

# SOPRIS VILLAGE HOMEOWNERS ASSOCIATION, INC.

December 14, 2021

Dear Neighbors:

As you know, for quite some time now, the Board of Directors of the Association has been working with legal counsel to draft a proposed Amended and Restated Declaration of Protective Covenants for Sopris Village (“Amended and Restated Declaration”) for your consideration. The primary purpose of this project has been to modernize our current Declaration of Protective Covenants for Sopris Village (“Current Declaration”), to address deficiencies in the Current Declaration, to conform it to current Colorado law and to create a document which addresses the priorities of our community.

We will be holding a Town Hall Meeting of the Owners **via Zoom** on **January 12, 2022 at 6:30 pm** to discuss the draft Amended and Restated Declaration, to hear your comments and to answer any questions you may have. The Association’s attorney will also be present to answer any legal questions you may have relating to the draft document. We will **not** be asking you to approve the draft Amended and Restated Declaration at the Town Hall Meeting. Instead we want to discuss the latest draft with you to determine whether there are any significant concerns you may have and if changes should be made to it prior to the Board finalizing and sending out the Amended and Restated Declaration for your formal consent.

Here are a few significant provisions in the proposed Amended and Restated Declaration that we thought you would be most interested in:

<b>Current Declaration</b>	<b>Amended and Restated Declaration</b>
<b>Subjecting Common Elements to a Mortgage:</b> The Current Declaration does not require a vote of the Members in order to subject the Association’s Common Elements to a mortgage.	<b>Subjecting Common Elements to a Mortgage:</b> Prior to subjecting the Common Elements of the Association to a mortgage, Section 4.3.1 of the Amended and Restated Declaration provides that Members representing at least 51% votes in the Association must vote to approve such an action.
<b>Dedication of Common Elements:</b> The Current Declaration does not address this issue and there is no authority for Members to vote on whether to convey or dedicate Common Elements to any public agency, metropolitan district, special district, quasi-municipal corporation, authority or utility.	<b>Dedication of Common Elements:</b> Section 4.3.2 of the Amended and Restated Declaration provides that Members representing at least 51% of the votes in the Association would have to approve conveying or dedicating any part of the Common Elements to any public agency, metropolitan district, special district, quasi-municipal corporation, authority or utility. In other words, Owners would have to vote to convey Common Elements in order to join a metro district to manage the Association’s water system.

<p><b>Definition of Water System:</b> The Current Declaration does not define what is included as part of the water system.</p>	<p><b>Definition of the Water System:</b> Section 2.11 of the Declaration defines the Common Elements of the Association and specifically provides that the water system includes, but is not limited to, the wells, subsurface rights, water storage tanks, fire hydrants, main lines and <i>service lines up to the shut off valve that provides service to each Lot.</i></p>
<p><b>Budget Ratification:</b> Article IV, Section B of the Current Declaration does not provide Owners with the right to vote on a proposed budget. However, the budget ratification provision of CCIOA is controlling over the Current Declaration and has been included in the Amended and Restated Declaration.</p>	<p><b>Budget Ratification:</b> Section 8.2 of the Amended and Restated Declaration outlines the budget ratification provision of the Colorado Common Interest Ownership Act (“CCIOA”) which applies to the Association. This provision provides that unless 51% of all Owners vote to reject a proposed budget, it is automatically deemed approved.</p>
<p><b>Business Use Restrictions:</b> Article III, Section A of the Current Declaration generally deals with home business and provides that “no building site shall be used except for residential purposes.”</p>	<p><b>Business Use Restrictions:</b> Section 10.2 of the Amended and Restated Declaration, permits the business use of residences as long as:</p> <ul style="list-style-type: none"> <li>(a) No Residence shall be primarily devoted to any business, trade, professional or commercial use;</li> <li>(b) The existence or operation of the business activity is not apparent or detectable by sight, sound, smell or vibration from the exterior of the Residence, and does not materially increase traffic within the Community;</li> <li>(c) The parking of vehicles of any kind by employees shall only be permitted on the designated driveway of the Owner or Permitted User’s Lot and no equipment or other vehicles utilized in such business activity shall be visible from the streets in the Community or other Lots;</li> <li>(d) The business activity conforms to all zoning requirements for the property;</li> <li>(e) The business activity does not increase the insurance obligation or premium of the Association;</li> <li>(f) The business activity is consistent with the residential character of the Lot and does not constitute a nuisance or hazardous or offensive use, determined in the discretion of the Board of Directors;</li> <li>(g) No Lot or Residence shall be used or rented for transient hotel, motel or lodging</li> </ul>

	<p>purposes other than for a single-family residence; and</p> <p>(h) The business activity conforms to any Rules adopted by the Board from time to time to protect the peace, tranquility and quality of the Community.</p>
<p><b>Fire Pits and Outdoor Wood Burning:</b> Article III, Section H of the Current Declaration provides in part as follows: “Reasonable precaution shall be taken against fire hazards and no outdoor burning of any kind shall be permitted upon the premises (except for cooking).</p> <p>This Section of the Current Declaration would prohibit the use of outdoor fireplaces, fire pits and ringed rock circles.</p>	<p><b>Fire Pits and Outdoor Wood Burning:</b> Section 13.3.3 of the Amended and Restated Declaration provides in part that “Unless otherwise prohibited or regulated by an authorized representative of Eagle County, open fires and outdoor wood burning shall only be permitted on a Lot in a contained barbeque unit, fireplace, contained fire pit or a ringed rock circle while attended by the Owner or resident(s) of the Lot.”</p>
<p><b>Marijuana:</b> The current Declaration does not specially address marijuana.</p>	<p><b>Marijuana:</b> Section 10.3.4 of the Amended and Restated Declaration provides in part that “No Lot may be used for the growing, sale or dispensing of marijuana or any controlled substance.”</p>
<p><b>Work Vehicles and Parking:</b> The First Amendment to the Current Declaration addresses parking of vehicles on Lots, but does not provide an exception for commuter vehicles.</p> <p>Article III, Section O of the Current Declaration provides as follows: “Unless otherwise specified by the Board of Directors in a Rule or unless a variance is granted in writing by the Board to an Owner or resident of a Lot, all vehicles defined in this Section O shall be parked on the designated driveway portion of a Lot, in a garage on a Lot or screened on a Lot from view from the street or adjacent Lots, by a screen which has been approved by the Architectural Control Committee. No commercial vehicles of any kind shall be parked on a Lot for more than three (3) days, unless such commercial vehicle is parked in a garage or screened from view from the street or adjacent Lots. No vehicles more than ten (10) feet in height or more than twenty-eight (28) feet in length shall be parked on a Lot, no trailers more than twenty-four (24) feet in length shall be parked on a Lot and no trailers</p>	<p><b>Work Vehicles and Parking:</b> Section 10.3.9 of the Amended and Restated Declaration addresses work vehicles and parking as follows: “Unless otherwise specified by the Board in a Rule or unless a variance is granted in writing by the Board to an Owner or Permitted User, all vehicles described in this Section 10.3.9 shall be parked on the designated driveway portion of a Lot, in a garage on a Lot or screened on a Lot from view from the street or adjacent Lots, by a screen that has been approved by the Architectural Control Committee. Except for commercial vehicles that are utilized for commuting to work and are not more than ten (10) feet in height or more than twenty-eight (28) feet in length, no other commercial vehicles of any kind shall be parked on a Lot for more than three (3) days, unless such commercial vehicle is parked in a garage or screened from view from the street and adjacent Lots. No vehicles more than ten (10) feet in height or more than twenty-eight (28) feet in length shall be parked on a Lot, no trailers more than twenty-four (24) feet in length shall be parked on a Lot and no trailers designed or used for agricultural purposes shall be parked on a Lot. The Board</p>

<p>designed or used for agricultural purposes shall be parked on a Lot. The Board of Directors shall have rulemaking authority to specify the conditions upon which an Owner or resident of a Lot shall be granted a variance to the restrictions and prohibitions set forth in the Section O.</p> <p>Except for those trucks and trailers prohibited from being parked on a Lot as specified above in this Section O, for purposes of determining what types of vehicles must be parked on the designated driveway portion of a Lot, in a garage or screened from view from the street or adjacent Lots, the term “vehicle” shall include the following: cars, trucks, vans, buses, boats, trailers for boats, self-contained or other motorized recreational vehicles, all-terrain vehicles, campers (including camper shells and motor homes), trailers and any other vehicle clearly designed or designated by the manufacturer or owner thereof (through signage or accessories) to be a recreational vehicle, even though it may be licensed by the State as a passenger vehicle.”</p>	<p>shall have rulemaking authority to specify the conditions upon which an Owner or Permitted User shall be granted a variance to the restrictions and prohibitions set forth in this Section 10.3.9.”</p> <p>This Section of the Amended and Restated Declaration makes allowances for commuter vehicles that are not currently in the First Amendment to the Current Declaration.</p>
<p><b>Leasing and Short Term Rentals:</b> The Current Declaration doesn’t specifically address leasing and short term rentals.</p>	<p><b>Leasing and Short Term Rentals:</b> Section 10.4 of the Amended and Restated Declaration creates a minimum 90 day lease term and specifies the restrictions on leasing as follows:</p> <p>“A Lot may not be leased or rented separate from the Residence on the Lot and subleases are prohibited. No Lot or Residence may be leased for a term of less than ninety (90) consecutive days. All leases shall be in writing and include a provision that the lease is subject to the terms of the Association Documents, and that the failure of the tenant to comply with the terms of the Declaration or Bylaws or the Rules shall constitute a default enforceable by either the Association or Owner, or by both of them. Any Owner who leases their Lot shall, within three (3) days after the execution of such lease, provide the Association with the name and contact information (including telephone number and e-mail address, if any) of the tenant, as well as updated contact information</p>

	<p>(including telephone number, e-mail address if any, and address) of the Owner. The tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Association Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce and a reasonable opportunity to cure the violation directly prior to the commencement of an enforcement action. As used herein, the term lease shall mean any agreement or arrangement for occupancy of the Lot by persons other than the Owner and the members of his or her immediate family, and tenant shall mean any person occupying the Lot other than the Owner and the members of his or her immediate family. This Section 10.4 shall not be construed in such a manner as to prohibit Owners from having roommates while the Lot and Residence is occupied by the Owner.”</p>
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In addition to the major changes outlined above, we recommend that you take time to review the draft Amended and Restated Declaration prior to the Town Hall Meeting. In particular, we recommend that you thoroughly review Article X for all of the proposed use restrictions. That way, you will have the ability to ask questions and provide any comments or concerns you may have to the Board.

We ask that should you have any questions or comments regarding the draft proposed Amended and Restated Declaration of Protective Covenants for Sopris Village that you would like to have discussed at the Town Hall, **to please submit them electronically before the meeting to [sv@aspenreservations.net](mailto:sv@aspenreservations.net).**

We look forward to talking with you **via Zoom on January 12<sup>th</sup>, 2022 at 6:30 pm.**

Sincerely,

Board of Directors  
Sopris Village Homeowners Association, Inc.

enc.

**AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS  
FOR SOPRIS VILLAGE**

*Draft for Owner Review and Comment*

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**EXHIBIT A 31**

THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS FOR SOPRIS VILLAGE (the "Declaration") is made as of \_\_\_\_\_, 20\_\_.

### RECITALS

This Declaration is made in contemplation of the following facts and circumstances:

A. Sopris Village Properties, Inc., a Colorado Corporation ("Declarant"), Robert Dale Wells, Shirley Ann Wells, Chester R. Gibbons and Betty J. Gibbons, caused that particular Declaration of Protective Covenants for Sopris Village Subdivision, Eagle County, Colorado ("Original Declaration") to be recorded in the real estate records of the Clerk and Recorder of Eagle County in Book 244 at Page 700.

B. This Declaration encumbers the real property described in Exhibit A, which is attached hereto and incorporated by this reference.

C. In order for this Declaration to be approved, Owners holding at least two-thirds (2/3) of all votes in the Association must vote to approve the adoption of this Declaration and all First Mortgagees must provide their approval pursuant to the procedure set forth in C.R.S. 38-33.3-217(1)(b).

D. It is intent of the Owners of Lots in the Sopris Village Homeowners Association, Inc., ("Association") to approve this Declaration, which will superseded in its entirety and replace the Original Declaration, as it was amended from time to time, for the following purposes:

- i. to update the terms, covenants, conditions, restrictions, easements and obligations imposed on the real property subject to this Declaration; and
- ii. to comply with current Colorado law and provide for responsible governance.

E. The requisite number of Owners have voted to approve this Declaration and the First Mortgagees have provided their consent in compliance with the procedures set forth in Colorado law.

### ARTICLE I. DECLARATION AND SUBMISSION

Section 1.1 Declaration. The Original Declaration and all amendments to the Original Declaration, are hereby superseded in their entirety and replaced by this Declaration.

### ARTICLE II. DEFINITIONS

Section 2.1 Act. The Colorado Common Interest Ownership Act, as it may be amended from time to time.

Section 2.2 Agencies. The Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal National Mortgage Association (Fannie Mae), the Department of Housing and Urban Development (HUD), the Department of Veterans Affairs (VA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which (or may in the future) purchases, insures or guarantees residential mortgages.

Section 2.3 Allocated Interests. The Common Expense liability and votes in the Association, allocated to Lots in the Common Interest Community. The formulas for the Allocated Interests are as follows:

2.3.1 Common Expense Liability. Unless otherwise specified in this Declaration, each Lot's share of the Common Expense liability is determined by the percentage equivalent to a fraction, the numerator of which shall be one and the denominator of which shall be the total number of Lots in the Community. At the time of recording this Declaration, the total number of Lots in the Community is 130.

2.3.2 Votes. The Owners of Lots shall be entitled to one vote for each Lot owned in the Community.

Section 2.4 Architectural Control Committee. The committee appointed by the Board to review and approve or disapprove plans for Improvements submitted by any Owner, as more fully provided in Article 9 of this Declaration.

Section 2.5 Articles of Incorporation. The Articles of Incorporation of the Association as they may be amended from time to time.

Section 2.6 Assessments. The Annual, Special, Specific and Default Assessments levied pursuant to Article 8 below.

Section 2.7 Association. Sopris Village Homeowners Association, Inc., a Colorado nonprofit corporation.

Section 2.8 Association Documents. The Declaration and Plat, the Articles of Incorporation, Bylaws, design guidelines, and the Rules as they be amended from time to time.

Section 2.9 Board of Directors or Board. The Board of Directors of the Association duly elected pursuant to the Bylaws of the Association; the "Executive Board" as the term is used in the Act and also referred to in this Declaration as the "Board."

Section 2.10 Bylaws. The Bylaws of the Association, as they may be amended from time to time.

Section 2.11 Common Elements. Any real property within the Community owned or leased by the Association, or which the Association has a right to use, occupy, maintain and operate, other than a Lot. The Common Elements shall include, but not be limited to, a park,

buildings located in the park and the water system which serves the Community until such time as the water system may dedicated or conveyed by the Association to a metropolitan district, special district or other quasi-municipal corporation. The water system shall include, but not be limited to, the wells, subsurface rights, water storage tanks, fire hydrants, main lines and service lines up to the shut off valve that provides service to each Lot.

Section 2.12 Common Expenses: The expenditures made, or liabilities incurred by or on behalf of the Association, together with allocations to reserves. Without limitation the effect of the foregoing sentence, Common Expenses include:

2.12.1 Expenses of maintenance, repair, replacement or restoration of any Common Elements;

2.12.2 Expenses of maintenance, repair, replacement or restoration of personal property owned or leased by the Association;

2.12.3 Expenses of maintenance, repair, replacement or restoration of the water system located in the Community which serves the Community, up to the point where such service lines become the responsibility of the Owners of the Lots;

2.12.4 Expenses of administration, management and operation of the Association;

2.12.5 Expenses declared to be Common Expenses by the Documents or by the Act;

2.12.6 Such reasonable reserves as may be established by the Board for repair, replacement or addition to the Common Elements, to the water system or any other real or personal property acquired or held or maintained by the Association, or for shortfalls in operating expenses, or to provide for insurance deductibles; and

2.12.7 Expenses determined by the Board to be Common Expenses.

Section 2.13 Community. The real property subject to this Declaration.

Section 2.14 County. Eagle County, Colorado.

Section 2.15 Declaration. This document, including any amendments and Plats.

Section 2.16 Director. A member of the Board of Directors.

Section 2.17 Eligible Mortgagee. A First Mortgagee who has notified the Association, in writing, of its name and address and that it holds a First Mortgage on a Lot. The notice must include the address of the Lot on which it has a First Mortgage.

Section 2.18 Energy Efficiency Measure. A device or structure that reduces the amount of energy derived from fossil fuels that is consumed by a residence or business located on the

real property. Energy efficiency measure is to include only the following types of devices or structures: (i) an awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption; (ii) a garage or attic fan and any associated vents or louvers; (iii) an evaporative cooler; (iv) an energy efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar recharging panel, motion detector, or other equipment connected to the lighting device; and (v) a retractable clothesline.

Section 2.19 First Mortgage. A Mortgage, the priority of which is not subject to any monetary lien or encumbrance except liens for taxes or other liens that are given priority by statute.

Section 2.20 First Mortgagee. Any person named as a Mortgagee in any First Mortgage, or any successor to the interest of any such person under such Mortgage.

Section 2.21 Good Standing. An Owner is no more than thirty (30) days late in the payment any Assessments, and who has none of his, her or its membership privileges suspended.

Section 2.22 Improvements. Any building, structure, fixture, landscaping or facilities existing or to be placed on a Lot, or changes, alterations, modifications, expansions, or additions to any of the foregoing, or any change of exterior appearance, finish material, color or texture. Improvements include but are not limited to: the Residence, outbuildings, swimming pools, patios, patio covers, awnings, painting or other finish materials on any visible structure, additions, walkways, garages, carports, driveways, fences, screening walls, retaining walls, stairs, decks, drainage facilities, landscaping (including any material change in slope, pitch or drainage pattern), hedges, windbreaks, plantings, ground cover, exterior light fixtures, poles, or permanently installed recreational or sporting equipment or structures, signs, and exterior air conditioning, cooling, heating and water softening equipment. Improvements shall not include changes, alterations, or modifications to the interior of a Residence.

Section 2.23 Lot. Each platted lot which is a physical portion of the Community, other than Common Elements, the boundaries of which are described on the Plat. The term "Lot" as used herein is synonymous with the term "Unit" as the latter term is used in the Act.

Section 2.24 Member. Any person or entity that holds membership in the Association.

Section 2.25 Mortgage. Any mortgage, deed of trust or other document pledging any Lot or interest therein as security for payment of a debt or obligation.

Section 2.26 Mortgagee. Any person named as a mortgagee or beneficiary in any Mortgage or any successor to the interest of any such person under such Mortgage.

Section 2.27 Owner. Any Person who is the owner of record of the fee simple title to any Lot, but not a Mortgagee.

Section 2.28 Permitted User. (a) Any person who resides with an Owner within the Community; (b) a guest or invitee of an Owner; or (c) an occupant or tenant of a Residence, and

any member of his or her household, or a guest, invitee or cohabitant of any such person.

Section 2.29 Person. A natural person, corporation, trust, partnership, limited liability company, association, joint venture, government subdivision or agency or other legal entity.

Section 2.30 Plat. The plat for the Community, as amended from time to time, and recorded in the real estate records of the office of the Clerk and Recorder for the County.

Section 2.31 Property. The real property described in Exhibit A.

Section 2.32 Residence: The residence constructed on each Lot, and any replacement thereof, including patios, decks, basements and garages, if applicable.

Section 2.33 Rules. Rules, regulations, policies, procedures and guidelines adopted and amended from time-to-time by the Board of Directors.

### ARTICLE III. THE COMMUNITY AND ASSOCIATION

Section 3.1 The Community The name of the Community is Sopris Village. It is a planned community.

Section 3.2 The Association. The name of the Association is Sopris Village Homeowners Association, Inc.

Section 3.3 Maximum Number of Lots. The maximum number of Lots in the Community is 130.

Section 3.4 Identification of Lots. The identification number of each Lot is shown on the Plat.

Section 3.5 Lot Boundaries. The boundaries of each Lot are located as shown on the Plat.

### ARTICLE IV. THE COMMON ELEMENTS

Section 4.1 Title to the Common Elements. The Common Elements are owned or leased by the Association.

Section 4.2 Owners' Easements. Consistent with Rules adopted by the Board, every Owner shall have a nonexclusive right and easement for use of the Common Elements. In addition, any easement in and to the Common Elements shall be appurtenant to and shall pass with the title to every Lot. Consistent with any Rules adopted by the Board, any Owner may delegate their right of enjoyment to the Common Elements to the members of their family, their Permitted Users, or contract purchasers who reside in their Residence. No Owner shall make any addition or other alteration to any portion of the Common Elements, no matter how minor,

without the express written consent of the Board, which consent may be withheld in the Board's discretion.

Section 4.3 The Association's Rights. The rights of each Owner in the Common Elements shall be subject to the following rights of the Association:

4.3.1 The right to improve the Common Elements, and to borrow money for such purposes and to mortgage the Common Elements as security for any such loan; provided, however, that the Association may not subject any portion of the Common Elements to a Mortgage unless such is approved by Members to whom at least fifty-one percent (51%) of the votes in the Association are allocated.

4.3.2 As approved by the Board and subsequently proposed to the Members, to convey or dedicate all or any part of the Common Elements to any public agency, metropolitan district, special district, quasi-municipal corporation, authority, or utility, subject to a vote to approve this proposed conveyance or dedication by the Members to whom at least fifty-one percent (51%) of the votes in the Association are allocated. The granting of permits, licenses and easements for public utilities or for other purposes consistent with the intended use of such Common Elements shall not be deemed a conveyance or dedication within the meaning of this clause.

4.3.3 To adopt, amend or repeal Rules governing the use of the Common Elements, and enforce penalties and sanctions for the infraction thereof.

4.3.4 To take such steps as are reasonably necessary to maintain, repair, replace, restore or protect the Common Elements.

4.3.5 To close or limit the use of the Common Elements temporarily while maintaining, repairing, making replacements to or restoring the Common Elements.

## ARTICLE V. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Membership shall terminate on transfer of a fee simple title by the Owner.

Section 5.2 Voting Rights. The Association shall have one class of voting membership consisting of all Owners. Members shall be entitled to one vote for each Lot owned. If more than one person holds such interest, the vote for such Lot shall be exercised as the persons holding such interest shall determine between themselves, provided that in no event shall more than one vote be cast with respect to any Lot. The total number of votes which may be cast in connection with any matter shall not exceed the total number of Lots in the Community. Except as otherwise provided for in this Declaration or the Bylaws, each Member shall be entitled to vote in matters affecting the Association. No Owner shall be entitled to vote in any matter who is not in Good Standing with the Association. All Owners in Good Standing shall be



entitled to vote in accordance with the provisions of this Declaration and the Bylaws.

Section 5.3 Board of Directors: The affairs of the Association shall be managed by the Board of Directors. Except as otherwise provided in this Declaration or the Bylaws, the Board of Directors may act in all instances on behalf of the Association. The number, term and qualifications of the Board of Directors shall be fixed in the Bylaws.

Section 5.4 Address of Association. The address of the Association for purposes of receiving notices required by Colorado law, including without limitation, notices of foreclosure, shall be the address of the Association's principal place of business on file with the Colorado Secretary of State, as such address may be changed from time to time.

## ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION AND BOARD

Section 6.1 Duties and Powers of the Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, modify, improve and enhance the Common Elements, and to maintain, improve and enhance the value, attractiveness and desirability of the Community. Without in any way limiting the general scope of the foregoing, the Association shall have the following specific duties and powers:

6.1.1 Duty to Manage and Care for Common Elements. The Association shall regulate the use of, manage, operate, care for, maintain, repair and replace all Common Elements and keep the same in a safe, attractive and desirable condition.

6.1.2 Duty to Maintain Insurance. The Association shall obtain and keep in full force and effect at all times insurance coverage in accordance with Article 11 of this Declaration.

6.1.3 Duty as to Budgets. The Association shall determine Common Expenses and adopt and amend budgets for revenues, expenditures and reserves and collect Assessments as elsewhere provided in this Declaration.

6.1.4 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as elsewhere provided in this Declaration.

6.1.5 Duty to Keep Records. The Association shall keep current copies of the Association Documents and the books, records and financial statements of the Association. The Association shall make available to Owners or their designated representatives, for inspection, upon request, during normal business hours or under other reasonable circumstances, current copies of the Association Documents and the books, records and financial statements of the Association as required by the Act. The Association may charge a reasonable fee for assembling the records for inspection and for copying such materials not to exceed the actual cost per page.

6.1.6 Duty to Maintain Register of Addresses and Notify of Address Change. The Association shall maintain a register of addresses which contains the address of each Owner and other non-confidential contact information provided by the Owner, and each Eligible Mortgagee. The initial address for each Owner in the register of addresses shall be the address for such Owner provided by such Owner to the Association, or, if no such address is provided, the address of the Lot of such Owner. The initial address for an Eligible Mortgagee shall be the address provided by the Eligible Mortgagee to the Association. Any Owner may change its address in the register of addresses by giving notice to the Association of a new address in accordance with Section 18.6, and the Association shall update the register of addresses in accordance with any such notice. The Association shall provide the address for each Owner as listed in the register of addresses to any Member who requests such information in compliance with the Act. The Association shall have no liability to any Person for providing the address as listed in the register of addresses, regardless of whether such address is correct or whether any director, officer, employee or agent of the Association has knowledge, actual or imputed, that the address in the register of addresses is not correct.

6.1.7 Power to Adopt Bylaws and Rules. The Association may adopt, amend, repeal and enforce Bylaws and such Rules as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Common Elements or Lots, and otherwise for the benefit of the Community and the Owners. Any such Rules shall be reasonable and not arbitrary or capricious. Each Member shall comply with such Rules and shall see that Permitted Users of such Member comply with the Rules. Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and the provisions of this Declaration, the provisions of this Declaration shall prevail.

6.1.8 Power to Enforce Association Documents. The Association shall have the power to enforce the provisions of the Association Documents and shall take such action as the Board deems necessary or desirable to cause compliance by each Member and Permitted Users. Without limiting the generality of the foregoing, the Association shall have the power to impose charges for late payment of Assessments, recover reasonable attorney fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated; after notice and opportunity to be heard, levy reasonable fines for violations of the Association Documents and impose other sanctions, including suspension of voting privileges; and exercise self-help to correct a violation. Notwithstanding the foregoing, no notice or opportunity to be heard shall be required to suspend the rights of a Member due to such Member's failure to timely pay any Assessment.

6.1.9 Power to Make Contracts and Incur Liabilities. The Association shall have the power to enter into, make, perform or enforce any contracts, leases, agreements, licenses, easements and rights-of-way, including without limiting the foregoing, leases, licenses, easements and rights-of-way over, under and on the Common Elements, and incur

liabilities for any purposes the Board may deem to be useful, beneficial or otherwise appropriate. The Association has the power to designate a single waste removal company to be used by Owners and pay for regular or periodic waste and trash removal as a Common Expense if it so decides. Owners shall use such company as designated by the Board if one is so designated.

6.1.10 Power to Employ Managers. The Association shall have the power to retain and pay for the services of a manager, employees, agents and independent contractors to undertake any of the management or other functions for which the Association has responsibility under this Declaration to the extent deemed advisable from time to time by the Board, and may delegate any of its duties, powers or functions to the manager, employees, agents or independent contractors. Any contract or agreement with a manager shall be terminable by the Association without cause and without payment of a termination fee on no more than ninety (90) days prior written notice. No such contract or agreement shall be for a term of more than one (1) year but may be subject to renewal for succeeding terms of no more than one year each. Notwithstanding any delegation to a manager, employee, agent or independent contractor of any duties, powers or functions of the Association, the Association and its Board shall remain ultimately responsible for the performance and exercise of such duties, powers and functions.

6.1.11 Power to Commence and Maintain Legal Actions. The Association shall have the power to commence and maintain, defend or intervene in litigation, arbitration and administrative proceedings in its own name on behalf of itself or two or more Owners regarding such issues and against such parties as may be deemed appropriate by the Board and as may be permitted under the Act. In determining whether to commence or maintain legal actions, the Board shall exercise its reasonable judgment, considering, without limitation, the likelihood of success, the impact, if any which such action may have upon the market values of the Lots, the cost of pursuing the action including attorneys' fees and expert fees, the resources of the Association and whether a special assessment or depletion of reserves will be required in connection therewith or as a result thereof.

6.1.12 Power to Modify and Improve Common Elements. The Association shall have the power to modify, alter, or improve the Common Elements and cause additional improvements to be made as a part of the Common Elements. The Association shall also have the authority as more fully described in Section 4.3.2 of this Declaration, to dedicate or convey any and all improvements which are part of the water system serving the Community to any public agency, metropolitan district, special district or any quasi-governmental entity.

6.1.13 Power to Impose Fees and Charges. The Association shall have the power to impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements.

6.1.14 Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money and assign its future income, including its right to receive

Assessments upon resolution of the Board. Further, the Association shall have the power to encumber, in the name of the Association, any right, title or interest in real or personal property, except that Common Elements may be conveyed in fee or subjected to a security interest only if Members to whom at least sixty-seven percent (67%) of the votes in the Association are allocated agree to that action.

6.1.15 Power to Indemnify. The Association shall have the power to provide for the indemnification of its officers, Board, committees and managing agent.

6.1.16 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado nonprofit corporation formed under the Act as it applies to common interest communities formed before July 1, 1992, and the Nonprofit Act. The Association shall also have the power to do and perform any and all acts which may be necessary or desirable for the governance and operation of the Association.

Section 6.2 Powers of the Board. Except for such rights as are expressly reserved to the Members in this Declaration or in the Bylaws, the Board shall have the power to, and may act in all instances on behalf of the Association.

## ARTICLE VII. MAINTENANCE

Section 7.1 Association Maintenance Responsibilities: The Association shall manage, operate, insure, maintain, repair and replace all of the Common Elements and any improvements located thereon, including without limitation, any entry signage and monumentation; the park and all improvements located in the park; the water system located in the Community and serving the Community, except for the water service line from each Residence to the closest external supply shut off valve; and any other improvements required by local governmental entities to be maintained by the Association regardless of ownership, unless such improvements or any or all components of the water system have been dedicated or conveyed to and accepted by the municipality, a public agency, metropolitan district, special district or quasi-governmental entity for the purpose of the operation of the same or for maintenance, repair and replacement.

Section 7.2 Owners' Maintenance Responsibilities. Each Owner shall maintain, repair and replace, at their own expense, all portions of their Lot, the Residence located upon their Lot, all Improvements constructed or located on their Lot and the water service line from their Residence to the closest external supply shut off valve.

Section 7.3 Right of Access. Any person authorized by the Board of Directors shall have the limited right of access to necessary portions of any Lot and all portions of the Common Elements necessary for the purpose of performing emergency repairs or to do other work reasonably necessary for the proper maintenance of the Community and the Common Elements.

Section 7.4 Responsibility for Expense of Certain Repairs. In the event that the need for maintenance, repair or replacement of the Common Elements, or any Improvements located on the Common Elements, is caused by the act or omission of an Owner, or by the act or

omission of any Permitted User, the cost of such repair, maintenance, replacement or expense to avoid or mitigate such damage shall be the personal obligation of such Owner.

Section 7.5 Non-Interference with Grade and Drainage. No Owner shall in any way interfere with or obstruct the established drainage pattern over such Owner's Lot in any way that would affect the Common Elements or another Lot.

## ARTICLE VIII. ASSESSMENT AND COLLECTION OF COMMON EXPENSES

Section 8.1 Purpose of Common Expenses . The Common Expenses of the Association may be used to promote the recreation, safety and welfare of the residents of the Community and for all of those purposes and activities which may be required of the Association or which the Association may be empowered to undertake pursuant to the Association Documents, or by law.

Section 8.2 Personal Obligation. Each Owner is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments. Each Assessment against a Lot is the personal obligation, jointly and severally, of the Owner(s) at the time the Assessment became due and shall not pass to successors in title unless they agree to assume the obligation. No Owner may exempt himself or herself from liability for the Assessment by abandonment of his or her Lot or by waiver of the use or enjoyment of all or any part of the Common Elements. All Assessments shall be payable in accordance with the levy thereof, and no offsets or deductions thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under the Association Documents. The obligation for such payments by each Owner, jointly and severally, to the Association is an independent covenant with all amounts due, from time to time, payable in full when due without notice or demand except as otherwise expressly provided in the Association Documents. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorneys' fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 8.3 Budget. Within ninety (90) days after adoption of any proposed budget for the Community, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as provided for in the Bylaws. The budget proposed by the Board does not require approval from the Owners and it will be deemed approved by the Owners in the absence of a veto at the noticed meeting by Owners to which fifty-one percent (51%) of the votes in the Association are allocated, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners.

Section 8.4 Annual Assessments. Annual Assessments made for Common Expenses

shall be based upon the adopted budget. The Board shall levy and assess the Annual Assessments to each Owner in accordance with the Allocated Interests in effect on the date of the Annual Assessment. The Board reserves the right to allocate all expenses relating to fewer than all of the Lots to the owners of those benefitted Lots only. Annual Assessments shall be payable in advance monthly or on such other basis as may be determined by the Board and shall be due on the first day of each period. The omission or failure of the Association to fix the Annual Assessments for any assessment shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same.

Section 8.5 Special Assessments. In addition to Annual Assessments, as part of an annual budget or a revised budget proposed by the Association and ratified in compliance with Section 8.3 above, a Special Assessment may be levied for the purpose of: (1) defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any portion of the Common Elements, including improvements therein or thereon; or (2) for the funding of any operating deficit incurred by the Association. Any Special Assessment shall be levied against each Lot in accordance with the Allocated Interests in Common Expenses, subject to the right of the Board to assess the Special Assessment only against the Owners of benefitted Lots.

Section 8.6 Specific Assessments. The Board may levy the following Specific Assessments exclusively against the Lots benefitted, and such Specific Assessment shall be due and payable as established by the Board, and are exempt from any voting requirements by the membership required for Annual Assessments or Special Assessments:

8.6.1 Any insurance premium increase attributable to one or more particular Lots by virtue of activities in or construction of the Lot shall be assessed against such Lots.

8.6.2 Any expense incurred by the Association caused by the misconduct of an Owner or Permitted User may be assessed exclusively against that Owner's Lot.

8.6.3 Fees, including attorney fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner pursuant to the Documents and the Act may be assessed against that Owner's Lot.

Section 8.7 Default Assessments. All monetary fines and other enforcement costs assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner, including without limitation attorneys' fees incurred by the Association, shall be a Default Assessment.

Section 8.8 Effect of Nonpayment. Any Assessment or installment, whether pertaining to any Annual, Special, Specific or Default Assessment, which is not paid when due shall be delinquent. If an Assessment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- (i) If the delinquency continues for a period of ten (10) days, assess a late charge for each delinquency in such amount as the Association deems appropriate;

- (ii) If the delinquency continues for a period of thirty (30) days, proceed in accordance with the Association's collection policy and assess an interest charge, in arrears, from the due date until paid at the yearly rate of twelve percent (12%) per year or at such lesser rate as may be determined from time to time by the Board;
- (iii) Suspend the voting rights of the Owner during any period of delinquency;
- (iv) Accelerate all remaining Assessment installments so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;
- (v) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments;
- (vi) Proceed with foreclosure as set forth in more detail below; and
- (vii) Suspend any of the Owner's membership privileges.

Section 8.9 Assessment Lien. Assessments chargeable to any Lot shall constitute a lien on such Lot becomes due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations. Such lien will be subject to the provisions of Colorado Revised Statutes, Section 38-33.3-316. Such lien will be superior to all other liens, except (i) the liens of all taxes, bonds, assessments and other levies which by law should be superior and (ii) the lien or charge of any First Mortgage made in good faith and for value. Notwithstanding the foregoing, the Association's lien for delinquent Assessments will be prior to a First Mortgage to the extent of an amount equal to the Assessments which would have come due, in the absence of acceleration, during the six months immediately preceding institution by either the Association or any First Mortgagee of an action or a nonjudicial foreclosure either to enforce or extinguish the lien. The Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, late charges, penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorneys' fees incurred in connection with the enforcement of the lien. The Owner shall be required to pay the Association the Annual Assessment installments for the Lot during the period of any foreclosure. The Association shall have the power to bid on a Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Association's lien shall be superior to any homestead exemption now or hereafter provided by the laws of the State of Colorado or any homestead exemption now or hereafter provided by the laws of the United States. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead and any other exemption as against said Assessment lien provided by Colorado or federal law. Recording of this Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for Assessments is not required. However, the Board or any agent of the Board may prepare and record in the County a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a description of the

Lot. In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Lot to collect all sums alleged to be due from that Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of Assessments due or to become due to the Association.

Section 8.10 Statement of Status of Assessment Payment. Upon fourteen (14) days' written request to the Association's registered agent by personal delivery or certified mail, first-class postage prepaid, return receipt, any Owner, designee of Owner, Agency, Mortgagee, prospective Mortgagee or prospective purchaser of a Lot shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Lot. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within fourteen (14) days after receipt of the request, the Association shall have no right to assert a lien upon the Lot for unpaid Assessments which were due as of the date of the request.

Section 8.11 Maintenance Accounts: Accounting. If the Association delegates powers of the Board or its officers relating to collection, deposit, transfer or disbursement of Association funds to other persons or to a manager, then such other persons or manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or manager, (b) maintain all reserve accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association no less than once per quarter an accounting for the previous quarter. In addition, the Association shall obtain an annual accounting and financial statement of Association funds (on either a review or audit basis, at the Association's discretion) and annual tax returns prepared by a certified public accountant.

Section 8.12 Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses and any prepayment of or provision for reserves shall be retained by the Association as reserves.

## ARTICLE IX. ARCHITECTURAL CONTROL COMMITTEE

### Section 9.1 Written Approval of Plans Required:

9.1.1 No Improvements shall be renovated, altered constructed, erected, placed, planted, applied or installed upon any Lot unless plans and specifications therefor shall have been first submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall show exterior design, height, materials, color, and location and type of the Improvements, as well as such other materials and information that may be required by the Architectural Control Committee. The Architectural Control Committee shall exercise its reasonable judgment to the end that all Improvements conform to and harmonize with the existing surroundings, residences, landscaping and structures and maintain or improve the value of the Lots. In its review of such plans, specifications and other materials and information, the Architectural Control Committee



may require that the applicant(s) deposit in advance a sum anticipated by the Architectural Control Committee for the actual expenses incurred by the Committee in the review and approval process, and the Architectural Control Committee shall require reimbursement of actual expenses incurred which may include, but are not limited to the costs of review of plans and specifications by an expert of the Committee's choosing and any fines levied against the Owner for failing to comply with the requirements of this Article IX. Any amounts not paid when due shall constitute a Specific Assessment against the Lot for which the request for approval was made and shall be subject to the Association's lien for assessments and subject to all other rights of the Association for the collection of such assessments, as more fully provided in this Declaration.

9.1.2 In addition to the required approvals of the Architectural Control Committee as provided in this Article, the construction, erection, addition, deletion, change or installation of any Improvements shall also require the applicant to obtain the approval of all governmental entities with jurisdiction over such Improvements, and issuance of all required permits, licenses and approvals by such entities.

9.1.3 Notwithstanding any provision of this Declaration to the contrary, installation or use of Energy Efficiency Measures may be regulated by the Architectural Control Committee for the purposes of imposing reasonable aesthetic provisions that govern the dimensions, placement, or external appearance of an Energy Efficiency Measure. In creating reasonable aesthetic provisions, the Architectural Control Committee shall consider (i) the impact on the purchase price and operating costs of the energy efficiency measure; (ii) The impact on the performance of the energy efficiency measure; and (iii) the criteria contained in this Declaration and any guidelines adopted by the Board as provided herein.

Section 9.2 Guidelines. The Board may, from time to time, adopt, promulgate, amend or otherwise revise guidelines, standards, rules and regulations and procedures governing design review for the purposes of further enhancing, defining, or interpreting what items or Improvements are covered by this Article 9, and providing for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or other laws or ordinances, or for any other reason that the Board deems to be proper, necessary or in the best interests of the Community. Any guidelines, standards, rules and regulations, procedure or amendment thereto, shall apply to construction, additions, modifications, installations or items placed on a Lot occurring after the date such guidelines, standards, rules and regulations, procedures or amendments are published or otherwise made available to all Owners.

Section 9.3 Membership of Committee. The Architectural Control Committee shall consist of three (3) or more persons appointed by the Board and at least one member of the Committee shall be a member of the Board. The power to appoint shall include the power to fill any vacancy and remove any member of the Architectural Control Committee, with or without cause, at any time, and appoint the successor thereof. Each such appointment may be made for such term of office, subject to the aforesaid power of removal, as may be set from time to time in the discretion of the Board.

Section 9.4 Procedures. The Architectural Control Committee shall approve or

disapprove all requests for approval within thirty (30) days after the complete submission of the plans, specifications and other materials and information which the Committee may require in conjunction therewith. If the Architectural Control Committee fails to approve or disapprove any request within thirty (30) days after the complete submission of the plans, specifications, materials and other information with respect thereto, the request shall be deemed to have been approved by the Architectural Control Committee.

Section 9.5 Vote and Appeal. A majority vote of the Architectural Control Committee is required to approve a request for approval pursuant to this Article, unless the Committee has appointed a representative to act for it, in which case the decision of such representative shall control. If a representative acting on behalf of the Architectural Control Committee approves or denies a request for design approval, any Owner shall have the right to appeal such decision to the full Architectural Control Committee, upon a request therefor submitted to the Architectural Control Committee within thirty (30) days after such approval or denial by the Committee's representative. The decision of the Architectural Control Committee shall be final. No additional or further appeals are permitted, nor will any be recognized.

Section 9.6 Prosecution of Work After Approval. All Improvements authorized by the Architectural Control Committee shall be completed within the time limits established therefor, and in any event not later than one (1) year after the date of approval. All approved Improvements shall be completed as promptly and diligently as possible and in complete conformity with the approval. Failure to complete the approved Improvements within one (1) year after the date of approval, or to complete the Improvements in accordance with approval, including the description of materials furnished to the Architectural Control Committee and the conditions imposed with such approval, shall constitute a violation of this Article; provided, however, the Architectural Control Committee, in its discretion, may grant extensions of time for completion of any of the approved Improvements.

Section 9.7 Records. The Architectural Control Committee shall maintain written records of all applications submitted to it and all actions taken by it for a period of three years after approval of the Improvement, and such records shall be available for inspection by Members in accordance with the Association's policy regarding inspection and copying of Association records.

Section 9.8 Liability. The Association, the Board, the Architectural Control Committee, and each of their individual members, and any of their employees, agents, and independent contractors shall not be liable for any loss, damage or injury arising out of or in any way connected with the performance of the Architectural Control Committee for any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its authority hereunder, if such action was in good faith or without malice. In reviewing any matter, the Architectural Control Committee shall not be responsible for passing on safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations, nor shall its approval of an Improvement be deemed approval of such matters.

Section 9.9 Variance. The Architectural Control Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the

application of any such conditions and restrictions. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the neighborhood, shall not militate against the general intent and purpose hereof, and shall not set a precedent for any other applicant.

Section 9.10 Waivers. The approval or consent of the Architectural Control Committee to any Improvement shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent by the Architectural Control Committee as to any application for other or similar Improvements, or other matters whatsoever as to which approval or consent may subsequently or additionally be required and shall not set a precedent for any other applicant.

## ARTICLE X. RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 10.1 Restrictions Imposed. All of the Lots shall be held, conveyed, used, improved, occupied, owned, resided upon and secured, subject to the following provisions, conditions, limitations, restrictions, agreements and covenants, as well as those contained elsewhere in this Declaration. It is the intention of the Owners that the Community be established as a common interest community under a general plan for the improvement, development, use and occupancy of the Lots. These restrictions are general in nature and the Board shall have the power and duty to adopt, amend, repeal and enforce more specific and restrictive Rules as it deems to be reasonable and necessary to carry out the intent of this Declaration.

Section 10.2 Business Use Restrictions. The following use restrictions apply to all Lots and Residences and to the Common Elements, as applicable.

10.2.1 The use of each Lot and Residence is restricted to that of a single-family residence and accessory uses as permitted in this Declaration. A single-family residence is defined as a single housekeeping unit, operating on a nonprofit, noncommercial basis with a single kitchen and dining area. No business, trade, professional or commercial activities (“business activity”) of any kind may be conducted in or from any Lot or Residence, except that an Owner or Permitted User residing in a Residence may conduct such business activity within the Residence so long as:

- (a) No Residence shall be primarily devoted to any business, trade, professional or commercial use;
- (b) The existence or operation of the business activity is not apparent or detectable by sight, sound, smell or vibration from the exterior of the Residence, and does not materially increase traffic within the Community;
- (c) The parking of vehicles of any kind by employees shall only be permitted on the designated driveway of the Owner or Permitted User’s Lot and no equipment or other vehicles utilized in such business activity shall be visible from the streets in the Community or other Lots;

- (d) The business activity conforms to all zoning requirements for the property;
- (e) The business activity does not increase the insurance obligation or premium of the Association;
- (f) The business activity is consistent with the residential character of the Lot and does not constitute a nuisance or hazardous or offensive use, determined in the discretion of the Board of Directors;
- (g) No Lot or Residence shall be used or rented for transient hotel, motel or lodging purposes other than for a single-family residence; and
- (h) The business activity conforms to any Rules adopted by the Board from time to time to protect the peace, tranquility and quality of the Community.

10.2.2 The terms “business, trade, professional or commercial” and “business activity” shall be construed to have their generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on a regular basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other consideration, regardless of whether such activity is engaged in full or part time, generates a profit, or requires a license.

Section 10.3 Occupancy and Use Restrictions: The following occupancy restrictions apply to all Lots, Residences and to the Common Elements, as applicable:

10.3.1 Condition of Lots and Residences. Lots and Residences shall not be permitted to fall into disrepair; and shall be kept and maintained in a clean, safe, attractive and sightly condition, and in compliance with all Rules and any design guidelines.

10.3.2 Compliance with Laws and Ordinances. No immoral, improper, offensive or unlawful use may be made of any Lot or Residence. Owners and Permitted Users shall comply with and conform to all applicable laws and regulations of the United States, the State of Colorado and all other governmental ordinances, rules and regulations; violations thereof shall be a breach of this Declaration.

10.3.3 Nuisances. No noxious, offensive, dangerous or unsafe activity shall be conducted in or on any Lot, nor shall anything be done, either willfully or negligently, which may be or become an unreasonable annoyance or nuisance to other Owners or Permitted Users. No Owner or Permitted User shall make or permit any disturbing noises nor do or permit anything to be done by others that will interfere with the use and enjoyment of other Lots and the Common Elements by other Owners or Permitted Users. Unless otherwise prohibited or regulated by an authorized representative of Eagle County, open fires and outdoor wood burning shall only be permitted on a Lot in a contained barbeque unit, fireplace, contained fire pit or a ringed rock circle while attended by the Owner or resident(s) of the Lot. Habitually barking, howling or yelping dogs shall be deemed a

nuisance. The use of exterior spotlights, searchlights, speakers, horns, whistles, bells or other light or sound devices on any Lot may be regulated or prohibited by any design guidelines or the Rules.

10.3.4 Hazardous Materials, Controlled Substances and Marijuana. No Lot or Residence may be used for the manufacture, storage or disposal of hazardous materials other than in reasonable quantities typically used for purposes of residential cleaning, maintenance and repair. No Lot may be used for the growing, sale or dispensing of marijuana or any controlled substance.

10.3.5 Animals and Pets. Animals may not be raised, bred, boarded or kept for any commercial purposes on any Lot or in any Residence. Notwithstanding the foregoing, Owners and their Permitted Users may keep a reasonable number of dogs, cats or other domestic animals which are bona fide pets, as determined by the Board, so long as such pets are not kept for any commercial purposes and are not kept in such number or in such manner as to create a nuisance to any other Owners or Permitted Users. No livestock or poultry may be kept in the Community and such animals shall not be classified by the Board in a Rule as domestic animals being kept as pets. The Board shall have the right to determine in its sole discretion that dogs, cats or other pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that an Owner or Permitted User is otherwise in violation of this Section, and to take such action as it may deem appropriate to correct the same, including, requiring the Owner or Permitted User to permanently remove the offending animal(s) from the Lot upon three (3) days' written notice following notice and an opportunity for hearing. Owners and Permitted Users shall hold the Association harmless from any claim, loss, liability or damage resulting from any action of their pets. The right to keep pets may be regulated by Rules and shall be coupled with the responsibility to keep the pets within the boundaries of the Lot unless accompanied by or under the control of their owner, to pay for any damage caused by such pets, as well as any costs incurred by the Association as a result of such pets, and any such costs and damages shall constitute a Specific Assessment against the Owner's Lot.

10.3.6 Unightly Conditions, Facilities, Equipment and Objects. Subject to the Rules or any design guidelines, all unightly conditions, facilities, equipment, and objects shall be enclosed within a solid covered structure or screened from view on a Lot, including all tractors, snow removal equipment and garden or maintenance equipment, except when actually in use. No structure of a temporary nature, including, but not limited to, a house trailer, tent, shack, or outbuilding shall be placed or erected on any Lot, provided however, that during actual construction or installation of approved Improvements, necessary temporary structures for storage or disposal of materials may be kept.

10.3.7 Condition of Lots. Each Owner shall keep their Lot at all times in a neat and clean condition, free of weeds and debris, and grass shall be kept mowed. No refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot except for purposes of disposal of such items. All equipment for the disposal of trash and waste

materials shall be kept in a clean and sanitary condition, and shall be obscured from public view by plantings, fences or other approved means, except that receptacles which contain such material may be placed outside at times determined by the Board for garbage or trash pickup. Each Owner shall provide for a regular removal of trash and garbage from their Lot and shall use the waste removal company designated by the Board, if one is so designated. Trash trailers, dumpsters or trash roll offs are not permitted on any Lot without the prior written consent of the Board.

10.3.8 Use of Garages. Garages shall not be converted into any form of living space and are restricted to use by the residents of the Residence for residential storage and for parking space for vehicles.

10.3.9 Parking of Vehicles on Lots. Unless otherwise specified by the Board in a Rule or unless a variance is granted in writing by the Board to an Owner or Permitted User, all vehicles described in this Section 10.3.9 shall be parked on the designated driveway portion of a Lot, in a garage on a Lot or screened on a Lot from view from the street or adjacent Lots, by a screen that has been approved by the Architectural Control Committee. Except for commercial vehicles that are utilized for commuting to work and are not more ten (10) feet in height or more than twenty-eight (28) feet in length, no other commercial vehicles of any kind shall be parked on a Lot for more than three (3) days, unless such commercial vehicle is parked in a garage or screened from view from the street and adjacent Lots. No vehicles more than ten (10) feet in height or more than twenty-eight (28) feet in length shall be parked on a Lot, no trailers more than twenty-four (24) feet in length shall be parked on a Lot and no trailers designed or used for agricultural purposes shall be parked on a Lot. The Board shall have rulemaking authority to specify the conditions upon which an Owner or Permitted User shall be granted a variance to the restrictions and prohibitions set forth in this Section 10.3.9.

10.3.10 Activities Relating to Vehicles on Lots. No activity such as, but not limited to, maintenance that is not routine in nature, repair, rebuilding, dismantling, repainting or servicing of any kind of vehicle, trailer or boat, may be performed or conducted on any Lot unless it is done in a manner and location that screens the sight and sound of the activity from the street and from any other Lot. The foregoing restriction shall not be deemed to prevent routine maintenance of vehicles if such maintenance is performed within a twenty-four (24) hour period of time, washing and polishing of any motor vehicle, boat, trailer, motor-driven cycle, or other vehicle, together with those activities normally incident and necessary to such washing and polishing.

10.3.11 Signs and Flags. Through the adoption of Rules, the Board shall have the authority to prohibit commercial signs or commercial flags on a Lot and shall have the authority to regulate the number, location and size of flags, signs and flagpoles on a Lot. Unless otherwise provided by Colorado law, with the exception of prohibiting commercial signs and flags, the Board shall not have the authority to regulate the content of signs and flags.

10.3.12 Antennas and Satellite Dishes. Except as may otherwise be permitted by the

Architectural Control Committee, no exterior radio antenna, television antenna, or other antenna, satellite dish, or audio, visual or communication reception device of any type shall be placed, erected or maintained on any Lot, except inside a residence or otherwise concealed from view; provided, however, that the requirements of this subsection shall not apply to those antenna (including certain satellite dishes) which are specifically permitted under the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended from time to time. With respect to antenna (including certain satellite dishes) which are specifically permitted under the Telecommunications Act of 1996 and/or regulations promulgated thereunder, as amended, the Association shall be empowered, to the extent not prohibited by the Telecommunications Act of 1996 and/or regulations promulgated thereunder, to adopt Rules governing the types of antenna (including certain satellite dishes) that are permissible hereunder and, establishing reasonable, non-discriminatory restrictions relating to appearance, safety, location and maintenance.

10.3.13 Damage or Destruction. In the event of damage or destruction to the Improvements on a Lot, any such damaged or destroyed Improvements shall be repaired, replaced or restored within one (1) year after the date of damage or destruction.

10.3.14 Landscaping. All front, back and side yards on all Lots must be landscaped unless otherwise approved by the Architectural Control Committee. Trees, shrubs, vines and plants which die shall be promptly removed from the Lot and replacements of the same type and comparable quality promptly installed, unless otherwise approved by the Architectural Control Committee.

10.3.15 Firearms and Explosive Devices. No firearms shall be discharged within the Community. Firearms shall include, but not be limited to, rifles, shotguns, muskets, pistols, handguns, cannons, air rifles, BB guns, fireworks, explosives or similar devices and such devices as specified by the Board in a Rule.

10.3.16 Sewer and Water Systems. Each Residence shall be connected to the existing sewer and water systems and no private sanitary disposal system or private water wells will be allowed in the Community.

10.3.18. Fences. No fence, wall or similar type of barrier of any kind shall be constructed, erected or maintained on any Lot for any purpose whatsoever, except such fences, walls or barriers that have first been approved in writing by the Architectural Control Committee.

Section 10.4 Restrictions on Leasing. A Lot may not be leased or rented separate from the Residence on the Lot and subleases are prohibited. No Lot or Residence may be leased for a term of less than ninety (90) consecutive days. All leases shall be in writing and include a provision that the lease is subject to the terms of the Association Documents, and that the failure of the tenant to comply with the terms of the Declaration or Bylaws or the Rules shall constitute a default enforceable by either the Association or Owner, or by both of them. Any Owner who leases their Lot shall, within three (3) days after the execution of such lease, provide the

Association with the name and contact information (including telephone number and e-mail address, if any) of the tenant, as well as updated contact information (including telephone number, e-mail address if any, and address) of the Owner. The tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Association Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce and a reasonable opportunity to cure the violation directly prior to the commencement of an enforcement action. As used herein, the term lease shall mean any agreement or arrangement for occupancy of the Lot by persons other than the Owner and the members of his or her immediate family, and tenant shall mean any person occupying the Lot other than the Owner and the members of his or her immediate family. This Section 10.4 shall not be construed in such a manner as to prohibit Owners from having roommates while the Lot and Residence is occupied by the Owner.

## ARTICLE XI. INSURANCE

Section 11.1 Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage as set forth in this Article. If such insurance is not reasonably available, or if any policy is cancelled, or not renewed, without a replacement policy having been obtained, the Association shall cause notice of that fact to be provided to all Owners.

Section 11.2 Property Insurance. The Association shall obtain property insurance on the Common Elements for broad form covered causes of loss, including building ordinance and inflation guard endorsements, and on all personal property owned by the Association. The property insurance will be for an amount (after application of any deductions for depreciation) equal to one hundred percent (100%) of the full insurable replacement cost of the insured property less applicable deductibles, exclusive of land, foundations, excavations and other items normally excluded from property policies. The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the property, and the cost of such appraisals shall be a Common Expense.

Section 11.3 Liability Insurance. The Association shall obtain commercial general liability insurance in an amount determined by the Board of Directors, but in no event shall it be less than \$1,000,000. Reasonable amounts of umbrella liability insurance in excess of the primary limits may also be obtained. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association; and may also include, if applicable, comprehensive automobile liability insurance, liability for property of others, host liquor liability, water damage liability, contractual liability, and such other risks as may customarily be obtained by common interest communities in the Roaring Fork Valley.

Section 11.4 Mandatory Provisions. The insurance policies carried pursuant to Sections 11.2 and 11.3 shall provide that:

11.4.1 Each Owner is an insured person under the policy with respect to liability arising



out of the Owner's interest in the Common Elements or membership in the Association;

11.4.2 The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner;

11.4.3 No act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

11.4.4 If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

11.4.5 The insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Section 11.5 Fidelity Insurance. The Association shall obtain and maintain, to the extent reasonably available, fidelity insurance for any Owner or Association employee who either handles or is responsible for funds held or administered by the Association. The insurance shall name the Association as obligee and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. If reasonably available, the insurance shall be the sum of two (2) months of Annual Assessments for all Lots plus up to one hundred percent (100%) of the reserve funds as calculated from the current budget of the Association. The insurance shall include a provision that calls for thirty (30) days' written notice to the Association, before the insurance can be cancelled or substantially modified for any reason. The Association shall also require any independent contractor who manages the Association to obtain and maintain fidelity insurance coverage in the amount required by law or to the extent that it is reasonably available unless they are covered under the Association's fidelity insurance coverage.

Section 11.6 Owner Policies. The Association's insurance does not provide coverage for the Lots and an insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit and for their Lots. It is recommended that Owners purchase liability insurance coverage and property insurance coverage for their Lots and the Improvements located on their Lots, and any other insurance each Owner shall deem necessary and appropriate.

Section 11.7 Workers Compensation Insurance. The Board of Directors shall obtain and maintain workers compensation insurance if required to meet the requirements of the laws of the State of Colorado.

Section 11.8 Directors' and Officers' Liability Insurance. The Board of Directors shall obtain and maintain directors' and officers' liability insurance, if reasonably available, covering

all of the directors and officers of the Association. This insurance will have limits determined by the Board of Directors.

Section 11.9 Other Insurance. The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association. If any parcels of real property which the Association has an obligation to repair or reconstruct contains Improvements and is located within an area identified by the Federal Emergency Management Agency as having special flood hazards, and flood insurance coverage on such parcels has been made available under the National Flood Insurance Program, then the Board may obtain a policy of flood insurance on such parcels in an amount at least equal to the lesser of:

11.9.1 The maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

11.9.2 One hundred percent (100%) of current replacement cost of all Improvements and other insurable property located within a designated flood hazard area.

Section 11.10 Premiums. Insurance premiums for insurance carried by the Association shall be a Common Expense.

Section 11.11 Deductibles. The Board may adopt written nondiscriminatory policies and procedures for claims adjustment and responsibility for deductibles. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association.

Section 11.12 Insurance Proceeds. Any loss covered by the Association's insurance policies shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any Mortgagee. The Association shall hold any insurance proceeds in trust for the Association, Owners and lienholders as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged property, and the Owners, Association and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored. If property insurance proceeds are distributed to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record, and pursuant to the Act. The Association may designate a trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses and other sources.

## ARTICLE XII. EASEMENTS AND LICENSES

Section 12.1 Easements and Licenses. The Common Elements are subject to those easements or licenses of record in the County and as provided for on the Plat.

Section 12.2 Easements for the Board of Directors. Each Lot shall be subject to an

easement in favor of the Board of Directors, and its agents, employees and contractors, to perform its obligations pursuant to this Declaration, including, without limitation, the right to enter upon any Lot in any reasonable manner as necessary to carry out the Association's maintenance, repair, replacement and restoration responsibilities. For routine maintenance and non-emergency repairs, entry shall be made only after notice is given to the Owner. In case of emergency, entry may be made at any time provided that a reasonable effort according to the circumstances is made to give notice of entry.

Section 12.3 Emergency Easements. A nonexclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons, now or hereafter servicing the Community, to enter upon any part of the Community in the performance of their duties.

Section 12.4 Easement for Encroachments: If any Lot or Common Element encroaches on any other Lot or Common Element, a valid easement for the encroachment exists. The easement does not relieve an Owner of liability in case of willful misconduct nor relieve any Person of liability for willful encroachments.

Section 12.5 Easements for Drainage and Utilities: Easements for the installation and maintenance of utilities, drainage facilities, Association, public or private improvements and access thereto are reserved as shown on the recorded plats and other documents affecting the Lots and any amendments to such plats and documents or as established by any other instrument of record. No Improvements other than approved landscaping shall be placed or permitted to remain on any Lot nor shall any change in grading be permitted to exist which may change the direction of flow or obstruct or retard the flow of water through channels or swales within front, rear and side yard drainage easements. The Association has the right to enter in and upon each Lot at any time to repair, replace or change drainage structures or to perform such grading, drainage or corrective work as the Association may deem necessary or desirable in its sole discretion from time to time.

Section 12.6 Easements Deemed Created: All conveyances of any Lot shall be construed to grant and reserve the easements contained in this Article even though no specific reference to such easements or to this Article appears in the instrument of such conveyance.

### ARTICLE XIII. DURATION, AMENDMENTS AND MERGER

Section 13.1 Duration. This Declaration shall run with and bind the land perpetually, unless terminated as set forth in Article 14 below.

Section 13.2 Amendment. This Declaration may be amended in whole or in part at any time, as follows:

13.2.1 By written approval of Owners to whom at least fifty-one percent (51%) of the votes in the Association are allocated.

13.2.2 Each amendment to the Declaration must be properly recorded in the records of

the Clerk and Recorder of the County in accordance with Section 38-33.217(3) of the Act. Any amendment shall be effective on the tenth (10th) day after it is recorded.

13.2.3 Individual Owner's signatures shall not be required on the amendment. The amendment shall be signed by the President and Secretary of the Association and shall be deemed to be their certifications that the requisite number of Owners have approved the amendment.

13.2.4 Where a Lot is owned by more than one (1) person, the approval of any amendment or revocation shall be valid if approved by anyone (1) Owner. Where a Lot is owned by an entity, the entity may approve the amendment through action of a duly authorized representative. Signatures need not be notarized. The signature need not be identical to the name of the recorded Owner, but shall be sufficiently close as to be identified as a proper signature of such person. The records verifying approval by the Owners, including originals of all signatures, shall be retained for a period of three (3) years after the date of recording the amendment.

13.2.5 All Owner's approvals, once obtained, shall be irrevocable even upon death or conveyance of the Lot, except that if an amendment is not recorded within two (2) years after the approval, then the approving Owner or their successors or assigns may revoke their approval by a written and notarized document delivered to the Secretary of the Association.

Section 13.3 Challenge to Amendment of Association Documents. No action shall be commenced or maintained to challenge the validity of any aspect of any amendment of the Association Documents unless such action is commenced within one (1) year after the effective date of the amendment.

Section 13.4 Mergers. The Community may be merged or consolidated with another community of the same form of ownership by complying with Section 38-33.3-221 of the Act.

Section 13.5 Expenses. All expenses associated with preparing and recording an amendment shall be allocated in accordance with Section 38-33.3-217(6) of the Act.

#### ARTICLE XIV. TERMINATION

Termination of the Community may be accomplished only in accordance with Section 38-33.3-218 of the Act, upon agreement of Owners to whom at least sixty-seven percent (67%) of the votes in the Association are allocated.

#### ARTICLE XV. MORTGAGEE PROVISIONS

Section 15.1 Title Taken by First Mortgagee. Any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage documentation, including foreclosure or

deed in lieu of foreclosure, will be liable for all Assessments due and payable as of the date title to the Lot vests in the First Mortgagee under the statutes of Colorado governing foreclosures. Except as provided in the Act, such First Mortgagee will not be liable for any unpaid Common Expense Assessments, dues, and charges attributable to the Lot which occurred prior to the date such title vests in the First Mortgagee.

Section 15.2 Action by Mortgagee. If this Declaration or any of the Association Documents require the approval of any Agency or Mortgagee then, if any such Agency or Mortgagee fails to respond to any written request for such approval within thirty (30) days after such request is mailed to such Agency or Mortgagee, such Agency or Mortgagee shall be deemed to have approved such request provided that the notice was delivered to the Agency or Mortgagee by certified or registered mail, return receipt requested.

#### ARTICLE XVI. CONDEMNATION

If part or all of the Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 38-33.3-107 of the Act.

#### ARTICLE XVII. DISPUTE RESOLUTION; ENFORCEMENT

The Board of Directors, acting on behalf of the Association, shall adopt a policy addressing the resolution of disputes as required by the Act.

#### ARTICLE XVIII. MISCELLANEOUS

Section 18.1 Headings. The headings contained in this Declaration are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Declaration or the intent of any provision thereof.

Section 18.2 Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so require.

Section 18.3 Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 18.4 Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and if a provision is invalid, all of the other provisions of the Documents shall continue in full force and effect.

Section 18.5 Conflict. The Documents are intended to comply with the requirements

of the Act and the Colorado Revised Nonprofit Corporation Act. If there is any conflict between the Documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other Association Document, this Declaration shall control. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. The Declaration, Articles of Incorporation, and Bylaws shall supersede any inconsistent provisions of the Rules.

Section 18.6 Registration of Mailing Address. Each Owner shall register their mailing address with the Association, and except for assessment statements and other routing notices, all other notices or demands intended to be sent to an Owner shall be either delivered to them or sent by first class mail, postage prepaid, addressed in the name of such person or entity at such registered mailing address, except that if any such Owner advises the Association that they are willing to receive communications electronically, including by e- mail, then the Association may send such communications electronically. However, if any Owner fails to notify the Association of a registered address, then any notice or demand may be delivered or sent, as aforesaid, to such Owner at the address of such Owner's Lot.

Section 18.7 Indemnification. The Association shall indemnify every present and former director, officer, committee member, agent or employee against loss, costs, and expense, including attorneys' fees reasonably incurred in connection with any action, suit, or proceeding in which such person may be made a party by reason of being, or having been such director, officer, committee member, agent or employee of the Association, except for wanton or willful acts or omissions or if such person shall be finally adjudged to be liable for: any breach of the director's duty of loyalty to the Association or its members; acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; acts specified in Section 7-129-102, as now in effect or hereafter amended; or any transaction from which the director derived an improper personal benefit. Any such indemnification may be limited to and paid out of the insurance proceeds provided by an insurer furnishing officers and directors errors and omissions insurance coverage or similar protection and any other insurance protecting the Association from liability because of the negligent acts of its servants, including insurance covering motor vehicles or public liability, property damage, medical and other similar coverage. In the event of an insurance settlement, the settlement shall be approved by the Board and paid for by the insurance carrier out of the insurance proceeds.

Section 18.8 No Representations, Guaranties or Warranties. No representations, guaranties or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association, the Board, the Architectural Control Committee, or by any of their officers, directors, members, partners, agents or employees, in connection with any portion of the Community, or any Improvement, or their physical condition, structural integrity, freedom from defects, zoning, compliance with applicable laws, fitness for intended use, or view, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in writing.

Section 18.9 Disclaimer Regarding Safety. THE ASSOCIATION, THE BOARD AND THE ARCHITECTURAL CONTROL COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES, HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SAFETY, SECURITY OR PROTECTION OF ANY

PERSONS OR PROPERTY WITHIN THE COMMUNITY. BY ACCEPTING A DEED TO PROPERTY WITHIN THE COMMUNITY, EACH OWNER ACKNOWLEDGES THAT THE ASSOCIATION, THE BOARD AND THE ARCHITECTURAL CONTROL COMMITTEE, AND THEIR OFFICERS, DIRECTORS, MEMBERS, PARTNERS, AGENTS AND EMPLOYEES ARE ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY SET FORTH IN THE DOCUMENTS, AND ARE NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY, SECURITY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

IN WITNESS WHEREOF, the undersigned President of the Association has set his hand on the day and year first set forth above certifying that Owners representing the requisite percentage of votes in the Association have given their written consent to the adoption of this Amended and Restated Declaration of Protective Covenants for Sopris Village.

ASSOCIATION:  
Sopris Village Homeowners Association,  
Inc., a Colorado nonprofit corporation

By: \_\_\_\_\_  
President

The undersigned, as Secretary of Sopris Village homeowners Association, Inc., a Colorado nonprofit corporation, hereby certifies that the Owners holding at two-thirds (2/3) of the votes in the Association have provided their written consent to this Amended and Restated Declaration of Protective Covenants for Sopris Village and that the originals of such written consents are kept in the corporate records of the Association and are available for inspection.

Sopris Village Homeowners Association Inc., a Colorado nonprofit corporation

By: \_\_\_\_\_  
Secretary

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged, subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as President of Sopris Village Homeowners Association, Inc.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged, subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as Secretary of Sopris Village Homeowners Association, Inc.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public



**EXHIBIT A  
TO  
AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR SOPRIS VILLAGE HOMEOWNERS ASSOCIATION, INC.**

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THIS DECLARATION

That property described on the **FINAL PLAT OF SOPRIS VILLAGE SUBDIVISION** (A RESUBDIVISION OF CENTER VALLEY) recorded in the real estate records of the Clerk and Recorder of Eagle County, Colorado on April 15, 1974 at Reception No. 130109.