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05/31/2001 09:10A

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

**FOX MEADOW
CITY OF LONGMONT
BOULDER COUNTY, COLORADO**

*Rob
4/8*

March 01, 2005

Chip Frye
Fox Meadow Master and Subassociations
c/o Hammersmith Management
11990 Grant Street #305
Northglenn CO 80233

Re: Fox Meadow Master and Subassociations
Maintenance Responsibility

Dear Chip:

This is a revised a breakdown of the common area maintenance, insurance, and reserve responsibility for each of the six associations at the Fox Meadow Subdivision. The association is responsible for all aspects of maintenance, insurance and reserves for the items listed under each. I have also enclosed a map that indicates the limits of responsibility for each association. **Please discard the previous map and replace with the attached map.**

Fox Meadow Master Association

1. All monument signs in the entire project, **except the Starwood signs**
2. **Private underdrain system for entire project**
3. All perimeter fencing and associated columns, including open rail and privacy as follows (homeowners are responsible for day to day maintenance and the HOA is responsible for overall maintenance, repair, replacement, staining):
 - a. Deerwood Drive
 - b. 9th Avenue
 - c. Railroad
 - d. Golf course
 - e. Adjacent to all Master maintained common area
 - f. Adjacent to the City and Park parcels
 - i. The HOA is NOT responsible for the Starwood wrought iron
4. Outlots and all improvements within:
 - a. Filing 1
 - i. Outlots D, E, G, H, J, K
 - b. Filing 2
 - i. Outlots B, C, E, F, G, H
 - c. Filing 3
 - i. AA, A, B, D, F, P
 - d. Filing 4
 - i. Outlot A, D, E, F

- ii. All improvements east of the Oligarchy Ditch within the Primary Greenway
5. All landscaping along Deerwood Avenue except adjacent to Starwood, the City and School Parcels, **and right-of-way adjacent to alley load front yard in Prairie Hawk which front to Deerwood Ave.**
6. Improvements located in above Outlots to insure:
 - a. 2 gazebos
 - b. Barn
 - c. Grainery
 - d. Concrete trails located in Outlots A, B & F, Filing 3 and B of Filing 2
7. Snow Removal
 - a. 9th Avenue sidewalks
 - b. Deerwood Drive sidewalks
 - c. Concrete trails located in Outlots A, B & F, Filing 3 and B of Filing 2

Prairie Hawk Subassociation

1. Outlots and improvements within
 - a. Filing 1
 - i. Outlots I and F
 - b. Filing 3
 - i. Outlots O and X
 - c. Filing 4
 - i. Outlot C
2. Verify insurance covers
 - a. Privately maintained alleys
 - b. Landscaping within Outlots
3. Snow Removal
 - a. Alleys
 - b. **Walks adjacent to Outlot X**

Starwood Subassociation

1. Outlots and all improvements within
 - a. H, I, J, S and T, Filing 3
2. Fencing
 - a. Wrought iron fence and columns along Deerwood
 - b. Open rail adjacent to Outlot J
3. Verify insurance covers
 - a. Landscaping within Outlots
 - b. Wrought Iron Fence and columns
 - c. Landscaping along Deerwood adjacent to Starwood
4. Snow Removal
 - a. Sidewalks adjacent to Tract J
5. Starwood monument signs

Sunfield Townhomes

1. Outlots and improvements within
 - a. Outlot C, Filing 3
2. Verify insurance covers
 - a. Gazebo and all Outlot C landscaping
 - b. Garages
 - c. Buildings and all associated improvements
 - d. All common area and associated items including asphalt and sidewalks
 - e. Trash enclosures
3. Snow Removal
 - a. All snow removal within Outlot C

Wildflower Patio Homes

1. Outlots and improvements within
 - a. Outlots A, B, C, L, M of Filing 1
 - b. Outlot D, Filing 2
 - c. Outlots BB, CC, DD, EE, FF, GG, HH, E, G, K, L, M, N, Q, R, U, V, W, U, Z, Y of Filing 3
2. Verify insurance covers
 - a. Private roads
 - b. All Outlot landscaping
3. Snow removal
 - a. All snow removal within Outlots where necessary
 - b. Windflower Drive is maintained by the City
4. Fencing – None

Fairview Condominiums

1. Outlots and improvements within
 - a. Lot 1, Block 1
2. Verify insurance covers
 - a. Buildings and associated improvements
 - b. All asphalt and sidewalks within Lot 1, Block 1
 - c. Swimming pool and associated improvements
 - d. All landscaping and associated improvements within Lot 1, Block 1
 - e. Trash enclosures

Sincerely,

Robyn Burson
Community Development Manager



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
FOX MEADOW
CITY OF LONGMONT
COUNTY OF BOULDER, COLORADO

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

**FOX MEADOW
CITY OF LONGMONT
COUNTY OF BOULDER, COLORADO**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR FOX MEADOW, CITY OF LONGMONT, COUNTY OF BOULDER, COLORADO ("Declaration") is made this ____ day of March, 2001, by ENGLE/JAMES LLC, a Colorado limited liability company ("Declarant").

RECITALS

A. Declarant owns the real property lying within the boundaries of the plat of Fox Meadow Filing No. 1, City of Longmont, County of Boulder, State of Colorado, except the portions thereof dedicated by the Plat to the City.

B. Declarant desires to ensure the attractiveness of the Subdivision, to prevent the future impairment thereof, to prevent nuisances, and to preserve, protect, and enhance the values thereof. In order to achieve these goals, Declarant wants to subject the Subdivision to the covenants hereinafter set forth.

DECLARATION

In order to enhance the value of the Subdivision and maintain its value and desirability, for the purposes set forth herein, Declarant declares that the Subdivision shall be held, transferred, sold, conveyed, leased, and occupied subject to the covenants, conditions, and restrictions hereinafter set forth, all of which shall run with the land.

**ARTICLE 1
GENERAL**

1.1. Community Area. Declarant is the owner of all of the Units in the Subdivision and other real property which is included in the Community Area, except the portions thereof dedicated by the Plat to the City. Declarant intends to develop the Units within the Community Area as a planned community of residential and other land uses, including open space.

1.2. Purposes of Declaration. Property which is subject to this Declaration in the manner hereinafter provided shall be referred to as the Community Area. This Declaration is executed: (a) in furtherance of a common and general plan for the Community Area; (b) to protect and enhance the quality, value, aesthetics, desirability and attractiveness of the Community Area; (c) to provide for an Association as a vehicle to hold, maintain, care for, and manage Association Properties; (d) to

define the duties, powers, and rights of the Association; (e) to define certain duties, powers, and rights of Owners of Units; (f) to provide for the maintenance of the Association Properties, the Neighborhood Common Areas, and the other portions of the Community Area; and (g) to take other appropriate actions to enhance the quality of the Subdivision and consistent with the terms of this Declaration.

1.3. Declaration. Declarant, for itself, its successors and assigns, hereby declares that all of the Units, the other property in the Community Area owned by Declarant, and, to the extent the same are Association Properties, the other property located in the Community Area, and all other property which becomes subject to this Declaration in the manner hereinafter provided, and each part thereof, shall, from the date the same becomes subject to this Declaration, be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered, and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes, and other provisions set forth in this Declaration, for the duration hereof, all of which are declared to be part of, pursuant to, and in furtherance of a common and general plan of development, improvement, enhancement, and protection of the Community Area. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with the terms hereof, shall inure to the benefit of each of the Units (together, the "Benefitted Property") and shall bind, be a charge upon, and inure to the mutual benefit of: (a) all of the Units and the other property in the Community Area and each part or parcel thereof, (b) Declarant and its successors and assigns, (c) the Association and its successors and assigns, and (d) all Persons having or acquiring any right, title, or interest in the Community Area or any part or parcel thereof or any Improvement thereon and their heirs, personal representatives, successors, and assigns.

1.4. Applicability of Colorado Common Interest Ownership Act. The Act is applicable to the Community Area as a planned community under the Act. This Declaration shall not be subject to the terms and provisions of the Act other than the Applicable Provisions.

1.4.1. "Units" under the Act are the Units, and each Unit is a "Unit" under the Act.

1.5. Name; Type of Common Interest Community. The name of the common interest community created by this Declaration is "Fox Meadow." Fox Meadow is a planned community under the Act.

ARTICLE 2 DEFINITIONS

Unless otherwise expressly provided herein, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified.

"Act": the Colorado Common Interest Ownership Act as provided in C.R.S. § 38-33.3-101, et seq., as the same may be from time to time amended.

"Additional Property": shall have the meaning provided in Section 9.11.

“Administrative Functions”: all functions of the Association that are provided for, or are necessary and proper, under this Declaration and shall include, without limitation, providing management and administration of the Association; incurring reasonable attorneys’ fees and accountants’ fees; obtaining errors and omissions insurance for officers, directors, and agents of the Association; obtaining fidelity bonds for any Person handling funds of the Association; paying taxes levied against the Association Properties; incurring filing fees, recording costs, and bookkeeping fees; obtaining and maintaining offices and office furniture and equipment; and performing other reasonable and ordinary administration tasks associated with operating the Association.

“Applicable Provisions”: the provisions of the Act which cannot, according to the Act, be varied.

“Appointment Period”: shall have the meaning provided in Section 9.2.

“Area of Common Responsibility”: the Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or by contract become the responsibility of the Association.

“Articles of Incorporation”: the Articles of Incorporation of the Association, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

“Assessment”: a Common Assessment, Neighborhood Assessment, Special Assessment, or Specific Assessment.

“Association”: Fox Meadow Homeowners Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

“Association Properties”: all real and personal property, if any, including all Common Areas and all Improvements on Common Areas, (i) which are now or hereafter owned by the Association, (ii) with respect to which the Association holds an easement for the use, care, or maintenance, (iii) which the Association has a right or obligation to maintain, (iv) which are held for the common use and enjoyment of the Members of the Association or for other purposes permitted by this Declaration, or (v) which are otherwise identified in this Declaration as Association Properties or are otherwise identified as Association Properties as provided below. Without limiting the foregoing, the Association Properties shall include any properties which are part of the Community Area and which are designated as Association Properties by Declarant in the manner permitted hereby. Declarant may, from time to time, at the time that each portion of the Additional Properties is annexed to the Community Area, in the Notice of Annexation, or thereafter prior to the sale of any Unit in the portion of the Additional Property so annexed with a completed Residence on the Unit, designate tracts within or appurtenant to such Additional Property as Association Properties; provided that Declarant’s failure to designate tracts in such Additional Property as Association Properties shall not make tracts that otherwise fall within the definition of Association Properties from being Association Properties. Association Properties do not include Units, except to the extent

of easements reserved thereon for the benefit of the Association and except to the extent, if any, owned by the Association and used only for the purposes of the Association.

"Base Assessment": shall have the meaning provided in Section 8.2.3.

"Benefitted Property": shall have the meaning provided in Section 1.3.

"Board of Directors" or **"Board"**: the body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as a board of directors under Colorado corporate law.

"Builder": any Person which purchases one or more Units for the purpose of constructing improvements for later sale to consumers or parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business.

"Business" and **"Trade"**: shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing 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 form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

"By-Laws": the By-Laws of the Association which have been or will be adopted by the Board of Directors of the Association, as the same may be amended from time to time.

"City": shall mean the City of Longmont, Colorado.

"Common Area": any portion of the Community Area owned or maintained by the Association or a Neighborhood Association for the common use and enjoyment of the Owners (including those which may also be used by others), including, but not limited to, the open space and easements for the use and benefit of the Owners. The term shall include the Neighborhood Common Areas, as defined below. Common Areas may be owned: (a) by the Association; (b) by individual Owners or other Persons over which the Association may have an easement for use or maintenance purposes or a maintenance obligation; (c) by a Neighborhood Association, or (d) by the City. Common Areas do not include the Units, except to the extent of easements reserved thereon for the benefit of the Association and except to the extent, if any, owned by the Association and used by the Association as Common Areas.

"Common Assessment": assessments levied on all Units subject to assessment under Section 8.1 to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 8.1, 8.3, 8.4 and 8.5.

"Common Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Units, including any reserve the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of



Incorporation. Common Expenses shall not include any expenses incurred during the Declarant Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by the Members of the Association representing a majority thereof, excluding the Declarant.

“Community Area”: all of the real property lying within the boundaries of the Fox Meadow Filing No. 1, City of Longmont, County of Boulder, State of Colorado, and all of the Additional Property hereafter annexed to the Community Area in accordance with Section 9.11, together with any Association Properties or portions thereof lying outside the boundaries of such property that are subjected to this Declaration in accordance with Article 9.

“Community-Wide Standard”: the standard of conduct, maintenance, or other activity generally prevailing throughout the Community Area. Such standard may be more specifically determined by the Board of Directors and the Design Review Committee.

“Condominium Lot”: is a constructed, completed, and habitable condominium unit constructed on any Unit which is initially designated as a Multifamily Unit.

“County”: the County of Boulder, State of Colorado.

“Declarant”: Engle/James LLC, a Colorado limited liability company, and its successors by operation of law in the event of the merger or consolidation of Engle/James LLC into another Person, and any other Person to which Declarant (including any such successor Declarant) transfers all or a substantial portion of the remaining Units then owned by Declarant and which Declarant (or any such successor Declarant) designates as its successor as Declarant in a Recorded instrument.

“Declarant Control Period”: shall have the meaning provided in Section 9.1.

“Declaration”: this instrument as it may be amended from time.

“Deed of Trust”: a deed of trust to the public trustee given voluntarily by any Owner of a Unit and encumbering the Unit to secure the performance of a promissory note or other obligation.

“Dwelling”: is any residential dwelling unit, including without limitation, a Residence, a townhome, a condominium unit, and an apartment.

“Established Drainage Pattern”: shall have the meaning provided in Section 3.15.

“First Mortgage”: shall have the meaning provided in Section 8.16.

“First Mortgagee”: shall have the meaning provided in Section 8.13.

“Habitable Dwelling”: shall have the meaning provided in Section 8.2.5.

“Improvement”: all structures and any appurtenances thereto of every type or kind, including, but not limited to, Residences, buildings, outbuildings, swimming pools, patio covers, awnings, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, painting of any exterior surfaces of any visible structure, additions, walkways, outdoor sculptures or artwork, sprinkler pipes, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, and exterior air conditioning and water softener fixtures.

“Installment Sale Contract”: any contract for deed or real property sale contract pursuant to which possession is transferred to the contract purchaser and fee title is retained by the contract seller to secure the obligations of the contract purchaser to pay the purchase price owing under such contract.

“Lease”: any agreement for the leasing or rental of a Unit, and shall specifically include, without limitation, a month-to-month or other short-term rental.

“Limited Declarant”: shall mean, for purposes of Sections 3.3.3, 3.13, 5.7, 6.28, 9.1, 9.2, 9.6, 9.9, 10.2, 10.26, and 10.27, any Person to which Declarant transfers a Unit on which construction of a Residence has not yet been completed and which is specifically designated as a Limited Declarant as to such Unit in a written instrument executed and acknowledged by Declarant and duly Recorded.

“Lot”: is a single family detached residential lot platted by the Plat.

“Maintenance Funds”: the accounts into which the Board shall deposit monies paid to the Association and from which disbursements shall be made in the performance of the functions of the Association pursuant to Article 8.

“Member”: the Person or, if more than one, all Persons collectively who constitute the Owner of a Unit.

“Mortgage”: any mortgage, Deed of Trust, security deed, Installment Sale Contract, lease intended for security, or other such instrument, given voluntarily by any Owner of a Unit and encumbering the Unit to secure performance of a promissory note or other obligation.

“Mortgagee”: the holder of a promissory note or other obligation secured by a Mortgage.

“Mortgagor”: the Person who grants a Mortgage.

“Multifamily Unit”: shall have the meaning provided below in the definition of Unit.

“Neighborhood” or **“Neighborhood Area”**: each separate portion of the Community Area which is designated by Declarant as a separate Neighborhood or Neighborhood Area. The real property described on Exhibit A shall constitute Neighborhood Area I (Prairie Song). The real property described on Exhibit B shall constitute Neighborhood Area II (Wild Flower). If Additional

Property is hereafter annexed to the Community Area, the Declarant shall, in the Notice of Annexation, or thereafter prior to the sale of any Unit in the Additional Property so annexed with a completed Residence on the Unit, identify the additional Neighborhood Area(s) and identify the portions of such Additional Property located in each of the Neighborhood Area(s).

"Neighborhood Assessments": assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 8.1 and 8.8.

"Neighborhood Association": any condominium association or other owners association having concurrent jurisdiction over any Neighborhood(s).

"Neighborhood Common Area": a portion of the Common Area intended for the exclusive use or primary benefit of one of the Neighborhoods as more particularly described in Article 4.

"Neighborhood Declaration": the declaration of covenants, conditions, and restrictions Recorded by Declarant or a Limited Declarant as to any Neighborhood(s).

"Neighborhood Expenses": the actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Owners and occupants of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize and as may be authorized herein or in Neighborhood Declarations or Supplemental Declarations applicable to the Neighborhoods.

"Notice of Annexation": shall have the meaning provided in Section 9.11.

"Owner": the Person, including without limitation Declarant and a Limited Declarant, or, if more than one, all Persons collectively, who together hold fee simple title of Record to a Unit, including sellers under executory contracts of sale and excluding buyers thereunder.

"Person": a natural person, a corporation, a partnership, or any other entity.

"Plat": the plat of Fox Meadow Filing No. 1 Recorded on December 7, 2000 as Reception No. 2101623 in the real property records for the County of Boulder, State of Colorado, and any other final plat applicable to any portion of the Additional Property hereafter annexed to the Community Area, together with all amendments of the Plat from time to time approved and Recorded.

"Priority Liens": shall have the meaning provided in Section 8.16.

"Record" or "Recorded": shall mean the filing for record of any document in the office of the Clerk and Recorder for the County.

"Related User": shall have the meaning provided in Section 3.11.

"Residence": shall mean a single family residential dwelling unit.

“Special Assessment”: assessments levied in accordance with Section 8.9 of this Declaration.

“Specific Assessment”: assessments levied in accordance with Section 8.10 of this Declaration.

“Subdivision”: means all of the real property lying within the boundaries of the Plat.

“Supplemental Declaration”: an amendment or supplement to this Declaration filed pursuant to Article 10 which subjects additional property to this Declaration and which may, expressly or by reference, impose additional restrictions and obligations on the land described therein.

“Total Number of Assessable Units”: shall have the meaning provided in Section 8.2.3.

“Townhome Lot”: is a townhome lot as platted by the Plat.

“Unit”: is a Lot, a Townhome Lot, or an area of the Community Area platted as multifamily attached housing units (“Multifamily Unit”); provided that if any Multifamily Unit is subsequently subdivided in accordance with this Declaration into Lots, Townhome Lots, or Condominium Lots, such Multifamily Unit shall, when a condominium map and declaration is Recorded for such Unit, thereafter be deemed to contain the number of Units designated for residential use for such property on the condominium map and declaration.

ARTICLE 3 GENERAL RESTRICTIONS APPLICABLE TO COMMUNITY AREA

All real property within the Community Area shall be held, used and enjoyed subject to the following easements, limitations, and restrictions, subject to exemptions of Declarant and Limited Declarant set forth in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Board if such strict application is not necessary to achieve the purposes of this Declaration or, under the circumstances, would be unreasonably or unduly harsh in comparison to the goals of this Declaration that such strict application is necessary to achieve. Any such modification or waiver must be in writing.

3.1. Association Properties and Rights-of-Way. Maintenance, repair, and upkeep of Association Properties other than the Neighborhood Common Areas (except as otherwise provided herein) shall be the responsibility of the Association. The Association shall also be responsible for the maintenance, repair, and upkeep of all dedicated Rights-of-Way along East Ninth Avenue and Deerwood Drive to the extent not maintained by the City of Longmont and required to be maintained by the Association under the Fox Meadow Final Development Plan - Filing 1. The Neighborhood Association, or if all Units within a Neighborhood are owned by a single Owner, the Owner of those Units, shall be responsible for maintaining all other dedicated Rights-of-Way within the applicable Neighborhood to the extent not maintained by the City of Longmont and required to be maintained by a homeowner’s association under the Fox Meadow Final Development Plan Filing 1.

3.2. Neighborhood Common Areas. Maintenance, repair, and upkeep of the Neighborhood Common Areas shall be the responsibility of the Neighborhood Association for the Neighborhood in which the Neighborhood Common Areas are located, or if all of the Units located in a Neighborhood are owned by one Owner, the Owner of those Units within the Neighborhood. In addition, the Neighborhood Association for Neighborhood Area I shall be responsible for maintaining the monument sign located on Outlot K, Fox Meadow Filing No. 1, City of Longmont, County of Boulder, State of Colorado. The Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring the Neighborhood Common Areas. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and open space between the Neighborhood and adjacent public roads and private streets within the Neighborhood, regardless of ownership. Any Neighborhood Association or Owner having any responsibility for maintenance of Neighborhood Common Areas within such Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs against all Units within such Neighborhood as provided in Section 8.8. Notwithstanding the foregoing or anything contained herein to the contrary, the Association shall be responsible for maintenance, repair and upkeep of the following Neighborhood Common Areas or portions of Neighborhood Common Areas:

3.2.1. The monument sign and all fencing located on Outlot A.

3.2.2. All landscaping located on Outlot A to the north and east of the berm and the fencing located on Outlot A.

3.3. Property Uses. All Units shall be used for private residential purposes. No Dwelling erected or maintained within the Community Area shall be used or occupied for any purpose other than for a Residence. Notwithstanding the foregoing:

3.3.1. Activities associated with the sale or rental of Units shall be allowed.

3.3.2. In-home businesses not involving visits to the Community Area by customers or employees shall be allowed if permitted under applicable zoning and other regulations so long as such activities are conducted solely within the Residence and do not create or result in any offensive or noxious activities or constitute a nuisance.

3.3.3. Declarant (including Limited Declarants) may (subject to owning such Unit or obtaining the permission of the Owner of such Unit for such use) use any of the Units for purposes of selling or marketing the Units or Residences constructed or to be constructed on the Units (including without limitation maintaining sales offices and model homes on the Units) or for the purpose of housing construction trailers for use in connection with the construction of Residences on the Units; provided that, not more than eight Units may be used at any one time by the Declarant (and not more than four Units by each Limited Declarant) for sales offices, not more than eight additional Units may be used at any one time by Declarant (and not more than four Units by each Limited Declarant) for construction offices, not more than thirty-two Units may be used at any one

time by Declarant (and not more than sixteen Units by each Limited Declarant) for model homes, and not more than sixteen Units may be used at any one time by Declarant (and not more than eight Units by each Limited Declarant) for construction trailers. Any stricter restrictions imposed in writing by Declarant on any Limited Declarant, written notice of which referencing this Section is given to the Association, shall be binding on the Limited Declarant and enforceable by the Association as if set forth in this Declaration.

3.4. Construction Type. All construction shall be new. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling or structure may be moved onto a Unit, except as expressly hereinafter provided for temporary buildings.

3.5. No Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any property within the Community Area, nor shall anything be done or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to others.

3.6. Annoying Sounds or Odors. No sound or odor shall be emitted from any property within the Community Area which is noxious or unreasonably offensive to others.

3.7. No Hazardous Activities. No activity shall be conducted on and no Improvement shall be constructed on any property within the Community Area which is or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property within the Community Area, and no open fires shall be lighted or permitted on any property within the Community Area except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent the dispersal of burning embers.

3.8. No Unsightliness. All unsightly conditions, structures, facilities, equipment, including snow removal equipment and garden or maintenance equipment, and objects shall be enclosed within a structure, except when in actual use.

3.9. Weeds. Each Unit shall be kept free from brush or other growth or trash which is unsightly or causes undue danger of fire, and shall be kept mowed during growing seasons so that no weeds, brush, grasses or growth on any Unit exceed six (6) inches in height at any time.

3.10. Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub, or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse, or debris of any kind shall be kept, stored, or allowed to accumulate on any Unit except within an enclosed structure or appropriately screened from view, except that any container containing such materials may be placed outside at such times as may be necessary to permit garbage or trash pick-up and except that compost and composting materials shall not be subject to the foregoing restriction so long as they are kept in an appropriate, attractive container in an appropriate location that does not detract from the overall attractiveness of the Unit on which such container is placed.

3.11. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that, so long as not bred or maintained for commercial purposes and so long as not hazardous, a nuisance, or otherwise offensive to any portion of the Community Area, domesticated birds or fish, other small domestic animals permanently confined indoors, and (i) in Neighborhood I, an aggregate of not more than two (2) domesticated dogs or cats (which must be fenced or restrained at all times within a Unit), will be permitted on any one Unit and (ii) in Neighborhood II and/or any Multifamily Unit, an aggregate of not more than (a) one (1) domesticated dog not exceeding fifty (50) pounds and one (1) domesticated cat or (b) two (2) domesticated cats (all of which must be fenced or restrained at all times within a Unit, or for any Multifamily Unit, within a Residence within such Multifamily Unit), will be permitted on any one Unit or within any one Residence within a Multifamily Unit. All household pets shall be controlled by their owner and shall not be allowed off the owner's Unit except when properly leashed and accompanied by the pet owner or his representative, who shall be responsible for collecting and properly disposing of any animal waste. Each Owner of a Unit shall be financially responsible and liable for any injury or damage caused by any household pet (a) normally housed on that Unit or (b) belonging to or brought onto the Community Area by the Owner of the Unit, or (c) belonging to or brought onto the Community Area by anyone living in the Residence on the Unit or visiting with or staying with the Owner of the Unit or coming onto the Community Area pursuant to the permission granted by the Owner of such Unit (all of whom together are herein called "Related Users").

3.12. Restrictions on Antennae, Pipes, Utility Lines, and Transmitters. Pipes for water, gas sewer, drainage, or other purposes, and wires, poles, aerials, antennae, satellite dishes, and other facilities for the transmission or reception of audio, visual, microwave, or similar signals or electricity, and utility meters or other utility facilities shall be kept and maintained, to the extent reasonably possible, underground, within an enclosed structure, or otherwise screened from view from neighboring properties other than the Unit on which such facilities are installed and from any public streets, roads, or other rights-of-way in or adjacent to the Community Area. With the approval of the Board, a master antenna or cable television antenna may, but need not, be provided for use of all Owners or a group of Owners, and Declarant or the Association may grant easements for such purposes. No electronic or radio transmitters of any kind other than garage door openers or cellular or cordless telephones shall be operated in or on any structure or within any Unit.

3.13. Restrictions on Signs and Advertising. No sign, poster, billboard, advertising device, or display of any kind shall be erected or maintained anywhere within the Community Area so as to be evident to public view. One two-sided sign advertising a Unit (or if the Unit is comprised of multiple Residences, a Residence within the Unit) for sale or for lease may be placed on such Unit. Notwithstanding the foregoing, Declarant and each Limited Declarant shall be permitted to place one- or two-sided signs (of not more than one hundred twenty square feet per side) on any Units which it owns or in the Common Areas to advertise the Units during the development, construction, and sales period. If a Unit is comprised of rental apartments, the Owner of such Unit, shall be permitted to place one- or two-sided signs (of not more than one hundred twenty square feet per side) for a period not to exceed six (6) months after completion of construction of the rental apartments on the Unit on such Unit to advertise the name of the Unit and the availability of Residences within the Unit. If a Unit is comprised of rental apartments, the Owner of such Unit, shall be permitted to

place a one- or two-sided monument sign (of not more than thirty square feet per side) on such Unit to advertise the name of the Unit.

3.14. Restrictions on Mining or Drilling. No property within the Community Area shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth, except drilling, exploring for, or removing underground water by Declarant or any Person designated by Declarant.

3.15. Maintenance of Drainage; Established Drainage Patterns. There shall be no interference with the Established Drainage Pattern over any property within the Community Area, unless provision is made for adequate alternate drainage. The "Established Drainage Pattern" shall mean the drainage pattern which exists at the time the overall grading of any Unit is completed in accordance with any established drainage pattern and includes the positive slope away from the Residence (or if the Unit is comprised of multiple Residences, the Residences) built on the Unit in accordance with the status thereof as of the date of the completion of the Residence(s) on the Unit as reflected on the finished grading plan for such Unit and the drainage certificate, if any, provided to the Owner of each Unit reflecting the existing positive slope away from the Residence(s) upon completion thereof. The established drainage pattern may include the drainage patterns: (a) from Association Properties over any Unit; (b) from any Unit over the Association Properties; (c) from any property owned by the City or other Persons over any Unit; (d) from any Unit over property owned by the City or other Persons; (e) from any Unit over another Unit; (f) from any Neighborhood Common Area over any Unit; (g) from any Unit over any Neighborhood Common Area; or (h) on any Unit. The Owner of each Lot, the Neighborhood Association as to each Townhome Lot, and the Owner of each Multifamily Unit shall not disturb and shall from time to time restore such Established Drainage Pattern on its Unit without regard to whether it is disturbed by actions of Owner, actions of others, subsidence, or natural causes. The Owner of each Lot, the Neighborhood Association as to each Townhome Lot, and the Owner of each Multifamily Unit shall maintain positive drainage away from the Residence(s) built on the Unit as necessary so that melting snow, rain, surface, irrigation, and other water coming onto the Unit is drained away from the Residence(s) and does not collect near the Residence(s) and does not seep into the fill areas and other areas lying within the area adjoining or near the Residence(s) and as necessary to conform with the finished grading plan for such Unit as reflected on the drainage certificate, if applicable. The Owner of each Lot, the Neighborhood Association as to each Townhome Lot, and the Owner of each Multifamily Unit shall be responsible for promptly repairing any erosion on the Unit or any adjoining property resulting from the failure of the Owner or Neighborhood Association, as applicable, to maintain the positive draining away from the Residence(s) built on the Unit in accordance with the finished grading plan for such Unit and the drainage certificate, if applicable. If the Owner of any Lot, the Neighborhood Association as to each Townhome Lot, and the Owner of each Multifamily Unit fails to maintain that Owner's Unit in accordance with this Section, the Association may enter onto the Unit and restore the positive slope and make a Specific Assessment against the Unit and the Owner and/or the Neighborhood Association, as appropriate, for the Association's cost in doing so including the cost of restoration of adjoining property as a result of the failure by the Owner or the Neighborhood Association, as applicable, to maintain the Unit in accordance with this Section.

3.16. Maintenance of Underdrain System. The Owner of each Lot, the Owner of each Multifamily Unit, and the Owner of each Townhome Lot shall perform regular maintenance of the underdrain system and sump pump located on or serving such Lot, Multifamily Unit or Townhome Lot, including, but not limited to, regular pumping of the sump pump, to insure the performance of such system. All Owners of Units within the Community Area acknowledge the importance of the maintenance of the underdrain system and sump pumps serving the Lots, Multifamily Units or Townhome Lots, and agree to regularly perform their maintenance obligations. All Owners of Units within the Community Area further acknowledge that the Association shall only be responsible for the maintenance of those portions of the underdrain system (including any outfalls) located on the Association Properties and that such maintenance obligations shall be included within the Assessments and that the Association shall not maintain any underdrain system or sump pumps located on any Lots, Multifamily Units or Townhome Lots, and that the Owners of such Units shall be solely responsible for maintenance of such underdrain systems and sump pumps located on any Lots, Multifamily Units or Townhome Lots.

3.17. Compliance with Insurance Requirements. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept on property within the Community Area which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association. No Owner shall cause or permit a situation or condition to exist on that Owner's Unit which causes or might reasonably cause the insurance rates for neighboring Units to be increased beyond those that would be applicable absent such situation or condition.

3.18. Compliance with Laws. Nothing shall be done or kept on any property within the Community Area in violation of any law, ordinance, rule, or regulation of any governmental authority or quasi-governmental entity having jurisdiction.

3.19. Further Subdivision of Units. No Unit may be subdivided into two or more separate parcels. The boundaries and lot lines of any Unit shall not be changed or adjusted and no Owner shall give the Owner of any adjoining Unit the right to use any portion of any Unit for the purpose of effecting a lot line adjustment by easement, lease, or similar contrivance without the written approval of the Association approved by the Directors of the Association after public meeting where notice of such meeting has specifically identified the proposed lot line adjustment as an agenda item for such meeting and a copy of such notice has been given to all Owners. Before any change or adjustment in boundaries or lot lines of Units, the Owners of the Units as to which the lot lines or boundaries are adjusted shall, at their expense, comply with all requirements of Section 38-33.3-212 of the Act, with all other applicable laws, and with any requirements which the Directors of the Association shall impose in connection with their approval of such adjustment and in connection with compliance with such laws. Notwithstanding the foregoing, the Owner or Owner of a Unit which is comprised of apartments, may, upon receipt of written approval of the Association, which approval shall not be withheld unless such subdivision has an adverse impact on the Community Area, and subject to satisfaction of the reasonable conditions and requirements imposed by the Association in connection with such approval, subdivide such Unit for the sole purpose of converting the apartments contained therein to condominiums, whereupon each such condominium shall constitute a separate Unit for the purposes of this Declaration.

3.20. Restoration in the Event of Damage or Destruction. In the event of damage or destruction of any Improvement on any Unit, the Owner thereof shall cause the damaged or destroyed Improvement to be replaced or restored to its original condition, or the Owner shall cause the damaged or destroyed Improvement to be demolished and, until a new Improvement is constructed, the Unit to be suitably landscaped, so as to present a pleasing and attractive appearance.

3.21. Storage. No building materials shall be stored on any Unit except temporarily during continuous construction of an Improvement.

3.22. Vehicle Repairs. No maintenance, servicing, repair, dismantling, or repainting of any type of vehicle, boat, trailer, machine, or device may be carried on, except within a completely enclosed structure which screens the sight and sound of the activity from the street and from other Units.

3.23. Storage of Gasoline and Explosives, Etc. No Unit shall be used for storage of explosives, gasoline, or other volatile and/or incendiary materials or devices. Gasoline or fuel for Owner's lawn mower, snowblower, and the like may be maintained on an incidental basis on the Unit in an aggregate amount not to exceed five (5) gallons or, as to each Multifamily Unit, such larger amount as the Association determines. No elevated tanks or appurtenances of any kind shall be erected, placed, or permitted on any part of the Community Area.

3.24. Trailers, Campers, and Other Vehicles. No boat, camper (on or off supporting vehicles), trailer, tractor, truck (other than a three-quarter ton or smaller pickup truck not used for commercial purposes), towed trailer unit, motorcycle, snowmobile, disabled, junked, or abandoned vehicle, motor home, mobile home, camper, recreational vehicle, or any other vehicle, the primary purpose of which is recreational, sporting, or commercial use, shall be parked or stored in, on, or about any Unit or street within the Community Area, except within the garage with garage door closed except temporarily as required for entrance or exit of vehicles from such attached garage and except as permitted by Section 3.3.3 and except for construction vehicles during periods of construction on any property so long as they are not stored within the Community Area and are not parked within the Community Area except temporarily as may be required for purposes of loading and unloading. The Association shall have the right to enter any Owner's Unit to remove and store, at Owner's expense, any of the foregoing in violation of this Section. Owner shall be entitled to ten (10) days' written notice prior to such action by the Association. Parking of any motor vehicles and any of the vehicles and types of equipment listed above on public streets within the Community Area may be regulated or restricted by the Association, the City, or any other governmental body with jurisdiction over the Community Area.

3.25. Air Conditioning and Heating Equipment. No heating, air conditioning, or refrigeration equipment shall be placed, allowed, or maintained anywhere other than those contained totally within structures and those placed on the ground with screening; provided, however, that solar units meeting all governmental guidelines for residential uses may be located on the roof.

3.26. Landscaping. All portions of each Unit not used for improvements shall be landscaped utilizing primarily perennial and similarly "long-lived" ground cover, sod, shrubs, trees, and similar plantings and rock, bark, mulch, and similar materials. Annual and other short-lived and non-living durable plantings and landscape materials may be utilized only to supplement long-lived elements. Every Unit improved with a Residence shall be landscaped within nine (9) months after the occupancy or completion of the Residence thereon as evidenced by the certificate of occupancy, whichever shall first occur. If a Unit is developed for apartments and is therefore comprised of multiple Residences, and such buildings containing the Residences are constructed in phases, so that all of the buildings are not completed simultaneously, the area around each building located within the Unit shall be landscaped within nine (9) months after the occupancy or completion of the construction of that building as evidenced by the certificates of occupancy, whichever shall first occur. The landscaping of each Unit having once been installed shall be maintained in a neat, attractive, sightly and well-kept condition, which shall include lawns mowed, hedges trimmed, adequate watering, replacement of dead, diseased, or unsightly materials, removal of weeds and debris, and appropriate pruning of plant materials.

3.27. Reflective Glass. No reflective glass windows shall be utilized in any improvements constructed within the Community Area.

3.28. Fencing. The Owners of Units in Neighborhood Area I shall be responsible for the day to day maintenance, repair, and upkeep of all privacy fences located on such Units. All other maintenance, repair and upkeep of the privacy fences located on such Units shall be the responsibility of the Association.

3.29. Association Easement. Easements to perform its maintenance and enforcement duties and as necessary to exercise its powers pursuant to this Declaration are hereby granted by Declarant to the Association, its officers, agents, employees, and assigns, upon, across, over, in, and under the Community Area, including the Neighborhood Common Areas, together with the right to make such use of the Community Area as may be necessary and appropriate in carrying out such maintenance and enforcement duties. All conveyances of Units hereafter made, whether by Declarant or other Person, shall be construed to grant and reserve the easements contained in this Declaration, whether or not specific reference to such easements or to the Declaration appears in the instrument of such conveyance.

3.30. Application of Restrictions. All provisions of this Declaration and of any Association rules shall also apply to all occupants, tenants, guests and invitees of any Unit (or in the case of a Unit comprised of multiple Residences, any portion thereof). Any lease on any Unit (or in the case of a Unit comprised of multiple Residences, a lease of any Residence or portion of any Unit) shall provide that the lessee and all occupants of the leased Unit (or portion thereof, if applicable) shall be bound by the terms of this Declaration, the By-Laws and the rules of the Association.

**ARTICLE 4
PROPERTY RIGHTS**

4.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

4.1.1. This Declaration, the By-Laws and any other applicable covenants;

4.1.2. Any restrictions or limitations contained in any deed conveying such property to the Association or the Neighborhood Association;

4.1.3. The right of the Board to adopt rules regulating the use and enjoyment, of the Common Area, including rules restricting use of recreational facilities within the Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area;

4.1.4. The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area, or the right of the Neighborhood Association to suspend the right of an Owner to use recreational facilities within a Neighborhood Common Area, (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Declaration, any applicable Supplemental Declaration, the By-Laws, or rules of the Association;

4.1.5. The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Section 6.28;

4.1.6. The right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests with or without the payment of use fees established by the Board;

4.1.7. The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 6.19; and

4.1.8. The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Neighborhood Common Areas," as more particularly described in Section 4.2.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

4.2. Neighborhood Common Areas. Initially, the Neighborhood Common Areas shall be assigned for the exclusive or primary use thereof pursuant to Exhibit C attached hereto and incorporated herein by this reference; provided, any such assignment shall not preclude the Declarant from later assigning use of the same Neighborhood Common Area to additional Units and/or

Neighborhoods in the Notice of Annexation adding to the Community Area pursuant to Section 9.11. After the Declarant Control Period, a portion of the Common Area may be assigned as Neighborhood Common Area of a particular Neighborhood or Neighborhoods and Neighborhood Common Area may be reassigned upon approval of the Board, the consent of the Neighborhood Association for such Neighborhood, the approval of a majority of the Members within the Neighborhood(s) to which the Neighborhood Common Areas are then presently assigned, if applicable, and the approval of a majority of the Members within the Neighborhood(s) to which the Neighborhood Common Areas are to be assigned. As long as the Declarant owns any property within the Community Area for development and/or sale, any such assignment or reassignment shall also require the Declarant's consent. Upon designation of a Neighborhood Common Area, the Neighborhood Association for such Neighborhood shall be responsible for the maintenance of such Neighborhood Common Area.

ARTICLE 5 ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

5.1. Function of Association. The Association has been or will be formed as a Colorado corporation under the Colorado Nonprofit Corporation Act. The Association has been or shall be organized prior to the date the first Unit located in the Community Area is conveyed to an Owner other than the Declarant. The Association shall be the entity responsible for management, maintenance, operation and control of the Association Properties within the Community Area. As more specifically set forth hereinafter, the Association shall have a Board of Directors which, except as provided herein, in the Articles, or the By-Laws, shall be elected by the Members. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Community Area as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles and Colorado law.

5.2. Board of Directors. The affairs of the Association shall be managed by the Board of Directors. The number, term and qualifications of the Board of Directors shall be fixed in the Articles of Incorporation and By-Laws. The Board of Directors may, by resolution, delegate portions of its authority to officers of the Association, but such delegation of authority shall not relieve the Board of Directors of the ultimate responsibility for management of the affairs of the Association. Action by or on behalf of the Association may be taken by the Board of Directors or any duly authorized executive committee, officer, agent, or employee without a vote of Members, except as otherwise specifically provided in this Declaration.

5.3. Membership. Every Owner shall be a Member of the Association. There shall be one Membership in the Association for each Unit. The Person or Persons who constitute the Owner of a Unit shall automatically be the holder of the Membership appurtenant to that Unit, and the Membership appurtenant thereto shall automatically pass with fee simple title to the Unit. Declarant shall hold a Membership in the Association for each Unit owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Unit except that an Owner may assign some or all of his rights as an Owner and as a Member of the Association to a

tenant, a purchaser under an Installment Sale Contract, or a Mortgagee and may arrange for a tenant, a purchaser under an Installment Sale Contract, or a Mortgagee to perform some or all of such Owner's obligations as provided in this Declaration, but no Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Declaration. The rights acquired by any such tenant, purchaser under an Installment Sale Contract, or Mortgagee shall be extinguished automatically upon termination of the lease or Mortgage.

5.4. Voting. Each Member shall have the right to cast the votes for the Units owned by such Member except that, in the event any Unit is owned by more than one Member, any Member who is Owner of that Unit and is present to vote at any meeting may cast the votes for such Unit, if more than one Member who is an Owner of that Unit is present at a meeting, the votes for such Unit shall be cast as such Members shall agree or, in the absence of agreement, each Member who is Owner of such Unit shall be entitled to cast the portion of the votes for such Unit equal to such Owner's fractional ownership interest in such Unit.

5.5. Numbers of Votes. Each of the Units shall have the following numbers of votes:

5.5.1. Each Townhome Lot and Condominium Lot shall have one vote.

5.5.2. Each Lot in Neighborhood Area I shall have one and one-half votes.

5.5.3. Each Lot in Neighborhood Area II shall have one and one-half votes.

5.5.4. Each Multifamily Unit shall have a number of votes equal to a fraction, the numerator of which is the number of completed and Habitable Dwellings in that Multifamily Unit and the denominator of which is ten; provided that, in the event that any Multifamily Unit shall be subdivided into Condominium Lots, Lots, or Townhome Lots, after such subdivision takes place and Habitable Dwellings are then or have been constructed on such newly subdivided Condominium Lots, Townhome Lots, and Lots, votes shall be allocated thereto as provided in Sections 5.5.1, 5.5.2, and 5.5.3.

5.6. Meetings of Members. The By-Laws shall provide for the manner, time, place, conduct, and voting procedures for meetings of Members.

5.7. Neighborhoods. Every Unit shall be located within a Neighborhood. Prior to the sale of any Lot, Townhome Lot, or Condominium Lot to a Person other than the Declarant or a Limited Declarant, the Declarant or the Limited Declarant (subject to the Declarant's consent, not to be unreasonably withheld) shall record a Neighborhood Declaration as to such Neighborhood creating a Neighborhood Association as to such Neighborhood.

**ARTICLE 6
DUTIES AND POWERS OF ASSOCIATION**

6.1. General Duties and Powers of Association. The Association will be formed to further the common interests of the Members. The Association, acting through the Board or Persons to whom the Board has from time to time temporarily delegated such powers in any given instance, shall have the duties and powers hereinafter set forth and, in general, subject to the limitations set forth in this Declaration, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve, and enhance the common interests of the Members, to maintain, improve, and enhance Association Properties, and to improve and enhance the attractiveness, aesthetics, and desirability of the Community Area.

6.2. Duty to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to all Association Properties and other real property from time to time transferred to the Association, including any Improvements thereon, and personal property transferred to the Association by Declarant, and equipment related thereto, together with the responsibility to perform any and all Administrative Functions associated therewith; provided that such property and functions are not inconsistent with the terms of this Declaration. Property interests from time to time transferred to the Association by Declarant may include fee simple title, easements, leasehold interests, contractual rights, or licenses to use. Any real property or interest in real property transferred to the Association by Declarant shall be within the boundaries of the Community Area. Any property or interest in property from time to time transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all monetary liens (other than the lien of taxes and assessments not yet due and payable) but shall be subject to the terms of this Declaration. Except as otherwise specifically approved by resolution of the Board of Directors, no property or interest in property transferred to the Association by Declarant shall impose upon the Association any obligation to make monetary payments to Declarant or any affiliate of Declarant, including, but not limited to, any purchase price, rent, charge, or fee.

6.3. Power and Duty to Manage and Care for Association Properties. The Association shall have the power and duty to manage, operate, care for, maintain, and repair all Association Properties, to keep the same in an attractive and desirable condition for the use and enjoyment of the Members consistent with this Declaration and the Community-Wide Standard, and to satisfy its obligations with respect to Association Properties under the Plat or any document executed in connection with obtaining the City's approval of the Plat.

6.4. Power to Pay Taxes. The Association shall have the power to pay all taxes and assessments levied upon the Association Properties and all taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments by appropriate legal proceedings.

6.5. Power to Maintain Casualty Insurance. The Association shall have the power to obtain and keep in full force and effect property insurance on all insurable Improvements and personal property from time to time owned by the Association as Association Properties in such

amounts used with such terms as the Board of Directors shall from time to time determine. The Association shall maintain all such insurance required by the Act.

6.6. Power to Maintain Liability Insurance. The Association shall have the power to obtain and keep in full force and effect general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Association Properties with such limits and terms as the Board of Directors shall from time to time determine. The Association shall maintain all such insurance required by the Act.

6.7. General Provisions Respecting Insurance. Insurance obtained by the Association may contain such deductible provisions as the Board of Directors may determine and as shall be consistent with the Act. The Association may carry any other type of insurance it considers appropriate in amounts it deems appropriate, to insure the interests of the Association. 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 for all deductibles paid by the Association. At Declarant's request, insurance obtained by the Association shall, to the extent reasonably possible and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance may be provided under blanket policies covering the Association Properties and property of Declarant.

6.8. Fidelity Bonds. The Association may obtain and keep in force a fidelity bond or bonds for any Person handling funds of the Association. The Board of Directors may request any Person employed as an independent contractor by the Association for the purpose of managing the Association Properties to obtain and maintain fidelity insurance in an amount determined by the Board.

6.9. Other Insurance and Bonds. The Association shall obtain such other insurance as may be required by law, including workmen's compensation insurance, and shall have the power to obtain such other insurance and such fidelity, indemnity, or other bonds as the Association shall deem necessary or desirable.

6.10. Duty to Prepare Budgets. The Association shall prepare Budgets for the Association as elsewhere provided in this Declaration.

6.11. Power to Levy and Collect Assessments and Fees. The Association may levy and collect Assessments and Fees as elsewhere provided in this Declaration.

6.12. Duty to Keep Association Records. The Association shall keep financial records sufficiently detailed to provide a statement setting forth the amount of any unpaid Assessments currently levied against any Unit.

6.13. Power to Acquire Property and Construct Improvements. The Association may acquire property or interests in property for the common benefit of Owners including Improvements

and personal property. The Association may construct Improvements on property and may demolish existing Improvements.

6.14. Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal, and enforce Rules and Regulations 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 Association Properties, and the use of any other property within the Community Area, including Units. Any such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Notice of the adoption, amendment, or repeal of any Rule or Regulation shall be given in writing to each Member at the address for notices to Members as elsewhere provided in this Declaration or the By-Laws, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations. Such Rules and Regulations 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 Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

6.15. Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause such compliance by each Member and each Related User. Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations by any one or more of the following means: (a) by entry upon any property within the Community Area, without liability to the Owner thereof, for the purpose of enforcement or causing compliance with this Declaration or the Rules and Regulations; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (d) by suspension of the voting rights of a Member during and for up to sixty (60) days following the cure of any breach by such Member or a Related User of this Declaration or the Rules and Regulations; (e) by levying and collecting a Specific Assessment against any Member for breach of this Declaration or the Rules and Regulations by such Member or Related User; and (f) by uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, assessed against any Member or Related User for breach of this Declaration or the Rules and Regulations by such Member or Related User.

6.16. Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility, and other such easements in, on, over, or under Association Properties.

6.17. Power to Convey and Dedicate Property to Government Agencies. The Association shall have the power to grant, convey, dedicate, or transfer any Association Properties or facilities to any public, governmental, or quasi-governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate. Any such transfer

shall require the approval of Declarant, if Declarant still owns any Units, and the approval of Members owning at least sixty percent (60%) of the Units (exclusive of the Units owned by the Declarant).

6.18. Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money and, with the approval of Members owning at least sixty percent (60%) of the Units (exclusive of the Units owned by Declarant), determined as provided in Section 5.4, to encumber Association Properties as security for such borrowing, subject to provisions elsewhere contained in this Declaration with respect to required approvals and consents to such action.

6.19. Power to Merge or Consolidate. The Association shall have the power to merge or consolidate with another association with the approval of Members owning at least sixty-seven percent (67%) of the Units (exclusive of the Units owned by Declarant), determined as provided in Section 5.4, and, if Declarant still owns any Units, the approval of Declarant. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving consolidated association may administer and enforce the covenants, conditions, and restrictions established by this Declaration governing the Property, together with the covenants, conditions, and restrictions established upon any other property as one plan.

6.20. Power to Engage Employees, Agents, and Consultants. The Association shall have the power to hire and discharge employees and agents and to retain and pay for legal, management, and accounting services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

6.21. General Corporate Powers: Limitations. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation or By-Laws. The Association shall also have the power to do any and all lawful things which may be authorized, required, or permitted to be done under this Declaration or the Articles of Incorporation or By-Laws and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration and the Articles of Incorporation or By-Laws. Notwithstanding any other provision of this Declaration to the contrary, the Association shall have no power to bring any legal action or proceeding, on its own account or on behalf of any one or more of, or any class of, the Members or Owners or any one or more of, or any class of, Mortgagees, with respect to or regarding any defects in the construction, or any failure to perform any obligation under any express or implied warranty against defects in construction, of any Dwelling or Residence or other Improvement constructed on any of the Units, and any such action by the Association would be *ultra vires*.



6.22. Powers Provided by Law. In addition to the above-referenced powers, except as may be limited by this Declaration, the Act, the Articles of Incorporation, or the By-Laws, the Association shall have full power to take and perform any and all actions which may be lawfully taken by the Association under the Colorado Nonprofit Corporation Act.

6.23. Owners Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry blanket "all-risk" property insurance on its Unit(s) and structures thereon providing full replacement cost coverage less a reasonable deductible, unless either the Neighborhood in which the Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, he shall proceed promptly to repair or to reconstruct such structure. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds. Additional recorded covenants applicable to each Neighborhood shall establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within such Neighborhood and the standards for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

6.24. Implied Rights: Board Authority. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board or any duly authorized executive committee, officer, agent, or employee without a vote of the membership.

6.25. Governmental Interests. So long as the Declarant owns any property within the Subdivision, the Declarant may designate sites within the Community Area for fire, police, utility facilities, public schools and parks, and other public facilities. The sites may include Common Areas.

6.26. Indemnification. The Association shall indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability

and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.27. Dedication of Common Areas. The Association may dedicate portions of the Common Areas to the County and/or the City, or to any other local, state, or federal governmental entity, subject to such approval as may be required by this Declaration.

6.28. Security. The Association shall not be obligated to maintain or support any security activities within the Community Area. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT OR LIMITED DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMUNITY AREAS, NOR SHALL ANY OF THEM BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, AND ANY SUCCESSOR DECLARANT OR LIMITED DECLARANT ARE NOT INSURERS AND THAT EACH PERSON USING THE COMMUNITY AREAS ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO UNITS AND TO THE CONTENTS OF UNITS RESULTING FROM ACTS OF THIRD PARTIES.

6.29. Powers of the Association Relating to Neighborhoods.

6.29.1. No declaration of covenants, conditions, and restrictions, restrictive covenants and/or other declaration, conditions, or covenants (collectively described herein as a "Neighborhood Declaration") creating a Neighborhood Association shall be adopted and/or Recorded unless the Neighborhood Declaration has been approved in writing by the Association, and, during the Declarant Control Period, the Declarant, which approval shall be evidenced by a consent to the Neighborhood Declaration, executed by the Board on behalf of the Association and executed by the Declarant, if applicable, and Recorded. Any Neighborhood Declaration which is Recorded and does not contain the executed consents required by the terms of this Section shall be void and of no effect. In the event of any inconsistency between the conditions and restrictions contained in this Declaration and any Neighborhood Declaration, this Declaration shall control.

6.29.2. The Association shall have the power to require specific action to be taken by any Neighborhood Association in connection with any of its obligations and responsibilities under Section 4.2 to maintain any Neighborhood Common Areas or pursuant to any Neighborhood Declaration. If the Neighborhood Association fails to perform its obligations to maintain any Neighborhood Common Areas or pursuant to any Neighborhood Declaration within thirty (30) days after delivery of written notice from the Association requiring performance thereof, the Association shall have the right to effect such action on behalf of the Neighborhood Association or Neighborhood Committee. To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Units in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Section 8.10. Such

assessments may be collected as a Specific Assessment hereunder and shall be subject to all lien rights provided for herein.

ARTICLE 7
ASSOCIATION PROPERTIES AND NEIGHBORHOOD COMMON AREAS

7.1. Member's Rights of Use and Enjoyment Generally. Unless otherwise provided in this Declaration, all Members may use the Association Properties and the Neighborhood Common Areas within the Neighborhood in which the Member's Unit is located.

7.2. Right of Association to Regulate Use. The Association, acting through the Board, shall have the power to regulate use of Association Properties by Members and, to the extent within the power of the Association, the public to further enhance the overall rights of use and enjoyment of all Members. The Association, or the Neighborhood Associations after formation, shall have the power to regulate the use of the Neighborhood Common Areas and, to the extent within the power of the Association or the Neighborhood Association, as applicable, the public to further enhance the overall rights of use and enjoyment of all Members within the Neighborhood.

7.3. No Partition of Association Properties or Neighborhood Common Areas. No Owner shall have the right to partition or seek partition of the Association Properties, the Neighborhood Common Areas, or any part thereof.

7.4. Liability of Owners for Damage by Member. Each Member shall be liable to the Association or the Neighborhood Association, respectively, for any damage to Association Properties or Neighborhood Common Areas and for any cost, expense or liability incurred by the Association or the Neighborhood Association, to the extent not covered by insurance, which may be sustained by reason of the negligent conduct or intentional misconduct of such Member or any Related User and for any violation by such Member or any such Related User of this Declaration or any Rule and Regulation adopted by the Association, including any increase in insurance premiums directly attributable to any such damage or any such violation.

7.5. Association Duties if Damage. In the event of damage to Association Properties by fire or other casualty or in the event any governmental authority shall require any repair, reconstruction, or replacement of any Association Properties other than Neighborhood Common Areas (except as otherwise set forth herein), the Association shall have the duty to repair, reconstruct, or replace the same. Any insurance proceeds payable by reason of damage or destruction of Association Properties other than Neighborhood Common Areas (except as otherwise set forth herein) by fire or other casualty shall be paid to the Association and shall be used, to the extent necessary, to pay the costs of repair, reconstruction, or replacement. If funds from insurance proceeds or from reserves for replacement are insufficient to pay all costs of repair, reconstruction, or replacement of improvements damaged or destroyed, or if the Association is required to make repairs, replacements, or Improvements by governmental authorities, the Association may, in order to make up any deficiency in the insurance proceeds or to pay for the required repair, replacement, or improvement, levy a Special Assessment in accordance with Section 8.9, or if a Member or group of Members is liable for such damage, levy a Specific Assessment against the Member or group of

Members responsible therefor, to provide the additional funds necessary. Repair, reconstruction, or replacement of Association Properties shall be done under such contracting and bidding procedures as the Association shall determine are appropriate. If insurance proceeds available to the Association on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Association may use the same for future maintenance, repair, improvement, and operation of other Association Properties.

7.6. Damage to Neighborhood Common Areas. In the event of damage to any Neighborhood Common Areas by fire or other casualty or in the event any governmental authority shall require any repair, reconstruction, or replacement of any Neighborhood Common Areas, the Neighborhood Association, or if there is no Neighborhood Association for the Neighborhood in which the Neighborhood Common Areas are located, the Association, shall have the duty to repair, reconstruct, or replace the same. Any insurance proceeds payable by reason of damage or destruction of Neighborhood Common Areas by fire or other casualty shall be paid to the Association or the Neighborhood Association, as appropriate, and shall be used, to the extent necessary, to pay the costs of repair, reconstruction, or replacement. If funds from insurance proceeds or from reserves for replacement are insufficient to pay all costs of repair, reconstruction, or replacement of improvements damaged or destroyed, or if the Association or the Neighborhood Association is required to make repairs, replacements, or Improvements by governmental authorities, the Association may, in order to make up any deficiency in the insurance proceeds or to pay for the required repair, replacement, or improvement, levy a Special Assessment in accordance with Section 8.9, or if a Member or group of Members is liable for such damage, levy a Specific Assessment against the Member or group of Members responsible therefor, to provide the additional funds necessary. Repair, reconstruction, or replacement of Neighborhood Common Areas shall be done under such contracting and bidding procedures as the Association or Neighborhood Association, as appropriate, shall determine are appropriate. If insurance proceeds available to the Association or the Neighborhood Association, as appropriate, on account of damage or destruction exceed the cost of repair, reconstruction, and replacement, the Association or Neighborhood Association, as appropriate, may use the same for future maintenance, repair, improvement, and operation of other Neighborhood Common Areas for the Neighborhood.

7.7. Association Powers in the Event of Condemnation. If any Association Properties or interests therein are taken under exercise of the power of eminent domain or by purchase in lieu thereof, the award in condemnation or the price payable shall be paid to the Association, except to the extent payable to any other Person with an interest in such property, including any Mortgagee of such property. The Association shall have the exclusive right to participate in such condemnation proceedings and to represent the interests of all Owners or other Persons therein. Any award or funds received by the Association shall be held by the Association in the Maintenance Funds as determined by the Board, as a reserve for future maintenance, repair, reconstruction, or replacement of Association Properties or may be used for Improvements or additions to or operation of Association Properties. No Owner shall be entitled to participate as a party or otherwise in any condemnation proceedings.

7.8. Title to Association Properties on Dissolution of Association. In the event of dissolution of the Association, the Association Properties shall, to the extent permitted by law and

reasonably possible, be conveyed or transferred to an appropriate public, governmental or quasi-governmental agency or organization or to a nonprofit corporation, association, trust, or other organization, to be used, in any such event, for the common benefit of Owners for similar purposes for which the particular Association Property was held by the Association. To the extent the foregoing is not possible, the Association Properties shall be sold or disposed of and the proceeds from the sale or disposition shall be allocated to the Units in accordance with the Assessment Ratios and distributed to the Members.

ARTICLE 8 ASSESSMENTS AND FEES

8.1. Obligation and Lien for Assessments. Each of the Units shall be subject to the Assessments. Each Unit shall be subject to a lien for the Assessments (together with interest, late charges, costs of collection, and attorneys' fees on or accrued with respect thereto) as provided in this Declaration and in the Act. The lien may be claimed and enforced in accordance with the provisions of this Declaration and of the Act. The Assessments against each Unit and each portion of each Assessment (together with interest, late charges, costs of collection, and attorneys' fees on or accrued with respect thereto) shall be the personal, joint and several obligation of the Owners of the Unit at the time each Assessment or portion thereof becomes payable. Each Owner, by acceptance of its interest in any Unit, agrees to pay to the Association the Assessments as to that Unit and as otherwise provided herein, together with interest, late charges, costs of collection, and attorneys' fees as provided herein. Assessments may consist of Common Assessments, Neighborhood Assessments, Special Assessments, and Specific Assessments.

8.2. Amount of Common Assessments; Allocation of Assessments; Working Capital.

8.2.1. Amount of Common Assessments. The amount of the annual Common Assessment for each Unit which is a Habitable Dwelling shall be the product of the amount of the Base Assessment multiplied by the Assessment Ratio for the type of Unit. The amount of the annual Common Assessment for each Unit which is not a Habitable Dwelling shall be one-third of the product of the amount of the Base Assessment multiplied by the Assessment Ratio for the type of Unit.

8.2.2. Assessment Ratios. The "Assessment Ratios" for each of the different types of Units shall be:

8.2.2.1. For each Townhome Lot and Condominium Lot, 100%.

8.2.2.2. For each Lot within Neighborhood Area I, 150%.

8.2.2.3. For each Lot within Neighborhood Area II, 150%.

8.2.2.4. For each Multifamily Unit, the product of 75% multiplied by the number of Dwellings contained in such Multifamily Unit; provided that, in the event that any Multifamily Unit shall be subdivided into Condominium Lots, Lots, or Townhome Lots, after

such subdivision takes place and Habitable Dwellings have been or are constructed thereon, the assessment ratios for such Lots, Condominium Lots, and Townhome Lots shall be as provided in Sections 8.2.2.1 and 8.2.2.2, above.

8.2.3. Base Assessment. As used herein, "Base Assessment" shall mean the total amount of the Annual Common Assessment, divided by the sum of the following (the "Total Number of Assessable Units"):

8.2.3.1. The total number of Lots within Neighborhood Area I which are Habitable Dwellings, multiplied by the Assessment Ratio applicable to the Lots.

8.2.3.2. The total number of Lots within Neighborhood Area II which are Habitable Dwellings, multiplied by the Assessment Ratio applicable to the Lots.

8.2.3.3. The total number of Townhome Lots and Condominium Lots which are Habitable Dwellings, multiplied by the Assessment Ratio applicable to the Townhome Lots and Condominium Lots.

8.2.3.4. The sum of the Assessment Ratios for all of the Multifamily Units containing only Habitable Dwellings.

8.2.3.5. One-third of the total number of Lots within Neighborhood Area I which are not Habitable Dwellings, multiplied by the Assessment Ratio applicable to the Lots.

8.2.3.6. One-third of the total number of Lots within Neighborhood Area II which are Habitable Dwellings, multiplied by the Assessment Ratio applicable to the Lots.

8.2.3.7. One-third of the total number of Townhome Lots and Condominium Lots which are not Habitable Dwellings, multiplied by the Assessment Ratio applicable to the Townhome Lots and Condominium Lots.

8.2.3.8. One-third of the sum of the Assessment Ratios for all of the Multifamily Units which do not contain any Habitable Dwellings.

8.2.3.9. For those Multifamily Units containing some Habitable Dwellings and some Uninhabitable Dwellings, the sum of the Assessment Ratios for such Multifamily Units calculated at the rate of the full Assessment Ratio for the number of Dwellings constituting Habitable Dwellings and one-third of the Assessment Ratio for the number of Dwellings constituting Uninhabitable Dwellings.

8.2.4. Percentage of Assessment. Each Unit containing Habitable Dwelling(s) shall be assessed a portion of the Common Assessment equal to the Assessment Ratio for such Unit divided by the Total Number of Assessable Units. Each Unit containing Uninhabitable Dwelling(s) shall be assessed a portion of the Common Assessment equal to one-third of the Assessment Ratio for such Unit divided by the Total Number of Assessable Units.

8.2.5. Habitable Dwellings. For purposes of Assessments, there shall be two classes of Units, Units which are Habitable Dwellings and Units which are not Habitable Dwellings. "Habitable Dwellings" shall mean all Units on which a Dwelling has been constructed and for which a certificate of occupancy has been issued, except, on a temporary basis, any Unit on which the Dwellings have become uninhabitable because of casualty (such as fire, flood, or earthquake) and are not inhabited or on which the Dwellings have been totally demolished, during the period starting with the occurrence of such casualty or demolition and ending when repairs or reconstruction have rendered a Dwelling on such Unit habitable. Units which are not Habitable Dwellings shall mean all Units on which Dwellings have not been constructed or, if constructed, for which no Certificate of Occupancy has been issued and any Unit, on a temporary basis, on which the Dwellings have become uninhabitable because of casualty (such as fire, flood, or earthquake) and are not inhabited or on which the Dwellings have been totally demolished, during the period starting with the occurrence of such casualty or demolition and ending when repairs or reconstruction have rendered the Dwelling on such Unit habitable.

8.2.6. Working Capital. At the time of the sale of each Unit to the first Owner thereof following the completion of the Dwelling on the Unit by the Declarant or any Limited Declarant, the Owner purchasing the Unit shall pay an amount equal to the quarterly Common Assessment for such Unit assuming it is a Habitable Dwelling to the Association as a contribution to the Association's working capital except that, as to Multifamily Units, the Owner thereof shall pay an amount equal to the quarterly Common Assessment for a number of Habitable Dwellings equal to the number of Dwellings contained within such Multifamily Unit at the time the first Dwelling in such Multifamily Unit is occupied. After such contribution to the working capital of the Association has been made as to any Unit, at the time when the Unit is transferred to a new Owner, the new Owner shall pay an amount to the Association equal to such contribution, and, at the time such replacement contribution is made, the Association shall return the existing capital contribution to the transferring Owner, less a handling charge as set from time to time by the Association; provided that the contribution shall not otherwise be refundable and, in lieu of replacing the contribution in such manner, the transferring Owner may transfer the capital contribution to the new Owner, in which case the handling fee shall be avoided.

8.3. Common Assessments and Initial Assessment. For each calendar year, the Association may levy Common Assessments against Owners of the Units. Each Owner shall jointly and severally be obligated to pay the Common Assessments levied against and allocated to such Owner and the Unit of such Owner. The first Common Assessment (the "Initial Assessment") shall be made at or after the time the first Habitable Dwelling is transferred by Declarant to the first purchaser thereof, as shall be determined by the Board of Directors. After the Initial Assessment has been made, Common Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually in accordance with Section 8.5. The Initial Assessment and each subsequent Common Assessment shall be determined by the Board in accordance with the Budget. Written notice of any change in the amount of any annual Common Assessment shall be sent to every Owner subject thereto not less than thirty (30) days prior to the effective date of such change.

8.4. Supplemental Common Assessments. If the sums provided for Common Assessments prove or at any time are anticipated to be inadequate for any reason, including nonpayment of any Owner's Common Assessment, the Board may, from time to time, levy a supplemental Common Assessment. Such supplemental Common Assessments shall be allocated among the Units in the same manner Common Assessments are allocated. Written notice of any supplemental Common Assessment shall be sent to every Owner subject thereto not less than thirty (30) days prior to the date such supplemental Assessment becomes payable.

8.5. Annual Budgets. The Board of Directors shall cause to be prepared, prior to the commencement of each calendar year, commencing with the first calendar year after the Initial Assessment, a budget (the "Budget") for such calendar year. The Budget may include an amount for contingencies and amounts deemed necessary or desirable for deposits to create, replenish, or add to the reserve fund for major capital repairs, replacements, and improvements to the Association Properties. The Budget, when prepared and revised to the satisfaction of the Board of Directors, shall be adopted by the Board of Directors. Within thirty days after the adoption of the proposed Budget for any year by the Board of Directors, the Board of Directors shall cause the Budget or a summary thereof to be delivered to all Members in any manner in which notices may be given hereunder. Such notice shall set a meeting of the Members to consider the ratification of the budget, which shall be not less than fourteen nor more than sixty days after the delivery of the Budget or summary thereof. Unless at that meeting Members representing a majority of all of the Units (Members representing all of the Units, other than the Units owned by Declarant, during the Declarant Control Period) reject the Budget, the Budget shall be deemed ratified, whether or not a quorum is present. In the event that any Budget approved by the Board of Directors is rejected by the Members, the Budget last ratified by the Members shall be continued until such time as the Members ratify, as provided in this Section, a subsequent Budget adopted by the Board of Directors. The Budget approved by the Board of Directors and ratified by the Members may be amended from time to time by the Board of Directors and ratified by the Members, in the manner provided above in this Section and when so approved and ratified, shall be adopted as the Association Budget and replace the Budget previously adopted.

8.6. Payment of Assessment. Unless otherwise provided by the Board of Directors as to any Common Assessment, Common Assessments shall be due and payable in advance to the Association by the assessed Member during the calendar year in equal quarterly installments, on or before January 1, April 1, July 1, and October 1 of each calendar year, or in such other manner and on such other dates as the Board of Directors may designate in its sole and absolute discretion.

8.7. Failure to Set Assessment. If the Board of Directors fails to levy an Assessment for any year, the Assessment set for the prior year shall continue in effect for such year until revised by the Board of Directors in accordance with this Declaration. The failure by the Board of Directors to levy an Assessment for any year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent year. No abatement of the Common Assessment or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to Association Properties or Neighborhood



Common Areas or from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

8.8. Neighborhood Assessments. Each Neighborhood Association shall, to the extent provided in the Neighborhood Declaration applicable to such Neighborhood, be entitled to make assessments for the purposes and in the amounts provided in the Neighborhood Declaration.

8.9. Special Assessments for Capital Expenditures. In addition to Common Assessments and Neighborhood Assessments, the Board of Directors may, subject to the provisions of this Section 8.9, levy Special Assessments for the purpose of raising funds not otherwise provided from Common Assessments to construct or reconstruct, repair, or replace capital Improvements upon Association Properties, including necessary personal property related thereto; to add to the Association Properties; to provide for necessary facilities and equipment to offer the services authorized in this Declaration; to repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration; or for such other purposes as reasonably determined by the Association. Special Assessments shall be allocated in the same manner as Common Assessments. The Association shall notify Members in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable and the Members shall pay any such Special Assessment in the manner so specified. Notwithstanding the foregoing, during the Declarant Control Period, no Common Assessments or Special Assessments may be used for construction of capital improvements to Association Properties.

8.10. Specific Assessments.

8.10.1. Member Specific Assessments. The Board of Directors may, subject to the provisions hereof, levy an Assessment against any Member for the funds expended by the Association if the Member or a Related User or other Person enjoying the privileges and benefits of the Subdivision (such as the use of Association Properties or the Neighborhood Common Areas) in a way which the Board of Directors reasonably determines makes such Person's conduct the responsibility of the Member violates or fails to comply with this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations and such violation or failure to comply shall have resulted in the expenditure of funds by the Association to cause such compliance or the cessation of such violation. Such Assessment shall be known as a Specific Assessment and shall be levied only after hearing and approval by the Board in accordance with the By-Laws following notice to the Member(s) against whom the Specific Assessment is proposed to be made given in a time and manner reasonably determined by the Board of Directors to be adequate under the circumstances but in any event in writing delivered to the Residence of which the Member is the Owner. The amount of the Specific Assessment shall be due and payable to the Association thirty (30) days after notice to the Member of the decision of the Board of Directors that the Specific Assessment is owing.

8.10.2. Neighborhood Specific Assessments. The Board of Directors may, subject to the provisions hereof, levy an Assessment against any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of this Declaration, any applicable Supplemental Declaration, any applicable Neighborhood Declaration, the Articles of

Incorporation, the By-Laws, and Rules and Regulations, including but not limited to any costs incurred to operate, maintain, insure or repair any Neighborhood Common Areas within such Neighborhood. Such Assessment shall be known as a Specific Assessment and shall be levied only after hearing and approval by the Board in accordance with the By-Laws following notice to the Member(s) owning Units within the Neighborhood given in a time and manner reasonably determined by the Board of Directors to be adequate under the circumstances but in any event in writing delivered to the Member owning Units within the Neighborhood at their Residences. Such Specific Assessment shall be levied equally against all Units within such Neighborhood. The amount of the Specific Assessment shall be due and payable to the Association thirty (30) days after notice to the Member(s) of the decision of the Board of Directors that the Specific Assessment is owing.

8.11. Late Charges and Interest. If any Common Assessment, Neighborhood Assessment, Special Assessment, or Specific Assessment or any installment thereof is not paid when due, the Member obligated to pay the Assessment may be required to pay a late charge at the level from time to time determined by the Board. Any Assessment or installment of an Assessment which is not paid when due shall bear interest from the due date at the rate of eighteen percent (18%) per annum or such other rate as may be established by the Board from time to time.

8.12. Attribution of Payments. All Assessment payments shall be credited first to any late fees, interest, attorneys' fees, and other costs of collection, and next to principal reduction, satisfying the oldest obligations first followed by more current obligations.

8.13. Notice of Default and Acceleration of Assessments. If any Common Assessment, Neighborhood Assessment, Special Assessment, or Specific Assessment or any installment thereof is not paid within thirty (30) days after its due date, the Board of Directors may mail a notice of default ("Notice of Default") to the Owner and to the holder (the "First Mortgagee") of the First Mortgage against the Unit if the First Mortgagee has requested a copy of the notice. The notice shall specify: (a) the fact that the installment is delinquent; (b) the action required to cure the default; (c) a date, not less than thirty (30) days from the date the notice is mailed to the Member, by which such default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Assessment or the installments of the Assessment against the Unit of the Member. If the delinquent Assessment or installment and any late charges or interest thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may (as to any Assessment payable in installments, including the Common Assessment) declare all of the unpaid balance of the Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law in this Declaration, subject to the protection afforded to the First Mortgagee under this Declaration.

8.14. Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct, and personal debt and obligation of the Owners and Members (who shall be jointly and severally liable therefor) of the Unit against which the same is assessed. In the event of a default in payment of any Assessment or installment thereof, whether Common, Neighborhood, Special, or Specific, the Board may, in addition to any other remedies provided under this Declaration or by law,

enforce such obligation on behalf of the Association by suit or by filing and foreclosure of a lien as hereinafter provided.

8.15. Lawsuit to Enforce Assessments. The Board may bring suit at law to enforce any Assessment obligation. Any judgment rendered in such action shall include any late charges, interest, and other costs of enforcement, including reasonable attorneys' fees in the amount as the court may adjudge, against the defaulting Owner or Member.

8.16. Lien to Enforce Assessments. All Assessments against a Unit (including late fees, interest, cost of collection, and attorneys' fees) shall constitute a lien on such Unit superior to all other liens and encumbrances, except the following (the "Priority Liens"): (a) liens and encumbrances Recorded before the Recording of the Declaration; (b) tax and special assessment liens in favor of any assessing governmental or quasi-governmental authority; and (c) all sums unpaid under the Mortgage encumbering the Unit that has first lien priority over any other Mortgage encumbering such Unit ("First Mortgage") if the First Mortgage was Recorded before the date on which the assessment sought to be enforced became delinquent, including any unpaid amounts remaining to be paid by the contract purchaser under an Installment Sale Contract, including any Installment Sale Contract in which the Administrator of the VA (as defined in Section 10.10 hereof) is seller, whether such contract is owned by the VA or its assigns, and whether Recorded or not. By acceptance of transfer of an interest in a Unit, the Owners of each Unit agree that the Assessment lien shall be prior to any homestead exemption or right and irrevocably waive any and all rights they or any of them may have to claim a homestead exemption against enforcement of the Assessment lien. Except as set forth in Sections 8.16 and 10.8 hereof or pursuant to Section 38-33.3-316 of the Colorado Revised Statutes, sale, foreclosure or transfer of any Unit shall not affect the Assessment lien. This Section does not affect the priority of mechanics' or materialmen's liens or the priority of liens or assessments made by the Association.

In order to assert any such lien, the Association shall be required to Record a written notice setting forth the amount of such unpaid Assessments, the name of the Owner of the Unit, and the identification of the Unit. Such notice shall be signed by one member of the Board of Directors, an officer of the Association, or an agent appointed by the Board and shall be Recorded. Such notice shall not be required to be in any particular form. Such lien may be enforced by foreclosure on the defaulting Owner's Unit by the Association in the same manner as a mortgage on real property and shall encumber all rents and profits issuing from the Unit, which lien on rents and profits shall be subordinate only to the matters described in subparagraphs (a), (b), and (c) above. The Association shall have the power to bid at the foreclose sale and to acquire and hold, lease, mortgage, and convey the Unit.

8.17. Estoppel Certificates. Upon the written request of any Member and any Person with, or intending to acquire, any right, title, or interest in the Unit of such Member, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to an Unit and the Owner thereof, and setting forth the amount of any Assessment levied against such Unit which is not yet due and payable. Such statement shall, with respect to the Person to whom it is issued, be conclusive against the Association

that no greater or other amounts were then due or accrued and unpaid and that no other Assessments have been levied.

8.18. No Offsets. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

8.19. User Fees. The Association may assess fees ("User Fees") charged to Members who use or derive special benefit from services provided by the Association and which are not used or which do not generally benefit all of the Members.

8.19.1. Special Services. In the event that the Association elects to provide services (such as, for example, a gated entrance to a Neighborhood with access limited electronically or by guard) which benefit only one Neighborhood or more than one but less than all Neighborhoods, the Association shall charge User Fees in the amount required to pay for such special services, and shall keep separate books for the cost and revenues with respect to such separate service. The User Fees shall be assessed on a per Unit basis for the Units in the Neighborhood deriving the special benefit from the special service.

8.19.2. Enforcement. Unpaid User Fees may be enforced as Specific Assessments or in any other manner reasonably determined by the Association.

8.20. Other Fees. The Association may impose other fees from time to time in uniform amounts for providing routine services to Owners and Members. Examples of such fees are transfer fees (for changing the names of the Owners of a Unit or Members with respect to a Unit upon the sale or other transfer of a Unit), handling fees (for accepting the contribution to the working capital of the Association from a new Owner of a Unit and refunding the working capital contribution of the transferring Owner), and fees for providing estoppel certificates, confirmations of the status of payment of Assessments, User Fees, and other fees to an existing or prospective purchaser or Mortgagee.

ARTICLE 9 DECLARANT'S RIGHTS AND RESERVATIONS

9.1. Period of Declarant's Rights and Reservations. Declarant shall have, and Declarant hereby retains, and reserves, certain rights as hereinafter set forth with respect to the Association and the Association Properties for a period of time (the "Declarant Control Period") commencing on the date hereof and ending: (a) sixty days after the date on which seventy-five percent (75%) of the Units no longer are owned by Declarant and Limited Declarants; or (b) two years after the conveyance by Declarant (or any Limited Declarant) of the last Unit conveyed by Declarant (or any Limited Declarant) in the ordinary course of business, whichever occurs first. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association and in each deed or other instrument by which any property within the Community Area is conveyed by Declarant whether or not specifically stated therein. The rights,

reservations, and easements hereinafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded, or affected by any amendment of this Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other subsequent amendment.

9.2. Declarant's Right to Appoint Board of Directors. During the Declarant Control Period, Declarant shall have the right to appoint the members of the Board of Directors; provided that (i) not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Units to Owners other than Declarant (including as Declarant any Limited Declarants), at least one (1) member and not less than twenty-five percent (25%) of the members of the Board of Directors shall be elected by Owners other than the Declarant; (ii) not later than sixty (60) days after conveyance of fifty percent (50%) of the Units to Owners other than Declarant (including as Declarant any Limited Declarants), not less than thirty-three and one-third percent (33 $\frac{1}{3}$ %) of the members of the Board of Directors must be elected by Owners other than the Declarant; and (iii) not later than the termination of the Declarant Control Period, the Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom shall be Owners other than the Declarant or designated representatives of Owners other than Declarant. During the Declarant Control Period, the Articles and By-Laws and any amendment to either of them shall not be effective unless and until approved in writing by the Declarant.

9.3. Selection of Officers; Date for Taking Office. The Board of Directors shall elect the officers. The members of the Board of Directors and officers shall take office upon election.

9.4. Requirements for Turnover of Declarant Control. On or before the Turnover Date, the Declarant shall deliver to the Association all property of the Owners and the Association held by or controlled by the Declarant, including without limitation the following items:

9.4.1. The original or a certified copy of the recorded Declaration as amended, the Association's articles of incorporation, By-Laws, minute books, other books and records, and any Rules and Regulations which may have been promulgated.

9.4.2. An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Declarant Control Period ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association; provided that, if then permitted by the Act, the Association rather than the Declarant shall pay for the audit. The requirement for an audit may be waived by the Declarant to the extent permitted by the Act.

9.4.3. The Association funds or control thereof.

9.4.4. All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or, to the extent required by the Act, all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Areas, and inventories of these properties.

9.4.5. To the extent required by the Act, a copy of any plans and specifications used in the construction of any improvements which were completed within two (2) years before this Declaration was recorded.

9.4.6. All insurance policies then in force, in which the Owners, the Association or its members of the Board of Directors and officers are named as insured persons.

9.4.7. To the extent required by the Act, copies of any certificates of occupancy that may have been issued with respect to the Improvements located on Association Properties.

9.4.8. To the extent required by the Act, any other permits issued by governmental bodies applicable to the Subdivision and which are currently in force or which were issued within one year prior to the date on which the Declarant Control Period ended.

9.4.9. To the extent required by the Act, written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective.

9.4.10. A roster of Owners and First Mortgagees and the addresses and telephone numbers, if known, as shown on the Declarant's records.

9.4.11. Employment contracts in which the Association is a contracting party.

9.4.12. Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services.

9.5. Right to Construct Additional Improvements on Association Properties. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey Association Properties to the Association and construct additional Improvements on Association Properties at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners. Declarant may convey or transfer such Improvements to the Association if Declarant has elected to construct such Improvements. The Association shall be obligated to accept title to, care for, and maintain the same as Association Properties as elsewhere provided in this Declaration. Association Properties and Improvements conveyed by Declarant to the Association shall be conveyed free and clear of any Mortgage or lien (other than a lien for any tax or assessment not yet due and payable) arising by reason of Declarant's promise or failure to pay any monetary obligation of Declarant

9.6. Declarant's Rights to Use Association Properties in Marketing of Community Area. Until Residences have been constructed on all of the Units and all of the Units have been sold by Declarant and the Limited Declarants to Owners for the purpose of occupancy of the Residences

thereon, Declarant shall have and hereby reserves the right to reasonable use of the Association Properties and of services offered by the Association in connection with the promotion and marketing of the Community Area. Without limiting the generality of the foregoing, until Residences have been constructed on all of the Units and all of the Units have been sold by Declarant and the Limited Declarants to Owners for the purpose of occupancy of the Residences thereon, Declarant may erect and maintain on any part of the Association Properties such signs, temporary buildings, and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development, and marketing of real property within the Community Area; may use vehicles and equipment on Association Properties for promotional purposes; may permit prospective purchasers of property within the boundaries of the Community Area who are not Owners or Members of the Association to use Association Properties at reasonable times and in reasonable numbers; and may refer to the Association Properties and to the Association and services offered by the Association in connection with the development, promotion, and marketing of property within the boundaries of the Community Area. Declarant shall pay any costs and expenses arising from its use of Association Properties in accordance with this Section 9.6.

9.7. Declarant's Rights to Complete Development of Community Area. No provision of this Declaration shall be construed to prevent or limit Declarant's rights to complete development of property within the boundaries of the Community Area or elect not to complete development of any part of the Community Area; to develop Association Properties or to construct Improvements to Property thereon, whether or not required by the Plat or any other requirements imposed by the City in connection with the approval of the Plat; to construct or alter Improvements on any property owned by Declarant within the Community Area; to maintain model homes and offices for construction, sales purposes, or similar facilities on any property owned by Declarant within the Community Area; or to post signs or do any other act or thing incidental to development, construction, promotion, marketing, or sales of property within the boundaries of the Community Area. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals: (a) to excavate, cut, fill, or grade any property owned by Declarant or to construct, alter, demolish, or replace any Improvements on any property owned by Declarant; (b) to use any structure on any property owned by Declarant as a construction office, model home, or real estate sales office in connection with the sale of any property within the boundaries of the Community Area; (c) to store construction materials, supplies, equipment, tools, waste or other items on property within the Community Area that is owned by Declarant; (d) to require Declarant to seek or obtain the approval of the Association for any such activity or Improvement to Property on any property owned by Declarant; or to develop Association Properties or to construct Improvements to Property thereon, whether or not required by the Plat or any other requirements imposed by the City in connection with the approval of the Plat. Nothing in this Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

9.8. Declarant's Approval of Conveyances or Changes in Use of Association Properties. During the Declarant Control Period, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change, or alter the use of Association Properties, mortgage Association Properties, or use Association Properties other than solely for the benefit of Members or as specifically allowed hereunder.

9.9. Declarant's Rights to Grant and Create Easements. Until Residences have been constructed on all of the Units and all of the Units have been sold by Declarant and the Limited Declarants to Owners for the purpose of occupancy of the Residences thereon, Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements for access, utilities, drainage, water, and other purposes incident to development and sale of the Community Area located in, on, under, over, and across: (a) Association Properties; (b) the five (5) feet of each Unit adjoining each of the exterior boundaries of such Unit; and (c) the portions of the Community Area affected by the easements reserved on the recorded plats for the Community Area. Declarant may, at any time, grant or create temporary or permanent easements on Units owned by Declarant. Within these easements, including any easements previously granted under the Declaration, unless the consent of the holder of such easement rights is obtained, no structure, planting or other improvements or material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change or adversely affect Established Drainage Patterns or the direction and flow of drainage, or obstruct or retard the flow of water as contemplated by the Established Drainage Pattern. The easement area of each Unit and all improvements in it shall be maintained continuously by the Owner of the Unit on which said easement is located, except for those improvements for which a public authority or private utility company is responsible. Declarant's right to grant and create easements as described herein shall be transferred and shall devolve upon the Association upon conveyance by Declarant or a Limited Declarant of the last Unit owned by Declarant or a Limited Declarant to the first Owner (other than Declarant or a Limited Declarant).

9.10. Declarant's Rights to Convey Property to Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey real property and Improvements thereon to the Association at any time and from time to time in accordance with this Declaration.

9.11. Declarant's Right to Annex Additional Property to Community Area. Declarant shall have, and hereby reserves the right, but shall not be obligated, from time to time, to annex to the Community Area any part or all of the real property described on Exhibit D attached hereto and by this reference made part hereof (the "Additional Property"); provided that Declarant shall not be entitled to annex portions of the Additional Property (other than those dedicated for public use) not owned by Declarant without the consent of the owner thereof. In order to annex any part or all of the Additional Property to the Community Area, the Declarant shall be required to execute and record a Notice of Annexation which describes the real property being annexed, refers to this Declaration, including the date and reception number of the Recordation of this Declaration, states that the Additional Property (or specified portion thereof) is, by such Notice of Annexation, being annexed to the Community Area, and specifying the Neighborhood or Neighborhoods in which such Additional Property is located and, if located in more than one Neighborhood, the portions of such Additional Property located in each such Neighborhood. If the Additional Property or portion thereof being annexed by such Notice of Annexation is not owned by Declarant, the Notice of Annexation shall also be required to be executed by the owner thereof. Such annexation shall not require the consent of the Owners or Mortgagees of any other Units but shall, if Declarant desires to attempt to obtain FHA or VA approval of the property being annexed, be subject to a determination by FHA or VA that the annexation is in accord with a general plan approved by it and that the structures to be located thereon will be of comparable style, quality, size and cost to the

existing Improvements. Any portion of the Additional Property so annexed to the Community Area shall be subject to the terms and conditions of this Declaration from and after the date of the recording of the Notice of Annexation annexing such portion of the Additional Property to the Community Area.

9.12. Neighborhood Designations for Additional Property. Each Supplemental Declaration filed to subject any part or all of the Additional Property to this Declaration shall assign each portion of the Additional Property annexed thereby to the Community Area to a Neighborhood, which Neighborhood may be then existing or newly created. During the Declarant Control Period, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries; provided, that, if one or more Lots, Townhome Lots, Condominium Lots, or Multifamily Units have been transferred to a Person other than Declarant or a Limited Declarant, no such amendment shall have the effect of moving any such Lot, Townhome Lot, Condominium Lot, or Multifamily Unit into or a way from a Neighborhood without the written consent of the Owners of such sold Lots, Townhome Lots, Condominium Lots, or Multifamily Units.

ARTICLE 10 MISCELLANEOUS

10.1. Term of Declaration. Unless amended as herein provided, each provision contained in this Declaration shall continue and remain in full force and effect until December 31, 2019, and thereafter shall be automatically extended indefinitely unless and until terminated. Any such termination may be adopted by the Recording of a written statement of termination executed by the Owners holding at least seventy-five percent (75%) of the Units. The termination shall be effective on Recording of such instrument or on such later date as is specifically stated in such instrument. No such instrument shall be required to be in any particular form.

10.2. Amendments by Declarant.

10.2.1. Amendments Before Conveyances. Until the first Unit subject to this Declaration is conveyed by Declarant to the first Owner (other than Declarant or any Limited Declarant), any of the provisions contained in the Declaration may be amended or terminated by Declarant by the Recordation of an amendment, executed by Declarant, setting forth such amendment or termination.

10.2.2. Technical Amendments. Declarant further reserves and is granted the right and power to make and Record technical amendments of the Declaration, and the Articles and By-Laws of the Association at any time prior to the earlier of the conveyance by the Declarant (or any Limited Declarant) of the last Unit owned by Declarant (or any Limited Declarant) to the first Owner (other than Declarant or any Limited Declarant) or five (5) years from the date of Recordation of this Declaration, whichever occurs first. Such amendments shall be permitted for the purposes of correcting spelling, grammar, dates, cross references, or typographical errors or as may otherwise be required to clarify the meaning of any provision of any and all such documents. No such amendment shall be permitted to make any substantive change in the provisions of this Declaration.

10.2.3. Amendments for Exercise of Reserved Rights. The Declarant may make amendments to this Declaration as necessary and as required by the Act in connection with the exercise of any rights reserved by the Declarant under this Declaration.

10.2.4. Amendments by Association. The Association may make amendments to this Declaration as necessary and as required by the Act in connection with the approval of any lot line or boundary adjustment under Section 3.20.

10.3. Amendment of Declaration by Members. Except as otherwise provided in this Declaration, including Section 6.1, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or others, any provision of this Declaration, including without limitation any covenant, condition, restriction, or equitable servitude contained in this Declaration, may be amended or repealed at any time and from time to time by the Recording of a written statement of amendment or repeal executed by the Owners of at least seventy-five percent (75%) of the Units or by the vote of Members owning at least seventy-five percent (75%) of the Units at duly constituted meetings of the Members and the Recording of a certificate of such vote of amendment or repeal executed by on behalf of the Association by the President of the Association or any Member of the Board of Directors. The amendment or repeal shall be effective on Recording of such instrument or on such later date as is specifically stated in such instrument. No such instrument shall be required to be in any particular form.

10.4. Required Consent of Declarant to Amendment. Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provisions of this Declaration shall not be effective unless Declarant has given its written consent to such amendment or repeal, which consent may be evidenced by the execution by Declarant of any certificate of amendment or repeal. The foregoing requirement for consent of Declarant to any amendment or repeal shall terminate upon the conveyance by the Declarant (or any Limited Declarant) of the last Unit owned by Declarant (or any Limited Declarant) to the first Owner of such Unit (other than Declarant or any Limited Declarant) or five (5) years from the date of Recording this Declaration, whichever occurs first.

10.5. Amendment of Articles and By-Laws. The Articles of Incorporation and By-Laws may be amended in accordance with the provisions set forth in such instruments or, in the absence of such provisions, in accordance with applicable provisions of the Colorado Nonprofit Corporation Act.

10.6. Special Rights of First Mortgagees. The First Mortgagee as to any Unit in the Community Area, upon filing a written request therefor with the Association, shall be entitled to: (a) written notice from the Association of any default by the Mortgagor of such Unit in the performance of the Mortgagor's obligations under this Declaration, the Articles of Incorporation, the By-Laws, or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default; and (b) examine the books and records of the Association during normal business hours.



10.7. First Mortgagee Exemption from Rights of First Refusal. Any such First Mortgagee who obtains title to any Unit pursuant to the remedies provided in the Mortgage held by such First Mortgagee or pursuant to any foreclosure of Mortgage or by deed or assignment in lieu of foreclosure shall be exempt from any right of first refusal if any such right of first refusal is ever contained in this Declaration or any Supplement to this Declaration.

10.8. Priority of First Mortgage Over Assessments. Subject to Section 38-33.3-316 of the Colorado Revised Statutes, the First Mortgagee as to any Unit who obtains title to such Unit pursuant to the remedies provided in the Mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure shall take title to the Unit free and clear of any claims for unpaid Assessments or charges against such Unit which accrued prior to the time such holder acquires title to such Unit.

10.9. First Mortgagee Right to Pay Taxes and Insurance Premiums. Any First Mortgagee or any such First Mortgagees, jointly or singly, shall be entitled to pay any taxes or other charges which are in default and which may or have become a charge against any of the Association Properties and may pay any overdue premiums on hazard insurance policies for any Association Properties, and the First Mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

10.10. Amendment Required by Government Mortgage Agencies. Notwithstanding anything to the contrary contained in this Declaration, if Declarant shall determine that any amendments to this Declaration or to the Articles of Incorporation or By-Laws of the Association shall be necessary in order for existing or future Mortgages to be acceptable to any Government Mortgage Agencies, such amendments may be made solely by Declarant. "Government Mortgage Agencies" shall mean the FHA, the VA, the FHLMC, the GNMA, the FNMA, or any other governmental or quasi-governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities. "FHA" shall mean the Federal Housing Administration of the United States Department of Housing and Urban Development, including such department or agency of the United States Government as shall succeed to the FHA in insuring notes secured by mortgages and deeds of trust on residential real estate. "VA" shall mean the Veterans Administration of the United States of America, including such department or agency of the United States Government as shall succeed to the VA in its present function of issuing guarantees with respect to notes secured by Mortgages on residential Lots. "FHLMC" shall mean the Federal Home Loan Mortgage Corporation or The Mortgage Corporation created by Title III of the Emergency Home Finance Act of 1970, including any successor thereto. "FNMA" shall mean the Federal National Mortgage Association, a governmental-sponsored private corporation established as such pursuant to Title VIII of the Housing and Urban Development Act of 1968, including any successor thereto. "GNMA" shall mean the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, including any successor thereto. Declarant shall have and hereby specifically reserves the right and power to make and execute any such amendments without obtaining the approval of any Owners or First Mortgagees. Each such amendment shall be made, if at all, by Declarant prior to the conveyance of the last Unit owned by Declarant to the first Owner (other than Declarant or any Limited Declarant) and each such amendment shall be subject to the written approval of the VA or FHA.

10.11. HUD or VA Approval. During the Declarant Control Period, the following actions shall require the prior approval of HUD, the FHA or the VA if, at the time any such action is taken, HUD has insurance or VA has a guarantee on one or more Mortgages encumbering a Unit: (a) annexation of additional real property into the Association; (b) amendment of this Declaration or material amendment of the Articles of Incorporation or By-Laws of the Association; (c) termination of the Community Area; or (d) merger or consolidation of the Association.

10.12. Notices. Any notice permitted or required to be given under this Declaration or under the By-Laws, including any notice by the Association to any Member or Owner and any notice by any Member or Owner to another Member or Owner required by this Declaration or the By-Laws, shall, unless otherwise specified in this Declaration or in the By-Laws, be in writing and may be given either personally, by regular mail, certified mail, registered mail, local or national commercial courier or delivery service, successful and confirmed facsimile transmission, or by any other means that is then commonly in use in the United States as a means of giving important notices and which is designated by the Board of Directors as an appropriate means for giving notices hereunder. All notices given by regular mail shall be deemed to have been received on the third business day after being mailed and all other notices shall be deemed to have been received on the date actually delivered unless the Board of Directors shall adopt a universally applicable rule as to any specific method of giving notices, in which case such rule shall be applicable to all notices given by such method. All notices shall be to any Person at the address given by such Person to the Association for the purpose of service of such notice or to the Unit of such Person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association; provided that all such notices shall be at addresses located in the United States and no more than two Persons and addresses (other than the First Mortgagee) may be designated as being entitled to notices with respect to any Unit. If directions for notice are given to the Association that are inconsistent with the foregoing, the Association may ignore such directions.

10.13. Persons Entitled to Enforce Declaration. The Association, acting by authority of the Board, and any Member of the Association shall have the right to enforce any or all of the provisions, covenants, conditions, easements, restrictions, and equitable servitudes contained in this Declaration against any property within the Community Area and the Owner thereof. The right of enforcement shall include the right to bring an action for damages as well as an action to enjoin any violation of any provision of this Declaration.

10.14. Violations Constitute a Nuisance. Any violation of any provision, covenant, condition, restriction, and equitable servitude contained in this Declaration, whether by act or omission, is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by any Person entitled to enforce the provisions of this Declaration.

10.15. Enforcement by Self-Help. Declarant (for so long as Declarant as a Member of the Association is entitled to enforce the Declaration) or the Association, or any authorized agent of either of them, may enforce, by self-help, any of the provisions, covenants, conditions, restrictions, and equitable servitudes contained in this Declaration. Violation of the provisions of covenants

contained in Section 3 by an Owner shall permit the Association to enter onto the Unit of the Owner and cure the violation or cause compliance with this provision and to levy and collect a Specific Assessment for the costs and expenses of the Association in so doing; provided, however, that there shall be no entry into the interior of a Residence without the consent of the Owner thereof or court order unless a clear emergency exists.

10.16. Violations of Law. Any violation of any federal, state, municipal, or local law, ordinance, rule, or regulation, pertaining to the ownership, occupation, or use of any property within the Community Area is hereby declared to be a violation of this Declaration and shall be subject to any and all enforcement procedures set forth in this Declaration.

10.17. Remedies Cumulative. Each remedy provided under this Declaration is cumulative and not exclusive.

10.18. Costs and Attorneys' Fees. In any action or proceeding under this Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith including reasonable attorneys' fees.

10.19. Limitation on Liability. The Association, the Board of Directors, Declarant, each Limited Declarant, and any member, agent, or employee of any of the same shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.

10.20. No Representations or Warranties. No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or any Limited Declarant or any of the agents or employees of any of them in connection with any portion of the Community Area, or any Improvement thereon, its or their physical condition, zoning, compliance with applicable laws, fitness for intended use, 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 in a separate instrument executed by such Person.

10.21. Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

10.22. Conflict of Provisions. Except to the extent any provision of this Declaration is inconsistent with the Act, in case of any conflict between this Declaration, the Articles of Incorporation, or By-Laws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the By-Laws of the Association, the Articles will control.

10.23. Governing Law. The validity and effect of this Declaration shall be determined in accordance with the laws of the State of Colorado.

10.24. Severability. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability or partial validity or partial enforceability of the provisions or portion thereof shall not affect the validity or enforceability of any other provision.

10.25. Number and Gender. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine, or neuter genders shall each include the masculine, feminine, and neuter genders.

10.26. Disclaimer Regarding Safety. DECLARANT AND EACH LIMITED DECLARANT HEREBY DISCLAIM ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY AREA. ANY OWNER OF PROPERTY WITHIN THE COMMUNITY AREA ACKNOWLEDGES THAT DECLARANT IS ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BYLAWS, AND IS NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY AREA.

10.27. Disclaimer Regarding Oil and Gas Operations. DECLARANT AND EACH LIMITED DECLARANT HEREBY DISCLAIM ANY AND ALL OBLIGATIONS REGARDING, RELATING TO OR ARISING OUT OF THE PAST PRESENCE OF OIL AND GAS WELLS, TANKS, PIPELINES, OR STORAGE FACILITIES ON COMMON AREAS WITHIN THE COMMUNITY AREA AND THE PRESENT, PAST, OR FUTURE PRESENCE OF OIL AND GAS WELLS, TANKS, PIPELINES, OR STORAGE FACILITIES, WHETHER ABANDONED, OPERATIONAL OR NOT ON PROPERTIES NEAR OR ADJACENT TO THE COMMUNITY AREA. EACH OWNER OF PROPERTY WITHIN THE COMMUNITY AREA ACKNOWLEDGES THAT THERE ARE OIL AND GAS WELLS, TANKS, STORAGE FACILITIES, PIPELINES, AND/OR RELATED EQUIPMENT, SUPPLIES AND FACILITIES, BOTH OPERATIONAL AND NON-OPERATIONAL, LOCATED ON PROPERTIES NEAR OR ADJACENT TO THE COMMUNITY AREA AND THAT IN THE PAST THERE WERE OIL AND GAS WELLS, TANKS, STORAGE FACILITIES, PIPELINES, AND/OR RELATED EQUIPMENT, SUPPLIES AND FACILITIES LOCATED ON PROPERTY WITHIN THE COMMUNITY AREA, AND ACKNOWLEDGES THAT DECLARANT AND EACH LIMITED DECLARANT SHALL NOT BE OBLIGATED TO DO ANY ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY AREA IN CONNECTION WITH, ARISING OUT OF OR RELATING TO THE OPERATION OR PRESENCE OF SUCH OIL AND GAS WELLS, TANKS, STORAGE FACILITIES, PIPELINES, RELATED EQUIPMENT, SUPPLIES OR FACILITIES, WHETHER OPERATIONAL OR NOT, WITHIN THE COMMUNITY AREA OR ON PROPERTIES NEAR OR ADJACENT TO THE COMMUNITY AREA. ALL OWNERS OF PROPERTY WITHIN THE COMMUNITY AREA FURTHER ACKNOWLEDGE THAT DECLARANT AND EACH LIMITED DECLARANT SHALL NOT HAVE ANY RESPONSIBILITY FOR OR OBLIGATION TO DO ANY ACTS OF ANY KIND OR NATURE WITH RESPECT TO ANY NOISE, ODOR, OR OTHER EMISSION (INCLUDING ANY EMISSIONS GOVERNED BY ANY AND ALL ENVIRONMENTAL OR HAZARDOUS MATERIALS LAWS, REGULATIONS, RULES, ORDINANCES, OR STATUTES) ARISING OUT OF OR RELATING TO THE PRESENT, PAST OR FUTURE OPERATION OR PRESENCE OF SUCH OIL AND GAS WELLS, TANKS, STORAGE FACILITIES, PIPELINES, RELATED EQUIPMENT, SUPPLIES OR FACILITIES, WHETHER

OPERATIONAL OR NOT, WITHIN THE COMMUNITY AREA OR ON PROPERTIES NEAR OR ADJACENT TO THE COMMUNITY AREA.

10.28. Disclosure Regarding Golf Course; Release and Easement. All Owners acknowledge that parties of the Community Area adjoin the Foxhill Golf Course (the "Golf Course"). Neither the Association, Declarant, Limited Declarants, the Golf Course, the members of the Golf Course, the Golf Course owner, nor the agents, successors, assigns, guests or invitees of any of the foregoing, shall be liable to any Owner of a Unit or any Related User for any personal injury or property damage resulting from activities emanating from the Golf Course, including, but not limited to, errant golf balls. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner of a Unit acknowledges that there will be noises associated with owning or occupying property near or adjacent to a golf course, including noises associated with maintenance vehicles, mowing, and construction, and each Owner of a Unit agrees to (i) assume the risk of injury or damage to property or persons resulting from activity emanating from the Golf Course; (ii) obtain such policies of insurance as may be necessary to insure such Unit Owner and any Related Users from injury or damage to property or person resulting from activity emanating from the Golf Course; (iii) release the Golf Course, the Association, the Declarant, Limited Declarants, the Golf Course members, the Golf Course owner, and their agents, successors, assigns, guests and invitees of any of the foregoing from any liability for any personal injury or property damage resulting from activity emanating from the Golf Course, including, without limitation, personal injury or property damage arising from the negligence of the Association, the Golf Course, Declarant, Limited Declarants, the Golf Course owner, the members of the Golf Course, and their agents, successors, assigns, guests and invitees. Outlot A shall be subject to a non-exclusive easement for the flight, passage and landing of golf balls on, over, and across the Community Area for golf balls which are hit from or otherwise originate from the Golf Course and the right and easement on the part of the Golf Course players and their caddies to enter upon Outlot A to remove a golf ball, subject to the official rules of the Golf Course, with such entry not being deemed a trespass; provided, however, that golf course players or their caddies shall not be entitled to enter onto Outlot A with a golf cart or other vehicle, or to spend an unreasonable amount of time on any portion of Outlot A. Golf Course players and their caddies shall not be permitted to enter a Residence constructed on a Unit or enter onto any Unit for any reason. This grant of easement shall be in effect only during the hours of operation of the Golf Course and shall terminate if the Golf Course permanently ceases to be used as a golf course for a period of three (3) consecutive years. Owners of Units adjacent to the Golf Course fairways and greens, as well as their Related Users and any pets, shall refrain from any actions which would materially distract from or interfere with the normal course of play of the Golf Course. In addition, Unit Owners shall prevent their Related Users and pets from entering upon the Golf Course property at any time except in accordance with the rules and policies of the Golf Course.

10.29. Use of the Words "Fox Meadow". No Person shall use the words "Fox Meadow" or any derivative or any other term which Declarant may select as the name of this development or any component thereof in any printed or promotional material without the Declarant's prior written consent during the Declarant Control Period, or the Association's prior written consent thereafter. However, Owners may use the words "Fox Meadow" in printed or promotional matter solely to specify that particular property is located within the Community Area, and the Association shall be entitled to use the words "Fox Meadow" in its name.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 9th day of ~~March~~, 2001.
April

DECLARANT:

ENGLE/JAMES LLC, a Colorado limited liability company

By: James Construction Co. Inc., a Colorado corporation, manager

By: *[Signature]*
James G. Postle, President

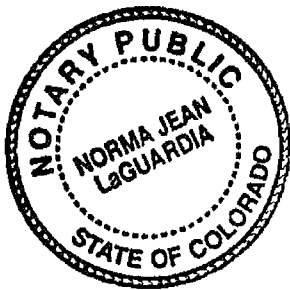
Address: 2919 Valmont Road, Suite 204
Boulder, Colorado 80301

STATE OF COLORADO)
City and) ss.
COUNTY OF *Denver*)

The foregoing instrument was acknowledged before me this 9th day of ~~March~~, 2001 by James G. Postle as President of James Construction Co. Inc., a Colorado corporation, manager of Engle/James LLC, a Colorado limited liability company.
April

Witness my hand and official seal.

My commission expires: 12-04-2001



[Signature]
Notary Public

EXHIBIT "A"

Neighborhood Area I

Prairie Song

Lots 1 through 18, Block 3,
Lots 1 through 21, Block 4,
Lots 1 through 12, Block 5,
Lots 1 through 6, Block 6,
Lots 1 through 3, Block 7,
Lots 1 through 4, Block 8,
Outlots F and I,
Fox Meadow - Filing No. 1,
City of Longmont,
County of Boulder,
State of Colorado.

EXHIBIT "B"

Neighborhood Area II

Wildflower

Lots 1 through 33, Block 1,
Lots 1 through 13, Block 2,
Outlots A, B, C, L and M, and
Private Drives A and B,
Fox Meadow - Filing No. 1,
City of Longmont,
County of Boulder,
State of Colorado.



EXHIBIT "C"

Neighborhood Common Areas

I. Exclusive Neighborhood Common Areas for Neighborhood Area I (Prairie Song):

Outlots F and I,
City of Longmont,
County of Boulder,
State of Colorado.

II. Exclusive Neighborhood Common Areas for Neighborhood Area II (Wildflower):

Outlots A, B, C, L and M, and
Private Drives A and B,
Fox Meadow - Filing No. 1,
City of Longmont,
County of Boulder,
State of Colorado.

EXHIBIT "D"

Additional Property

A TRACT OF LAND BEING PORTIONS OF THE NORTHEAST QUARTER OF SECTION 1 AND THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 2 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, BOULDER COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH ONE-QUARTER CORNER OF SECTION 1; THENCE ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 1, NORTH 87° 57' 42" EAST 982.02 FEET TO A POINT WHENCE THE NORTHEAST CORNER OF SAID SECTION 1 BEARS NORTH 87° 57' 42" EAST 1,660.90 FEET; THENCE SOUTH 00° 17' 17" WEST 918.52 FEET; THENCE NORTH 87° 57' 42" EAST 1,661.53 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 1; THENCE ALONG SAID EAST LINE SOUTH 00° 14' 57" WEST 1,506.08 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED BY DEED RECORDED ON FILM NO. 675 AS RECEPTION NUMBER 920166; THENCE ALONG THE BOUNDARY OF SAID TRACT THE FOLLOWING 4 COURSES:

THENCE SOUTH 87° 47' 57" WEST 350.26 FEET; THENCE SOUTH 13° 43' 03" EAST 62.25 FEET; THENCE SOUTH 42° 32' 03" EAST 143.00 FEET; THENCE NORTH 87° 47' 57" EAST 238.00 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 1; THENCE ALONG SAID EAST LINE SOUTH 00° 14' 57" WEST 4.90 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED BY DEED RECORDED IN BOOK 296 AT PAGE 328 AND 329, WHENCE THE EAST ONE-QUARTER CORNER OF SECTION 1 BEARS SOUTH 00° 14' 57" WEST 40.00 FEET; THENCE ALONG THE NORTH LINE OF SAID TRACT PARALLEL WITH THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 1, SOUTH 88° 16' 01" WEST 1,519.97 FEET; THENCE SOUTH 00° 13' 18" WEST 40.00 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SECTION 1; THENCE SOUTH 88° 16' 01" WEST 1,119.95 FEET TO THE CENTER ONE-QUARTER CORNER OF SECTION 1; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 1, SOUTH 88° 29' 10" WEST 107.39 FEET; THENCE NORTH 18° 17' 57" WEST 316.35 FEET; THENCE NORTH 00° 30' 57" WEST 621.78 FEET; THENCE NORTH 80° 27' 40" EAST 142.41 FEET; THENCE NORTH 01° 11' 05" EAST 54.60 FEET; THENCE NORTH 19° 30' 50" WEST 411.90 FEET; THENCE NORTH 09° 42' 05" WEST 147.90 FEET; THENCE NORTH 21° 40' 30" WEST 203.31 FEET; THENCE NORTH 33° 56' 40" WEST 1,055.16 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 1; THENCE ALONG SAID NORTH LINE NORTH 88° 07' 25" EAST 906.90 FEET TO THE POINT OF BEGINNING, EXCLUDING THE PORTION THEREOF LOCATED WITHIN THE FOX MEADOW FILING NO. 1, CITY OF LONGMONT, COUNTY OF BOULDER, ALL OF WHICH IS LOCATED WITHIN THE COUNTY OF BOULDER, STATE OF COLORADO.