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Cheri Brunvand - Summit County Recorder

**DECLARATION
OF -
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
GLEN COVE HOMES**

Note :

- ① Declaration of CC&RS - these create the common interest community. They define the character, duration, rights, obligations & limitations of condominium ownership.
- ② Bylaws - adopted (and amended?) by association for regulation and management.

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December 15, 1998

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
GLEN COVE HOMES
A Planned Community in Summit County, Colorado**

THIS DECLARATION is made by **McCreery Construction, Ltd.**, a Colorado corporation, **P.O. Box 937, Frisco, Colorado** ("Declarant").

RECITALS

A. Declarant is the owner of real estate in Summit County, Colorado, which is referred to below as the "Property" and is more particularly described as:

Lot 1, Glen Cove according to the Plat filed in the office of the Summit County Clerk and Recorder on December 5, 1985 under Reception Number 308277, Summit County, Colorado

B. Declarant desires to create a planned community on the Property described above, in which the Units are designated for separate ownership; the remainder of the Property will be owned by the association named below and designated as Common Elements or as Limited Common Elements.

C. Declarant also desires to protect and maintain the project as a prime mountain residential area of the highest quality and value to enhance and protect its desirability and attractiveness.

D. Declarant further desires to provide for the operation and maintenance of the Common Elements and Limited Common Elements and other related facilities serving the project.

E. Declarant has deemed it necessary and desirable, for the welfare of the residents of the project and the preservation of the Property, to subject the Property to the covenants, restrictions, easements, charges, assessments and Liens set forth below, which shall be burdens and benefits to the Declarant and the other Owners and their respective successors, heirs, executors, administrators, devisees, grantees or assigns.

F. Declarant has created an association named "Glen Cove Owners Association" and delegates and assigns to the association the power and duties of maintaining and administering the Common Elements, Limited Common Elements, and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges created under this Declaration.

G. The provisions of this Declaration are intended to be in conformity with the Summit County Development Code which contains additional requirements pertaining to the Property and provisions of the Summit County Development Code shall control over any contrary provisions in this Declaration.

H. Declarant hereby submits the real estate to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time (the "Act"). In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable.

ARTICLE I - DECLARATION

Declarant declares that the Property shall be held sold, and conveyed subject to the following covenants: restrictions and easements which are for the purpose of protecting the value and desirability of the Property, and which shall run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property.

ARTICLE II - NAME, DIVISION INTO UNITS

Section 2.1. **Name.** The name of the project is **Glen Cove Homes**.

Section 2.2. **Association.** The name of the **association** is **Glen Cove Owners Association**. Declarant has caused to be incorporated **under** the laws of the State of Colorado the Association **as** a nonprofit corporation with the purpose of *exercising the functions as* herein set forth. In consideration for the exercise of such functions, **Declarant** sells and conveys the Common Elements to the Association.

Section 2.3. **Number of Units.** Initially, twenty (20) Homes will be created by the Map. If **Declarant exercises** development **rights**, the total **number of Homes** in the project will be increased **as** provided in Article named Development **Rights**, not to exceed 37 Homes in the Project.

Section 2.4. **Identification of Units.** The identification number of each Unit is shown on the Map depicting the Property **recorded** in the real property records of Summit County, **Colorado** and such **amended**, additional or supplemental maps **as** may be **filed** for the Property.

ARTICLE III - DEFINITIONS

Section 3.1. **Definitions.** The following words when used in this Declaration, unless inconsistent with the context of this Declaration, shall have the following meanings:

A. **"Act"** means the **Colorado** Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended **from** time to time.

B. **"Agencies"** shall mean and collectively refer to the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), the Veterans Administration (VA), the Colorado Housing Finance Authority (CHFA) or any other **governmental** or quasi-governmental agency or any other public, quasi-public or private entity **which** performs (or may perform in the future) **functions** similar to those currently performed by any of such entities.

C. **"Articles"** mean the Articles of Incorporation for Glen Cove Owners Association on file with the Colorado Secretary of State, and any amendments which may be made to those Articles from time to time.

D. **"Assessments"** means the Periodic, Supplementary, Special, and Default Assessments levied pursuant to the Article named Assessments below.

E. **"Association"** refers to The Glen Cove Owners Association ("Association"), a **Colorado** nonprofit corporation, and its successors and assigns.

F. **"Association Documents"** means this **Declaration**, the Articles of **Incorporation**, and the Bylaws of the Association, and any **procedures**, rules, regulations, or **policies** adopted under such documents by the **Association**.

G. **"Bylaws"** means the Bylaws adopted by the Association, **as amended** from time to time.

H. **"Common Elements"** means **all the Property** other than the Units. The Common Elements **predominantly include** the unimproved **land** surrounding the Units, structural walls and plumbing facilities which are located within a Unit **but save** other Units, **water and sewer** lines and facilities serving the project which are not owned by the East Dillon Water District **and the** Snake River Sanitation District, detention pond and drainage facilities and the private roads, parking areas and driveways depicted **on the** Map. The term Common Elements shall also include the Limited Common Elements, which are exclusively reserved for use by **an** Owner or as otherwise provided in this Declaration.

1. "Common Expenses" means (i) all expenses expressly declared to be common expenses by the Association Documents; (ii) all expenses of **administering**, servicing; conserving, managing, maintaining, repairing, or replacing the **Common Elements**; (iii) the cost of supplying water and sewer services for the Association, landscaping and snow removal for the **Common Elements**; (iv) all expenses of maintaining, repairing or replacing any part of the drive ways, parking areas and water or sewer utility **Lines** and facilities serving more than one Owner or located on the **Common Elements**; (v) insurance premiums for the insurance carried by the Association under this Declaration; and (vi) expenses of maintaining and repairing any part of the exterior surfaces of all improvements as determined by the Executive Board; (vii) all expenses lawfully determined to be common expenses by the Executive Board of the Association.

J. "Declarant" means McCrerey Construction, Ltd, a Colorado corporation ("Declarant") and its successors and assigns.

K. "Declaration" means and refers to this Declaration of Covenants, Conditions and Restrictions of Glen Cove Homes, a Planned Community in Summit County, Colorado.

L. "Development Rights" means those rights expressly reserved to Declarant allowing Declarant to create common elements, limited common elements and additional Units within the Project, which rights are more fully described below in that Article entitled Development Rights.

M. "Executive Board" means the governing body of the Association elected to perform the obligations of the Association relative to the operation, maintenance, and management of the Property and all improvements on the Property.

N. "First Mortgage" means any Deed of Trust or Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

O. "First Mortgagee" means any person named as a mortgagee or beneficiary in any First Mortgage, or any successor to be interest of any such person under such First Mortgage.

P. "Limited Common Elements" means a portion of the Common Elements allocated by the Declaration, or Map for the exclusive use of one or more Owners but fewer than all the Owners. The garages, decks, and porches appurtenant to any Home and the assigned spaces in front of each garage, as more specifically depicted on the Map are Limited Common Elements.

Q. "Map" means a Condominium Map of Glen Cove Homes, including all amendments and supplements thereto, which map is that part of the Declaration that depicts all or any portion of the Project executed by the Declarant and recorded in the real estate records of the Summit County Clerk and Recorder.

R. "Manager" shall mean a person or entity engaged by the Association to perform certain duties, powers, or functions of the Association, as the Executive Board may authorize from time to time.

S. "Member" shall mean every person or entity who holds membership in the Association.

T. "Mortgage" means any mortgage, deed of trust, or other document pledging any Unit or interest therein as security for payment of a debt or obligation.

U. "Mortgagee" means any person named as a mortgage or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

V. "Owner" means the owner of record, whether one or more persons or entities, of fee simple title to any Home, and "Owner" also includes the purchaser under a contract for deed covering a Home, but excludes those having such interest in a Home merely as security for the performance of an obligation, including a Mortgagee, unless and until such person has acquired fee simple title to the Home pursuant to foreclosure or other proceedings.

W. **"Project or Glen Cove Homes"** shall mean the planned community created by this Declaration, consisting of the *Property* and any other improvements constructed on the *Property* and as shown on the Map.

X. **"Property"** refers to Lot 1, Glen Cove, according to the Plat filed in the office of the Summit County Clerk and Recorder on December 5, 1985 under Reception Number 308277, Summit County, Colorado

Y. **"Successor Declarant"** means any party or entity to whom Declarant assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment or deed of record in the office of the Clerk and Recorder of Summit County, Colorado, designating such party as a Successor Declarant. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

Z. **"Unit" or "Home"** means the fee simple interest in and to the physical portion of the *Property* depicted on the Map. The boundaries of the unit shall be the walls, floors and ceilings as specifically depicted in the Map. Each Unit shall include the heating and hot water apparatus exclusively serving the Unit, whether or not located within the boundaries of the Unit. An attached Home refers to a Unit within a building containing two or more adjacent Units.

ARTICLE IV - MEMBERSHIP & VOTING RIGHTS; ASSOCIATION OPERATIONS

Section 4.1. **The Association.** Every Owner of a Home shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Home.

Section 4.2. **Transfer of Membership.** An Owner shall not transfer, pledge, or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Home and then only to the purchaser or Mortgagee of his Home.

Section 4.3. **Class of Membership.** The Association shall have one (1) class of voting membership. Members shall be all Owners who, except as otherwise provided for in this Declaration, shall be entitled to vote in Association matters pursuant to this Declaration on the basis of one vote for each Home owned. When more than one person holds an interest in any Home, all such persons shall be members. The vote for such Home shall be exercised by one person or alternative persons (who may be a tenant of the Owners) appointed by proxy in accordance with the Bylaws. In the absence of a proxy, the vote allocated to the Home shall be suspended in the event more than one person or entity seeks to exercise the right to vote on any one matter. Any Owner of a Home which is leased may assign his voting right to the tenant, provided that a copy of a proxy appointing the tenant is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right.

Section 4.4. **Period of Declarant's Control.** Declarant and any successor of Declarant who takes title to all or part of the *Property* for the purpose of development and sale of the *Property* and who is designated as Successor Declarant in a recorded instrument executed by Declarant shall have exclusive power to appoint and remove members of the Executive Board and officers of the Association. This period of Declarant's control shall terminate no later than sixty (60) days after conveyance of 75% of the Homes to Owners other than Declarant. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the period of Declarant's control, but, in that event, the Declarant may require for the duration of the period of Declarant's control, that specified actions of the Association or the Executive Board, as described in a recorded instrument by the Declarant, be approved by the Declarant before they become effective.

Section 4.5. **Compliance with Association Documents.** Each Owner shall abide by and benefit from each provision, covenant, condition, restriction and easement contained in the Association Documents. The obligations, burdens, and benefits of membership in the Association concern the land and shall be covenants running with each Home for the benefit of all other Homes.

Section 4.6. **Books and Records.** The Association shall make available for inspection, upon advance request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records, and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 4.7. **Manager.** The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The Manager shall not have the authority to make expenditures except upon prior approval and direction by the Executive Board. The Executive Board shall not be liable for any omission or improper exercise by a Manager of any duty, power, or function so delegated by written instrument executed by or on behalf of the Executive Board.

Section 4.8. **Implied Rights and Obligations.** The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, and every other right or privilege reasonably implied from the existence of any right or privilege given to the Association under the Association Documents or reasonably necessary to effect any such right or privilege. The Association shall perform all of the duties and obligations expressly imposed upon it by the Association Documents, and every other duty or obligation implied by the express provisions of the Association Documents or necessary to reasonably satisfy any such duty or obligation.

Section 4.9. **Powers of the Executive Board of the Association.** The Executive Board shall have power to take the following actions:

A. Adopt and publish rules and regulations governing the use of the Common Elements and governing the personal conduct of the Members and their guests on the Common Elements, the Association may establish penalties, including, without limitation, the imposition of fines, for the infraction of such rules and regulations;

B. Suspend the voting rights of a Member during any period in which such Member is in default on payment of any Assessment levied by the Association, as provided in that Article named Assessments. Such rights may also be suspended after notice and hearing for a period up to ninety (90) days for infraction of published rules and regulations, unless such infraction is ongoing, in which case the rights may be suspended during the period of the infraction and for up to ninety (90) days thereafter, and;

C. Exercise for the Association all powers, duties, and authority vested in or delegated to the Executive Board and not reserved to the Members or Declarant by other provisions of this Declaration or the Articles or Bylaws of the Association or as provided by the Act.

Section 4.10. **FHA/VA Approval.** During the period of Declarant Control, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, mergers and consolidations, mortgaging of Common Elements, dedication of Common Elements, dissolution and amendment of this Declaration.

ARTICLE V - MAINTENANCE OF HOMES AND COMMON ELEMENTS

Section 5.1. **Maintenance of Common Elements and Limited Common Elements.** The Association shall maintain and keep the Common Elements and Limited Common Elements in good repair. Maintenance shall include, but shall not be limited to, landscaping and upkeep; repair and replacement, subject to any insurance then in effect, of all lighting, walls, utility lines and lift station, fences, retaining walls, signage, irrigation systems, drainage and detention facilities, sewer lift station and improvements, if any, located in the Common Elements. The drainage and detention facilities will be maintained in accordance with the project engineer's recommendations attached to the Bylaws. Such maintenance by the Association will be performed on a periodic basis as the Executive Board shall determine with all costs of maintenance paid as set forth in that Article named Assessments. In the event the Association does not maintain or repair the Common Elements, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.

Section 5.2. Maintenance of Homes .

A ~~Except~~ for the ~~maintenance obligations assumed~~ by the Association ~~as~~ provided below, each Owner shall be solely responsible for all interior maintenance and repair of his Home and garage including; but not limited to, all ~~fixtures~~, ~~and~~ equipment located in, ~~on~~ or upon the Home. Each Owner is required to maintain the Home in a clean condition of good order and free from ~~trash~~, and garbage, in accordance with the protective covenants ~~listed~~ below. No Owner shall unreasonably damage the value of other Homes such as by shoddy upkeep of such Owner's Home.

B. The Association shall maintain and repair the exterior surfaces of all Homes, including the siding, walls, fences, barriers, decks, foundations, retaining walls, stairs and roofs. Exterior maintenance shall include painting, replacement of trim, ~~caulking~~, repairs and such other services deemed appropriate by the Executive Board. All costs of maintenance shall be paid ~~as~~ a Common Expense.

C. No owner shall construct any structure or improvement, or make or suffer any structural or design change (including a color scheme change), either permanent or temporary and of any ~~type~~ or nature whatsoever to the exterior of a Home or construct any addition or improvement on a Home, without ~~first~~ obtaining the prior written consent thereto from the ~~Executive~~ Board and in regard to structural changes, the prior written consent of Summit County.

Section 5.3. Maintenance of Property Road. The Association shall be responsibility for the maintenance of any landscaping located adjacent to or within the Property Road, along with the maintenance, repair, replacement and snow plowing of the Property Road ~~and~~ driveways up to 4' from the garage door. Such costs of maintenance, repair, replacement and snow plowing shall be assessed as a Common Expense according to that Article named Assessments below. In the event the Association ~~does~~ not maintain or repair the Property Road, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.

Section 5.4. Limited Common Expense Allocation. Any expense associated with the maintenance (except snow removal), repair or replacement of a Limited Common Element which is ~~an~~ appurtenance and provided to all Homes in the Project shall be assessed as a Common Expense. Snow removal and cleaning of Limited Common Elements decks and porches will be the responsibility of the Home Owner. Any expense associated with the maintenance, repair or replacement of a Limited Common Element which is not provided to all Homes shall be assessed equally against the Homes for which the expense is incurred.

Section 5.5. Allocation of Specified Common Elements. The Executive Board may designate parts of the Common Elements from time to time for use by less than all of the Owners or by ~~nonowners~~ for specified periods of time or by only ~~those~~ persons paying fees or satisfying other reasonable conditions for use ~~as~~ may be established by the Executive Board. Any such designation by the Executive Board shall not be a sale or disposition of such portions of the Common Elements.

Section 5.6. Maintenance of Utility Facilities. The Association shall maintain ~~and~~ keep in ~~good~~ repair the water mains, sewer lift station ~~and~~ lines, service lines, detention pond and drainage facilities and utilities located ~~on~~ the Common Elements and Limited Common Elements.

Section 5.7. Maintenance Contract. The Association or Executive Board may employ or contract for the services of an individual or maintenance ~~company~~ to perform certain delegated powers, functions, or duties of the Association to maintain the Common Elements. The employed individual or maintenance company shall have the authority to make expenditures upon prior approval and direction of the Executive Board. The Executive Board shall not be liable for any omission or improper exercise by the employed individual or management company of any duty, power, or function so delegated by written ~~instrument~~ executed by or on behalf of the Executive Board.

ARTICLE VI - PROPERTY RIGHTS OF OWNERS & RESERVATIONS BY DECLARANT

Section 6.1. **Owner's Easement of Enjoyment.** Every Owner has a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Home, subject to the provisions contained herein.

Section 5.2. **Recorded Easements.** The Property shall be subject to all easements as shown on Map and to any other easements of record or in use as of the date of recordation of this Declaration. In addition, the Property is subject to those easements set forth in this Article.

Section 6.3. **Utility Easements.** There is hereby created a general easement upon, across, over, in, and under the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including, but not limited to, gas, telephone, electrical, and cable communications systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such services to install and maintain necessary equipment, wires, circuits, and conduits under the Property. Such utilities may temporarily be installed above ground during construction, if approved by Declarant. Any person or utility company disturbing the surface of the Property during installation, maintenance or repair of facilities within an easement will restore the surface to its original grade and revegetate the surface to its pre-existing condition, except that trees within the easement need not be restored.

Section 6.4. **Special Declarant Rights.** Declarant reserves the right to perform the acts and exercise the rights hereinafter specified (the "Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

A. Completion of Improvements. The right to complete improvements indicated on Map filed with the Declaration.

B. Exercise of Development Rights. The right to exercise any Development Right reserved in that Article named Development Rights.

C. Sales Management and Marketing. The right to maintain sales offices, management offices, signs advertising the Project and models.

D. Construction Easements. The right to use easements through the Common Elements for the purpose of making improvements within the Project or within the Expansion Area which may be added to the Project

E. Master Association. the right to make the Project subject to a Master Association.

F. Merger. The right to merge or consolidate a Project with another Project of the same form of ownership.

G. Control of Association and Executive Board. The right to appoint or remove any Officer of the Association or any Executive Board member.

H. Amendment of Declaration. The right to amend the Declaration in connection with the exercise of any Development Rights.

I. Amendment of Map. The right to amend the Map in connection with the exercise of any Development Rights.

Section 6.5. **Reservation of Easements, Exceptions, and Exclusions.** Declarant reserves to itself and hereby grants to the Association the concurrent right to establish from time to time, by grant or otherwise; utility and other easements, permits, or licenses over the Common Elements for purposes including, but not limited to, drives, paths, walkways, drainage, parking areas, conduit installation areas, and to create other reservations, exceptions, and exclusions

for the best interests of **all** the **Owners** and the Association, in order to serve the Owners within the Property.

Section 6.6. **Easement for Ingress and Egress.** Declarant hereby **grants** as an appurtenance of each Home a **non-exclusive** easement of ingress and egress across the Common Elements as shown on any recorded plat of **the Property** to each Home to assure access from a public road or a Property Road to each Home. The specific means of ingress and egress shall be subject to change as Declarant shall from time to time deem necessary so long as a reasonable means of access is **always** provided.

Section 6.7. **General Maintenance Easement.** An easement is hereby reserved to Declarant, and **granted** to the **Association**, and any member of the Executive Board or the Manager, and their respective officers, agents, employees, and **assigns**, upon, across, over, in, and under the Property and a right to make such use of the Property as may be necessary or appropriate to make **emergency** repairs or to perform the duties and **functions** which the Association is obligated or **permitted** to **perform** pursuant to the Association Documents, including the right to enter upon any Home.

ARTICLE VII - INSURANCE

Section 7.1. Association's Insurance.

A. The **Association** shall provide and keep in force for the protection of the Owners general public liability and property damage insurance against claims for bodily injury or death or property **damage** occurring in, **on**, or upon the **Common Elements**, in limits of not less than \$300,000 in **respect** of bodily injury or death to any number of persons arising out of **one** accident or disaster, or for damage to property, and if **higher** limits shall at any time be **customary** to protect against possible tort **liability** with respect to similar property in the County of Summit, Colorado, **such higher** limits shall be **carried**.

B. The **Executive Board** shall obtain such insurance policies relating to the Common Elements as it deems **appropriate**, which policies shall be purchased by the Executive Board or its duly authorized agent. The Executive Board, **the Manager**, and Declarant shall not be liable for failure to obtain any coverages which may be **obtained** under this Article or for any loss or damage resulting from such failure if such failure is due to the unavailability of such coverages from reputable **insurance** companies.

C. The Association shall deliver to the Owners **certificates** evidencing all insurance required to be carried **under** this paragraph, each containing agreements by the insurers not to cancel or **modify** the policies without giving all of **the Owners** written notice of at least thirty (30) days. Each Owner shall have the right to inspect and copy all such insurance policies of the Association and require evidence of the payment of **premiums** thereon.

D. All insurance policies shall be reviewed at least annually by the Executive Board in order to ascertain **whether** the coverage contained in **the** policies is **sufficient** to **make** any necessary repairs or replacement of the property which may have **been** damaged or destroyed.

Section 7.2. Insurance Obtained by Owners.

A. Each **Owner** may obtain physical damage and **liability insurance** for such **Owner's** benefit, at such Owner's **expense**, covering the Owner's Home and improvements, personal property and personal liability (except to the extent any **such Home** is encumbered by an easement conveyed to the Association as Common Elements). In addition, an Owner may obtain such other and additional **insurance** coverage on the Home as such Owner in the Owner's sole discretion shall **conclude** to be desirable; provided, however, that none of such **insurance** coverage obtained by the Owner shall operate to **decrease** the amount which the Executive Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise **affect** any **insurance** coverage obtained by the Association or cause the diminution or termination of that **insurance** coverage. Any insurance obtained by **an** Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners, including Declarant, should Declarant be the Owner of any Home. No Owner shall obtain separate insurance policies on the Common Elements.

B. Upon determination of the Executive Board, the Association shall acquire a master policy to cover ~~any~~ one or more of the hazards required in this paragraph to be insured against by the Owners.

C. The Executive Board may require an Owner who purchases insurance coverage for the Owner's Home (~~other than~~ coverage for the Owner's personal property) to file copies of such policies with the Association within thirty (30) days ~~after~~ purchase of the coverage to eliminate potential conflicts with any master policy ~~carried~~ by the Association.

Section 7.3. Personal Property Insurance. Each Owner shall be separately responsible for all insurance covering loss or ~~damage~~ to ~~personal~~ property in his respective Home and liability for injury, death or damage occurring inside his Home. or ~~deriving from~~ any exclusive easement.

ARTICLE VIII - ASSESSMENTS

Section 8.1. **Obligation.** Owners, by accepting a deed for a Home, are ~~deemed~~ to covenant to pay to the Association (1) the Periodic Assessments imposed by the Executive Board as necessary to meet the Common Expenses of maintenance, operation, ~~and~~ management of the Common Elements and to perform the functions of the Association; (2) Special Assessments for ~~capital improvements~~ and other purposes as stated in this Declaration, if permitted by law; and (3) Default Assessments which may be assessed against a Home for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under ~~the~~ Association Documents.

Section 8.2. Purpose of Assessments. The Assessments shall be used exclusively to promote the health, safety ~~and~~ welfare of the Owners and occupants of the Property and for the improvement ~~and~~ maintenance of the Common Elements all as more fully set forth in this Declaration and on the Map.

Section 8.3. **Maximum Annual Assessments.** Until January 1 of the year immediately following ~~the~~ conveyance of the ~~first~~ Unit to an Owner, the ~~maximum~~ annual assessment shall be One Thousand Eight Hundred ~~and no~~/100 dollars (\$1,800.00) per Unit.

- A. From and ~~after~~ January 1 of ~~the year~~ immediately following the conveyance of the ~~first~~ Unit to an Owner, ~~the~~ maximum ~~annual~~ assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the members of the Association.
- B. From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, ~~the~~ maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of members who ~~are~~ voting in person or by proxy, at a meeting duly called for this purpose.
- C. The Board of Directors may fix the annual assessment at ~~an~~ amount not in excess of the maximum.

Section 8.4. **Budget.** The Executive Board shall adopt a budget with Assessments ~~sufficient~~ to pay all Common Expenses and adequate ~~reserves~~ on an annual basis ~~before~~ the commencement of each calendar year. Within thirty (30) days after adoption of any proposed budget, the Executive 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 ratification of the budget not less than fourteen (14) nor more than ~~sixty~~ (60) days after mailing or other delivery of ~~the~~ summary. Unless at that meeting a majority of all Owners ~~or~~ any larger percentage ~~specified~~ in the Declaration reject the budget, the budget ~~is~~ ratified, whether ~~or not~~ a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by ~~the~~ Owners must be ~~continued~~ until such time as the Owners ratify a subsequent budget proposed by ~~the~~ Executive Board.

Section 8.5. **Reserves.** The Association or Declarant shall require each buyer of a Lot to make a non-refundable payment to the Association in an amount equal to one-quarter of an annual ~~installment~~, which sum shall be held, without interest, by the Association as a reserve fund. The Reserve Fund shall be collected ~~and~~ transferred to the Association at the time of closing of the sale of each Home, as aforesaid, and shall be maintained for the use and benefit of the Association.

Such payment shall not relieve an Owner from making **regular payments** of assessments as the same become due. Upon the transfer of a Home, an Owner shall not be **entitled** to a credit from the transferee for any unused portion of the Reserve Fund.

Section 8.6. Periodic Assessments. Periodic Assessments for Common Expenses made shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners, **subject to that** Section named Budget above.

Periodic Assessments shall be payable on a prorated basis each calendar month in advance and shall be due on the first day of each month, or such other periods as the Executive Board may determine. The omission or failure of the Association to fix the periodic Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any Periodic Assessments in excess of the actual expenses incurred in any fiscal year.

Section 8.7. Apportionment of Periodic Assessments. Each Owner shall be responsible for that Owner's share of the Common Expenses which shall be divided equally among the Owners, **subject to** the following exceptions. Any extraordinary maintenance, repair or restoration work on, or Common Expense benefitting, fewer than all of the Homes or **Limited** Common Elements shall be borne by the Owners of those affected Homes only. Any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the actions of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Any Common Expense caused by the misconduct of any Owner shall be assessed solely against such Owner's Home. Any Common Expense solely benefitting any detached Homes created in the Expansion Area shall be borne by the Owners of those affected Homes only and such detached Homes will be exempt from any Common Expense solely benefitting the attached Homes.

Section 8.8. Supplementary Assessments. In the event the Board shall determine, at any time or from time to time, that the amount of the annual assessments is not adequate to pay for the costs and expenses of fulfilling the Association's obligations hereunder, one or more supplementary assessments may be made for the purpose of providing the additional funds required. To determine the amount required to be raised by each supplementary assessment, the Board shall revise the budget, a summary of which shall be furnished to each Owner and shall set a date for a meeting of the Home Owners to consider the ratification of such budget. Upon request, the Board will deliver a summary of the revised budget to any Mortgagee. Based on such revised budget the Board may make a supplementary assessment for such fiscal year against each Home.

Section 8.9. Special Assessments. In addition to the Periodic Assessments authorized by this Article, the Association may levy in any fiscal year one or more Special Assessments payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration, provided that any such assessment shall have the assent of two-thirds (2/3) of the members of the Association who are voting in person or by proxy at a meeting duly called for this purpose. This Section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration, and in acting under this Section, the Association shall make specific references to this Section. Any amounts assessed pursuant to this Section shall be assessed to Owners as provided in this Article, subject to the requirements that any extraordinary maintenance, repair or restoration work on fewer than all of the Homes shall be borne by the Owners of those affected Homes only; and any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the actions of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

Section 8.10. Default Assessments. All monetary fines 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 pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Home which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the

amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least 30 days prior to the due date.

Section 8.11. Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Periodic, Special, or Default Assessment, which is not paid within **thirty (30)** days after its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- A. **Assess** a late charge for each delinquency in such amount as the Association deems appropriate;
- B. Assess an interest **charge** from the date of **delinquency** at the yearly rate of four points **above the prime rate charged** by the Association's bank, or such other rate as the Executive Board may establish, not to exceed **twenty-one** percent (21 %) per annum;
- C. Suspend the voting rights of the Owner during any period of delinquency;
- D. Accelerate all remaining **Assessment installments** so that unpaid Assessments for the remainder of the fiscal year shall be due and payable **at once**;
- E. Disconnect any utility services to the Home which are paid **as** a Common Expense;
- F. Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and
- G. **File** a statement of **Lien** with respect to the Home and proceed **with** foreclosure as set forth below.

Assessments chargeable to any Home shall constitute a lien on such Home, including any improvements on the Home. To evidence the **lien** created **under** this Section, the Association may, but is not required to, prepare a written notice setting forth (i) the address of the Association, (ii) the amount of such unpaid **indebtedness**, (iii) the amount of accrued penalty on the indebtedness, (iv) the name of the **Owner** of the Home, and (v) a description of the Home. **The** notice shall be signed and **acknowledged** by the President or a Vice-President of the Association or by the Manager, and the Association **shall serve** the notice **upon** the Owner by mail to the address of the Home or to such other address as the Association may have in its files for **such Owner**. At least ten (10) days **after** the Association mails the Owner such a notice, the Association may record **the** same in the office of the Clerk and Recorder of Summit County, Colorado. Such lien for Assessments shall attach from the due date of the Assessment. Thirty (30) days following the **date** the Association mails the notice, the Association may institute foreclosure **proceedings** against the defaulting Owner's Home in the **manner** for foreclosing a mortgage on real property under Colorado law. In the event of **any** such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, **any 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 attorney's fees incurred in connection with the enforcement of **the lien**. The Association shall have the power to bid on a Home at foreclosure sale and to acquire and **hold**, lease, mortgage, and convey the same.

Section 8.12. Personal Obligation. The amount **of** any Assessment chargeable against any Home shall be a personal and individual debt of the Owner of same. No Owner may exempt **himself** from **liability** for the **Assessment** by abandonment of his Home or by waiver of the use or **enjoyment** of all or any part of the Common Elements. Suit to recover a money judgment for **unpaid** Assessments, any penalties and interest, thereon, the cost and expenses of such proceedings, and **all** reasonable attorney's fees in connection therewith shall be **maintainable** without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 8.13. Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Association's perpetual **lien** for such Assessments, all successors to the fee simple title of a Home, except as provided in the Section named Subordination of Lien below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments: interest, late charges, **costs**, expenses, and attorney's fees

against such Home without prejudice to such successor's right to recover from any prior Owner any amounts paid by such successor. This Liability of a successor shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Home. In addition, such successor shall be entitled to rely on the statement of status of Assessments by or on behalf of the Association as set forth below.

Section 8.14. Subordination of Lien. The lien of the Assessments provided for in this Declaration shall be subordinate to (i) the lien of real estate taxes and special governmental assessments, (ii) liens and encumbrances recorded prior to the recordation of the Declaration, and (iii) liens for all sums unpaid for a first mortgage of record, recorded before the date on which the assessment sought to be enforced became delinquent, except that the Association claims the priority for 6 months' assessment lien as granted in the Act. The Lien of the Assessments shall be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Colorado. Seller's transfer of any Home shall not affect the Association's lien except that sale or transfer of any Home pursuant to foreclosure of any first mortgage, or any proceeding in lieu thereof, or cancellation or forfeiture shall only extinguish the Association's liens as provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Homes as a Common Expense at the direction of the Executive Board. No sale or transfer shall relieve the purchaser or transferee of a Home from liability for, or the Home from the lien of, any Assessments made after the sale or transfer.

Section 8.15. Notice to Mortgagee. The Association may report to any Mortgagee any unpaid Assessments remaining unpaid for longer than sixty (60) days after the same shall have become due, if such Mortgagee first shall have furnished to the Association written notice of the Mortgage and a request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Home may pay any unpaid Assessment payable with respect to such Home, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Home for the amounts paid with the same priority as the lien of the Mortgage.

Section 8.16. Statement of Status of Assessment Payment. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such Owner's Home. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, the Association shall have no right to assert a priority lien upon the Home for unpaid assessments which were due as of the date of the request.

ARTICLE IX - DAMAGE OR DESTRUCTION

Section 9.1. The Role of the Executive Board. Except as provided in that Section named Decision Not to Rebuild Common Elements, in the event of damage to or destruction of all or part of any Common Elements Improvement, or other property covered by insurance written in the Association's name under that Article named Insurance, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged property (the property insured by the Association pursuant to that Article named "Insurance" may be referred to as "Association-Insured Property").

Section 9.2. Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in this Article shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction. Such costs may also include professional fees and premiums for such bonds as the Executive Board determines to be necessary.

Section 9.3. Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Assessments of the Association shall not be abated during the period of

insurance adjustments and repair and reconstruction

Section 9.4. Funds for Repair and Reconstruction. Proceeds received by the Association from any hazard insurance carried by the Association shall be used to repair, replace, and reconstruct the Association-Insured Property, if said proceeds are insufficient to pay the estimated or actual cost of such repair, replacement, or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to that Article named Assessments, Section named Supplementary Assessments, but subject to applicable law, levy, assess, and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement, or reconstruction.

Section 9.5. Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above, constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, then in equal shares per Home, first to the Mortgagees and then to the Owners, as their interests appear.

Section 9.6. Decision Not to Rebuild Common Elements. If Owners representing at least two-thirds (2/3) of the total allocated votes in the Association and two-thirds (2/3) of the First Mortgagees (based on one (1) vote for each Mortgage which encumbers a Home) and all directly adversely affected Owners agree in writing not to repair and reconstruct improvements within the Common Elements and if no alternative improvements are authorized, then the damaged property shall be restored to its natural state and maintained as an undeveloped portion of the Common Elements by the Association in a neat and attractive condition. Any remaining insurance proceeds shall be distributed in accordance with applicable law.

ARTICLE X - CONDEMNATION

Section 10.1. Rights of Owners. Whenever all or any part of the Common Elements shall be taken by any authority having power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed in lieu of a taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain; each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 10.2. Partial Condemnation, Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for those Owners for whom use of the Common Elements was conveyed, and the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Owners who represent at least two-thirds (2/3) of the votes of all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board. If such improvements are to be repaired or restored, the provisions in that Article named Damage or Destruction above regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed in equal shares per Home among the Owners, first to the Mortgagees, if any, and then to the Owners, as their interests appear.

Section 10.3. Complete Condemnation. If all of the Property is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion

of the condemnation award attributable to the Common Elements shall be distributed as provided in that Section named Disbursement of **Funds** for Repair and **Reconstruction** above.

ARTICLE XI - MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgage on Homes. To the extent applicable, necessary, or proper, the provisions of this Article apply to this Declaration and also to **the** Articles and Bylaws of the Association.

Section 11.1. **Approval Requirements.** Unless at least **two-thirds (2/3)** of the Mortgagees holding First Mortgages against any portion of the Property (based on one vote for each Mortgage owned), **and** at least two-thirds (2/3) of the Owners have given their prior **written** approval, the Association **shall** not be entitled to:

A. By act or omission seek to abandon, **partition**, subdivide, sell, or transfer all or part of the Common Elements (provided, however that the granting of easements for public utilities or for other public purposes consistent with **the** intended use of such Common Elements shall not be deemed a transfer within the meaning of this clause);

B. Change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner.

Section 11.2. **Right to Pay Taxes and Charges.** Mortgagees who hold First Mortgages against Homes may, jointly or singly, pay **taxes** or other charges which are in default and which may or have become a charge against any Common Elements, and **may** pay overdue **premiums** on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and Mortgagees making such payments shall be owed immediate reimbursement therefor **from** the Association.

ARTICLE XII - DURATION OF COVENANTS AND AMENDMENT

Section 12.1. **Term.** The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity subject to the following provisions.

Section 12.2. **Amendment.**

A This Declaration, or any provision of it, may be amended at any time **by** an instrument signed by Owners **holding not less than fifty-one (51%)** percent of the votes possible to be cast under this Declaration. **Any** amendment must be **executed** by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of **the** Secretary of the Association to the recorded instrument certifying that signatures of a sufficient number of Owners approving the amendment are on **file** in the office of the Association.

B. **Notwithstanding anything** to the contrary contained in this Declaration: . . .

(i) The Declarant hereby reserves and is **granted** the **right** and power to record technical **amendments** to this Declaration, the Articles of Incorporation and By-Laws of the Association, at any time for the purpose of **correcting** spelling, grammar, dates, **typographical** errors, or as may otherwise be necessary to **clarify** the meaning of any provision of any of such documents without the **consent** of any of the Owners or First Mortgagees.

(ii) The Declarant hereby reserves and is **granted** the right and power to record special amendments to the **Declaration**, the Articles of Incorporation and By-Laws of the Association at any time in order to comply **with** any requirement of any of the Agencies or to induce any of the Agencies to **make**, purchase, sell, insure or guarantee First Mortgages, to comply with the requirements add powers set forth in the Act, or to **confirm** with any Amendments, **modifications, revisions** or revocations of the Summit County Development Code, **without** the consent of the Owners or any First Mortgagees.

Section 12.3. When Modifications Permitted. Notwithstanding the provisions of that Section named Amendment above or that Section named Revocation below, no termination, extension, modification, or amendment of this Declaration made prior to the termination of Declarant's control shall be effective unless the prior written approval of Declarant is first obtained.

Section 12.4. Revocation. This Declaration shall not be revoked, except as provided in that Article named Condemnation regarding total condemnation, without the consent of all of the Owners evidenced by a written instrument duly recorded.

ARTICLE XIII - PROTECTIVE COVENANTS

Section 13.1. Improvements Prohibited. No used or second-hand structure, no building of a temporary character, no mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on the Property, either temporarily or permanently; except those items which are necessary for construction may be used during the period extending no later than (i) eighteen (18) months after commencement of construction or (ii) the date of substantial completion of said improvement, whichever is earlier. The placement, appearance and maintenance of such temporary structures may be subject to reasonable rules of the Executive Board governing such matters.

Section 13.2. Pets. Dogs, cats or customary household birds may be kept on the Property, not to exceed one (1) dog and one (1) cat per Home without the written approval of the Executive Board. An enclosed pet yard may be constructed by an Owner on Common Elements adjacent to a Home in accordance with Rules and Regulations adopted by the Executive Board. Otherwise, pets shall not be kept outside the Home unless the pet is leashed and under direct supervision and control of the Owner. All pet refuse and waste shall be promptly picked up by the Owner. No pets owned by persons other than Owners, nor any wild animal, reptile, or bird may be trapped, transported, kept or maintained anywhere upon the Property. Breeding of any animals on the Property is specifically prohibited. The Executive Board may adopt rules restricting pets which are noisy or nuisances.

Section 13.3. Trash. No trash, ashes or other refuse or debris may be thrown or dumped on the Property. The burning of refuse out-of-doors shall not be permitted. No incinerators or other device for the burning of refuse indoors shall be constructed, installed or used. Waste materials, garbage and trash shall be kept in sanitary containers, enclosed and screened from public view, protected from disturbance, and disposed of with reasonable promptness.

Section 13.4. Noxious or Offensive Activity. No noxious or offensive activity shall be conducted in any Home, nor shall anything be done or placed in any Home or the Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No lights shall be emitted from any Home which are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Home which is unreasonably loud or annoying; and no odor shall be emitted from any Home which is noxious or unreasonably offensive to other Owners.

Section 13.5. Signs. No signs, billboards, poster boards, or advertising structure of any kind, shall be erected or maintained for any purpose whatsoever except such signs as have been approved by the Executive Board pursuant to its regulations.

Section 13.6. Restriction on Use and Rental. A Home may be used for residential purposes only and may be leased for terms of not less than six (6) months. Prior to occupancy of a Home by any tenant, a copy of the lease will be filed with the Association. No Home shall be used except by a single family equivalent group residing in a single-family dwelling and for purposes incidental or accessory thereto, except for sales and/or construction trailers and model homes used by Declarant or its assigns. Determination as to whether uses are incidental or accessory to single-family residential purposes shall be made by the Executive Board, but under no circumstances shall such incidental or accessory use be construed to permit the carrying on of any trade, business, profession or employment (other than a home occupation as may be permitted under the applicable zoning codes), or use of the Home for a boarding house.

Section 13.7. Restriction on Timesharing. No Owner of any Unit shall offer or sell any interest in such Home

under a "timesharing" or "interval ownership" plan, or any similar plan without the specific prior written approval of the Association and Declarant (during the period of Declarant's control as further described in that Section ~~named~~ Period of Declarant's Control).

Section 13.8. House Number. Each dwelling shall have a ~~house~~ number with a design and at a location established by the Executive Board.

Section 13.9. Vehicles and Parking. ~~Parking~~ of a typical, ~~licensed~~ and operable ~~passenger~~ vehicles and trucks less than 7,500 pounds ~~gross vehicle~~ weight may be permitted on the assigned parking space directly in front of each Home's garage, ~~which areas~~ are depicted as Limited Common Elements on the Map. Owners are prohibited from parking vehicles in any other location ~~other than~~ those referenced in this section unless otherwise approved by the Executive Board. Unless otherwise ~~determined~~ by the Executive Board, no motorbike or motorcycle, bicycle, trail bike, trailer, mobile home, recreation vehicle, tractor, boat, snowmobile, or any inoperable vehicle of any type, shall be parked or stored outside a garage. Bicycles must be stored inside garages or in established bicycle racks.

Section 13.10. Window Treatment. In order to keep the Project consistent and ~~uniform~~ in appearance as viewed from the exterior, only window coverings lined in the colors of white or off-white shall be allowed.

ARTICLE XIV - DEVELOPMENT RIGHTS

Section 14.1. Development and Withdrawal Rights. Declarant expressly reserves the right to create Units, Common Elements and Limited Common Elements on all or any portion of the Common Elements designated on the Map as Expansion Area. Declarant may exercise such ~~rights~~ on all or ~~any~~ portion of the Common Elements in whatever order of development Declarant, in its sole discretion, ~~determines~~. Declarant expressly ~~reserves~~ the right to withdraw all or any portion of the Property by ~~recording~~ a document evidencing ~~such~~ withdrawal in the office of the Clerk and Recorder of Summit County; provided, however, that no Home may be withdrawn after that Home has been conveyed to a Purchaser. The ~~property~~ withdrawn ~~from the Property~~ *shall* be subject to ~~whatever~~ easements, if any, are reasonably ~~necessary~~ for access to or operation of the project. Declarant ~~shall~~ prepare and record in the ~~office~~ of the Clerk and Recorder of Summit County whatever documents are necessary to evidence such easements.

Section 14.2. Amendment of the Map. Declarant shall file an Amendment of the Map showing the location of the additional Units and Common Elements. The Amendment to the Map shall substantially conform to the requirements contained in this Declaration.

Section 14.3. Amendment of the Declaration. If Declarant elects to create common elements, ~~limited~~ common elements or additional Homes within the Project, or ~~any~~ part thereof, or submit additional improvements to this Declaration, at ~~such~~ time as construction of ~~the~~ improvements on the Property or the additional improvements are substantially complete, Declarant shall record an Amendment to the Declaration reallocating the Common Expenses ~~so~~ that the Common Expenses appurtenant to each Home will be apportioned among the total number of Homes ~~submitted~~ to the Declaration. The Common Expenses assessed to each Home in the Project, as expanded, ~~shall~~ be divided among all Homes, pursuant and subject to the adjustments permissible under that Section entitled Apportionment of Period Assessments.

Section 14.4. Interpretation Recording of amendments to the Declaration and Map in the office of the Clerk and Recorder of Summit County shall automatically:

A. Vest in each existing Home Owner any ~~additional rights or interest~~ appurtenant to his/her Home; and

B. Vest in each ~~existing~~ Mortgagee a perfected security interest in the additional rights or interest appurtenant to the encumbered Home.

Upon the recording of an Amendment to the Map, the definitions used in this Declaration shall automatically be

extended to encompass and to refer to the Property, as improved. All conveyances of Homes after such amendment shall be effective to transfer rights in the Common Elements as improved, whether or not reference is made to any Amendment to the Declaration or Map. Reference to the Declaration and Map in any instrument shall be deemed to include all Amendments to the Declaration and Map without specific reference thereto.

Section 14.5. Maximum Number of Homes. The maximum number of Homes in the project shall not exceed thirty-seven (37) Homes. Declarant shall not be obligated to expand the project beyond the number of Homes initially submitted to this Declaration. All Owners agree not to oppose any subdivision plan on the Expansion Area if density does not exceed a total of thirty-seven (37) Homes in the project

Section 14.6. Construction Easement. Declarant expressly reserves the right to perform any work, repairs and construction work, and to store materials in secure areas, on the Common Elements and the future right to control such work and repairs, and the right to access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or Mortgagee. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in the Declaration or on the Map for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Common Elements not occupied by an improvement, if any. If Declarant grants any such easements, the Map of the Property will be amended to include reference to the recorded easement.

Section 14.7. Reciprocal Easements. If property is withdrawn from the Property ("Withdrawn Property") the Home Owner (s) of the Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Property and the Withdrawn Property.

Declarant shall prepare and record in the office of the Clerk and Recorder of Summit County whatever documents are necessary to evidence such easements and shall amend the Map to the Declaration to include reference to the recorded easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

Section 14.8. Termination of Development Rights. The Development Rights reserved to the Declarant for itself, its successors and assigns for the development of the Property, shall expire twenty (20) years from the date of recording this Declaration, unless the development rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Development Rights by Declarant

Section 14.9. Transfer of Development Rights. The Development Rights created or reserved under this Article for the benefit of Declarant may be transferred to any person by instrument describing the rights transferred and recorded in every county in which any portion of the Project is located. Such instrument shall be executed by the transferor Declarant and the transferee

ARTICLE XV - GENERAL PROVISIONS

Section 15.1. Enforcement. Except as otherwise provided in this Declaration, the Executive Board, Declarant, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant, or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Additionally, any such violation shall give the Declarant or the Executive Board the right, in addition to any other rights set forth therein, (i) to enter the Home in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein in violation of the Declaration or rules adopted by the Executive Board or Manager without being deemed guilty in any manner of trespass or any other civil or legal violation; and (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, with each Owner or other person constructing improvements upon the Property hereby waiving the posting of a bond upon entry of such injunction. All reasonable attorneys fees and costs incurred by the Declarant or the Association in a suit to enforce the terms hereof shall, if said Declarant or the Association prevails in such action, be recoverable from the losing party.

Section 15.2. **Severability.** Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 15.3. **Rule Against Perpetuities.** Notwithstanding anything in this Declaration to the contrary, the creation of any interest under this Declaration shall vest, if at all, within the period of time measured by the life of the survivor of the now living children of Daniel L. McCrerey, plus 21 years.

Section 15.4. **Conflicts Between Documents.** In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

Section 15.5. **References to Summit County Standards.** Wherever in this Declaration there is a reference to land use regulations, zoning, other Summit County standards, any maps approved by Summit County or any other federal, state or local rule, law or regulation, such references shall automatically be waived, released, modified or amended, as the case may be, to correspond with any subsequent waiver, release, modification or amendment of such regulations, zoning, other Summit County standard, Approval Resolutions, maps or any other rule or law.

DECLARANT: McCrerey Construction, Ltd.,
a Colorado corporation

Daniel L. McCrerey President
By: Daniel L. McCrerey, President

STATE OF COLORADO)
) ss.
County of Summit

The foregoing instrument was acknowledged before me this 15th day of Dec, 1998 by Daniel L. McCrerey as President of McCrerey Construction, Ltd., a Colorado corporation.

My Commission expires: 2-13-02
[Signature]
Notary Public

C:\MARK\GLENCOVE\GLENCOVE.DEC

