declarant in an instrument, effective when Recorded, bearing the notarized signature of each Owner that voted in favor of or agreed to the appointment, or (b) a certification, signed by an Officer and notarized, that Owners of Lots to which the requisite votes in the Association are allocated voted in favor of or agreed to the appointment.

20.4.2. No Representations or Warranties. EXCEPT TO THE EXTENT SPECIFICALLY STATED IN WRITING AND SIGNED BY DECLARANT, DECLARANT HAS NOT MADE, NOR HAS ANYONE MADE ON ITS BEHALF, AND DECLARANT DISCLAIMS, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE DEVELOPMENT, THE LOTS, THE COMMON ELEMENTS OR THE IMPROVEMENTS, AS TO ITS OR THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, OR FITNESS FOR INTENDED USE; THE VALIDITY AND ENFORCEABILITY OF THIS DECLARATION OR THE OTHER GOVERNING DOCUMENTS; THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COSTS OF MAINTENANCE, TAXES OR REGULATION OF THE LOTS OR THE COMMON ELEMENTS; OR OTHERWISE.

20.4.3. Liability Imposed on Declarant by the Act. Declarant, the Association and each Owner acknowledge that Section 311 of the Act, as in effect on the Effective Date, contains provisions to the following effect (and this summary is qualified in its entirety by the Act): Neither the Association nor the Owners (other than Declarant in its capacity as an Owner) are liable for claims based on Declarant's acts or omissions in connection with the Development. Other claims by anyone alleging an act or omission by the Association shall be brought against the Association, not the Owners, and the Owners have no personal liability with respect to those claims. If the act or omission occurred during the Declarant Control Period, and the Association gives Declarant reasonable notice of and an opportunity to defend the claim, Declarant is liable to the Association and to any Owner for tort losses suffered by them (to the extent not covered by insurance) and costs the Association incurred solely as a result of Declarant's act or omission that was the basis of the claim. Whenever Declarant is liable to the Association under Section 311 of the Act, Declarant is also liable for the Association's Legal Costs. Any statute of limitation affecting the Association's right of action under Section 311 of the Act is tolled during the Declarant Control Period. An Owner is not precluded from maintaining an action contemplated by Section 311 of the Act by virtue of being an Owner, Director or Officer. Declarant is liable to the Association for funds of the Association collected during the Declarant Control Period that were not properly expended.

IN WITNESS WHEREOF, the parties below signed this **Declaration of Restrictions, Covenants and Easements for Ridgewood Heights, Grand Junction, Colorado**, as of the day, month and year first above written.

[Signatures appear on following pages.]

EXHIBIT A
LEGAL DESCRIPTION OF THE REAL PROPERTY

LOTS 1 THROUGH 23, INCLUSIVE, IN BLOCK 1; AND LOTS 1 THROUGH 48, INCLUSIVE, IN BLOCK 2, AND TRACTS A
THROUGH I, INCLUSIVE

ALL IN RIDGEWOOD HEIGHTS, A SUBDIVISION OF LOT 1 LAUREL SUBDIVISION RECORDED AT RECEPTION NO.
2282802, CITY OF GRAND JUNCTION, COUNTY OF MESA, STATE OF COLORADO

TAX SCHEDULE #: 2943-072-26-002

COMMON ADDRESS OF REAL PROPERTY: 585 28¹/₄ Road, Grand Junction, Colorado"

EXHIBIT B
EASEMENTS AND OTHER MATTERS AFFECTING TITLE TO THE REAL PROPERTY

1. Taxes and Assessments not certified to the Treasurer's Office.
2. Any water rights or claims or title to water in, on or under the land.
3. All taxes and assessments, now or heretofore assessed, due or payable.
4. Right of the Proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted as reserved in United States Patent recorded on October 12, 1896 at Reception Number 24396 in Book 11 at Page 470.
5. Right of way for the operation and maintenance of the Grand Valley Canal.
6. Terms, conditions and provisions of permanent easement for roadway slope and borrow pit purposes in favor of the City of Grand Junction, recorded February 27, 1960 in book 1245 at Page 845.
7. Easements for roadway slope and borrow pit purposes and rights incidental thereto, granted to the City of Grand Junction, as set forth in instrument recorded January 31, 1963 in Book 1412 at Page 917.
8. Terms, conditions and provisions of Easement Deed and Agreement, recorded February 12, 1996 in Book 2207 at Page 446.
9. Right of way for ditches or canals constructed by the authority of the United States, as reserved in United States Patent recorded on March 10, 1898 at Reception Number 27091 in Book 11 at Page 516.
10. Right of the Proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises hereby granted as reserved in United States Patent recorded on March 10, 1898 at Reception Number 27091 in Book 11 at Page 516.
11. Covenants, conditions and restrictions none of which contain a forfeiture or reverter clause, but omitting restrictions, if any, based on race, color, religion or national origin, as contained in instrument recorded on August 18, 1956 at Reception Number 675751 in Book 692 at Page 564.
12. Covenants, conditions and restrictions none of which contain a forfeiture or reverter clause, but omitting restrictions, if any, based on race, color, religion or national origin, as contained in instrument recorded on September 17, 1981 at Reception Number 1269205 in Book 1333 at Page 879.
13. Easement as granted to City of Grand Junction by instrument recorded on August 05, 1992 at Reception Number 1610513 in Book 1916 at Page 119.
14. Terms, conditions, provisions, obligations and restrictions of that certain Letter recorded on April 26, 2000 at Reception Number 1947461 in Book 2702 at Page 533.
15. Terms, conditions, provisions, obligations and restrictions of that certain Notice of Right of Way recorded on March 05, 2001 at Reception Number 1986021 in Book 2812 at Page 519.
16. Terms, conditions, restrictions, provisions, notes and easements as disclosed on the Plat of Subdivision of Ridgewood Heights recorded on _____, 2007 in Book _____ at Page _____.

**FIRST AMENDMENT TO THE
DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS
FOR RIDGEWOOD HEIGHTS, GRAND JUNCTION, COLORADO**

This First Amendment to the Declaration of Restriction, Covenants and Easements for Ridgewood Heights, Grand Junction, Colorado (the "Declaration") is made this 20th day of January, 2017, by the members of the Ridgewood Heights Homeowner's Association, Inc. (the "Association"), in accordance with Article 17 of the Declaration, and in accordance with C.R.S. 38-33.3-217(1)(a)(I).

WHEREAS, the Declaration was recorded in the office of the County Clerk and Recorder of Mesa County, Colorado on August 21, 2007, at Reception Number 2397244 and provided for 71 lots for the Ridgewood Heights Subdivision;

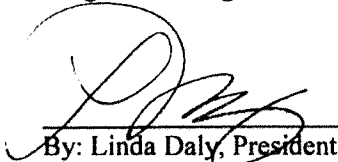
WHEREAS, the members of the Association wish to amend certain provisions of the Declaration, as described below;

NOW THEREFORE, pursuant to the consent and vote of at least 67% of the lots of the Subdivision, the President of the Association has executed this First Amendment to the Declaration and caused it to be recorded in the Office of the County Clerk and Recorder for Mesa County, Colorado, as provided for in Article 17 of the Declaration and in accordance with C.R.S. 38-33.3-217(1)(a)(I). The amendment is as follows:

1. In Article 7, Section 7.2, the following sentences are removed: "Except for Directors appointed by Declarant under Section 20.2, no Director may serve for more than two (2) consecutive terms. Directors' terms are staggered, such that the terms of two (2) Directors expire at the end of one year, and the terms of the other three (3) Directors terminate at the end of the following year."
2. The effect of this First Amendment is to remove term limits of directors and the intent of the members approving this First Amendment is to permit directors to serve for as many terms as they wish, unless removed by other provision of the Declaration, which are not affected by this First Amendment.

The President of the Association by executing this First Amendment to the Declaration, does certify and attest that this document was approved by the owners of at least sixty-seven percent of the existing lots in the Subdivision in accordance with C.R.S. 38-33.3-217 and Article 17.1(b) of the Declaration. Inasmuch as approval of Declarant under the Declaration is required, the President of the Association by executing this First Amendment likewise certifies and attests that Declarant approves of this First Amendment.

Ridgewood Heights Homeowner's Association, Inc.


By: Linda Daly, President

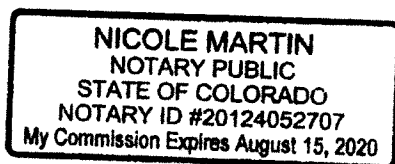
State of Colorado)
)
County of Mesa)

The foregoing instrument was acknowledged before me this 8th day of February,
2017 by Linda Daly, President of Ridgewood Heights Homeowner's Association, Inc.

My commission expires:

Nicole Martin
Notary Public

August 15, 2020



**SECOND AMENDMENT TO THE
DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS
FOR RIDGEWOOD HEIGHTS, GRAND JUNCTION, COLORADO**

This Second Amendment to the Declaration of Restriction, Covenants and Easements for Ridgewood Heights, Grand Junction, Colorado (the "Declaration") is made this 20th day of January, 2017, by the members of the Ridgewood Heights Homeowner's Association, Inc. (the "Association"), in accordance with Article 17 of the Declaration, and in accordance with C.R.S. 38-33.3-217(1)(a)(I).

WHEREAS, the Declaration was recorded in the office of the County Clerk and Recorder of Mesa County, Colorado on August 21, 2007, at Reception Number 2397244 and provided for 71 lots for the Ridgewood Heights Subdivision;

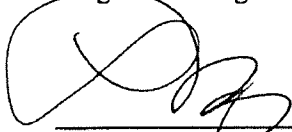
WHEREAS, the members of the Association wish to amend certain provisions of the Declaration, as described below;

NOW THEREFORE, pursuant to the consent and vote of at least 67% of the lots of the Subdivision, the President of the Association has executed this Second Amendment to the Declaration and caused it to be recorded in the Office of the County Clerk and Recorder for Mesa County, Colorado, as provided for in Article 17 of the Declaration and in accordance with C.R.S. 38-33.3-217(1)(a)(I). The amendment is as follows:

1. In Article 10, Section 10.2.2, the following portion is removed: "(c) have a term of at least ninety (90) days (and may be on a month-to-month basis after that)".
2. In place of the removed portion described above, the following is inserted: "(c) have a term of at least six (6) months, and must have renewal terms of at least six (6) months after that."
3. The effect of such amendment and the intent of the approving owners is that leases shall be for a term of at least six months and that renewal periods shall be for a term of at least six months.

The President of the Association by executing this Second Amendment to the Declaration, does certify and attest that this document was approved by the owners of at least sixty-seven percent of the existing lots in the Subdivision in accordance with C.R.S. 38-33.3-217 and Article 17.1(b) of the Declaration. Inasmuch as approval of Declarant under the Declaration is required, the President of the Association by executing this Second Amendment likewise certifies and attests that Declarant approves of this Second Amendment.

Ridgewood Heights Homeowner's Association, Inc.



By: Linda Daly, President

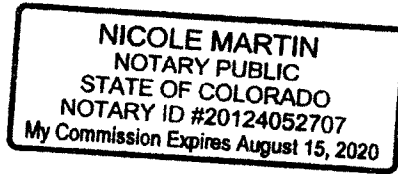
State of Colorado)
)
County of Mesa)

The foregoing instrument was acknowledged before me this 0th day of February, 2017 by Linda Daly, President of Ridgewood Heights Homeowner's Association, Inc.

My commission expires:

Nicole Martin
Notary Public

August 15, 2020



**THIRD AMENDMENT TO THE
DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS
FOR RIDGEWOOD HEIGHTS, GRAND JUNCTION, COLORADO**

This Third Amendment to the Declaration of Restriction, Covenants and Easements for Ridgewood Heights, Grand Junction, Colorado (the "Declaration") is made this 25 day of January, 2019, by the members of the Ridgewood Heights Homeowner's Association, Inc. (the "Association"), in accordance with Article 17 of the Declaration, and in accordance with C.R.S. 38-33.3-217(1)(a)(I).

WHEREAS, the Declaration was recorded in the office of the County Clerk and Recorder of Mesa County, Colorado on August 21, 2007, at Reception Number 2397244 and provided for 71 lots for the Ridgewood Heights Subdivision;

WHEREAS, the members of the Association wish to amend certain provisions of the Declaration, as described below;

NOW THEREFORE, pursuant to the consent and vote of at least 67% of the lots of the Subdivision, the President of the Association has executed this Third Amendment to the Declaration and caused it to be recorded in the Office of the County Clerk and Recorder for Mesa County, Colorado, as provided for in Article 17 of the Declaration and in accordance with C.R.S. 38-33.3-217(1)(a)(I). The amendment is as follows:

1. In Article 9, Section 9.2.2(a), the following word is removed: "foundation,,". Section 9.2.2(a) shall read in its entirety as follows: "exterior surfaces of the Residences, including (and limited to) exterior walls and roofs,"
2. In Article 9, Section 9.2.2(b), the word "fences" is removed and the section is amended to read as follows: "the exterior fence installed in 2008 prior to the construction of individual units."
3. Article 9, Section 9.2.2(e) Party Walls, is removed in its entirety.
4. The effect of the amendment in paragraph 1, 2, and 3, and the intent of the approving owners, is that foundations of the Residences, as defined by the Declaration, shall not be Association-Maintained Owner Improvements; that the fence to be maintained by the association is the exterior fence installed in 2008 prior to the construction of individual units; and that the term Party Walls be removed because no party walls exist within the Association.

The President of the Association by executing this Third Amendment to the Declaration, does certify and attest that this document was approved by the owners of at least sixty-seven percent of the existing lots in the Subdivision in accordance with C.R.S. 38-33.3-217 and Article 17.1(b) of the Declaration. Inasmuch as approval of Declarant under the Declaration is required, the President of the Association by executing this Third Amendment likewise certifies and attests that Declarant approves of this Third Amendment.

Ridgewood Heights Homeowner's Association, Inc.

Vonnie Folkers

By: Vonnie Folkers, President

State of Colorado)
)
County of Mesa)

The foregoing instrument was acknowledged before me this 25th day of January, 2019 by Vonnie Folkers, President of Ridgewood Heights Homeowner's Association, Inc.

Edna D. Wiltgen
~~AKA~~ Dianne E. Wiltgen
Notary Public

My commission expires:

10-18-22

