

03057610 02/08/2010 11:55 AM
RF: \$231.00 DF: \$0.00 Page: 1 of 46
Electronically recorded in Boulder County Colorado.
Recorded as received.

After Recording Return To:
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5610 Ward Road, Suite 300
Arvada, CO 80002

***AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF MILL VILLAGE***

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PROPERTY 39

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF MILL VILLAGE
(a Planned Community)**

THIS AMENDED AND RESTATED DECLARATION is made effective upon recording.

RECITALS

A. Declarant, Paragon Builders & Developer, LLC, A Colorado Limited Liability Company, recorded that certain Declaration of Covenants, Conditions and Restrictions of Mill Village in the real property records of Boulder County, Colorado on October 1, 1999, at Reception No. 1986623, as amended by that certain Supplemental Declaration to the Declaration of Covenants, Conditions and Restrictions of Mill Village recorded in the real property records of Boulder County, Colorado on December 11, 2000 at Reception No. 2102308 (collectively, the "Original Declaration") subjecting the real estate described therein to the terms and conditions set forth in the Original Declaration;

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, as amended and supplemented, by virtue of this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Mill Village ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration;

C. The Original Declaration provides for and allows for this Declaration in Article Fifteen, Section 15.2, which provides as follows:

"Except as permitted in Paragraphs 6.4, 16.5 and ARTICLE THIRTEEN hereof, and except in cases of amendments that may be executed by the Declarant in accordance with Paragraph 15.5 hereof, and except as restricted by Paragraphs 14.2, 14.3, and 15.6 hereof, this Declaration may be amended by the written agreement by Owners to which at least sixty-seven percent of the votes in the Association are allocated."

D. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

E. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

F. The purposes of the amendments in this Declaration are to remove unreasonable restrictions on the community, remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that effectively address the attached units, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions;

G. The purpose of the Association as provided in the Declaration is to preserve the value and desirability of the Community and the Lots and to further the interests of the residents of the Community and Members of the Association; and

H. At least sixty-seven percent (67%) of all Owners have approved this Declaration.

NOW THEREFORE, the Original Declaration is amended and restated as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 Defined Terms. Each capitalized term in this Declaration shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

(a) "Act" shall mean the Colorado Common Interest Ownership Act, *C.R.S. §38-33.3-101 et. seq.*, as it may be amended.

(b) "Allocated Interests" means the Votes in the Association and the Common Expense Assessment Liability which are allocated to each of the Lots in the Community, as more particularly set forth in Article 3, Section 3.2 hereof.

(c) "Articles" shall mean the Articles of Incorporation of the Association.

(d) "Assessment" shall include all Common Expense Assessments, Special Assessments, Supplemental Assessments, Exterior Maintenance Assessments, Insurance Assessments, any other expense levied to a Lot pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

(e) "Assessment Lien" shall mean the statutory lien on a Lot for any Assessment levied against that Lot together with any and all interest, late fees, attorney fees, fines, and costs levied on such Lot as allowed by this Declaration.

(f) "Association" shall mean and refer to The Residences at Mill Village Master Homeowners Association, a Colorado nonprofit corporation, and its successors and assigns.

(g) "Attached Dwelling Unit" shall mean and refer to any Dwelling Unit which is situated upon its own individual Lot and separated from one or more of the other Attached Dwelling Units which comprise that Building by a Party Wall.

(h) "Board" or "Board of Directors" or "Executive Board" shall mean the body designated in the Governing Documents to act on behalf of the Association.

(i) "Building" shall mean and refer to any structure containing two or more Attached Dwelling Units, each such Attached Dwelling Unit to be situated upon its own individual Lot, separated by a Party Wall.

(j) "Bylaws" means the Bylaws which are adopted by the Board of Directors for the regulation and management of the Association.

(k) "City" means the City of Longmont, Colorado.

(l) "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, together with all improvements located thereon and all common property owned by the Association, but excluding the Lots, and shall include any Common Area located upon any real property which is annexed to the Property.

(m) "Common Expenses" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

(n) "Community" or "Mill Village Community" shall mean the planned community created by the Original Declaration, as amended and restated by this Declaration, consisting of the Property, Common Area, and any improvements constructed on the Property and the Common Area.

(o) "Declaration" means this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Mill Village, as may be amended from time to time.

(p) "Design Review Committee" or "Committee" shall mean the committee appointed by the Board of Directors for the purpose of implementing the architectural review provisions of this Declaration and any Design Review Guidelines for the Community to ensure proper use, appropriate improvement, and harmonious additions, alterations and improvements within the Community.

(q) "Design Review Guidelines" shall mean any guidelines, rules and regulations adopted by the Board to implement and interpret, among other things, the architectural review provisions set forth in Article 8 hereof.

(r) "Detached Dwelling Unit" shall mean and refer to a Dwelling Unit situated upon its own individual Lot and not attached to any other Dwelling Unit by a Party Wall.

(s) "Dwelling Unit" means the residence constructed on each Lot within the Community and any replacement thereof, which residence shall be either a Detached Dwelling Unit or an Attached Dwelling Unit, as herein defined.

(t) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as they may be amended from time to time.

(u) "Lot" shall mean and refer to any lot or plot of land shown upon any recorded subdivision map or Plat of the Property, together with all appurtenances thereto and improvements now or hereafter located thereon, with the exception of the Common Area.

(v) "Map" or "Plat" shall mean and refer to the map(s) and/or plat(s) of the Property and improvements that are subject to this Declaration and which are designated in the Map or Plat recorded in the records of the Office of the Clerk and Recorder of Boulder County. More than one Map or supplement thereto may be recorded, and, if so, then the term "Map" shall collectively mean and refer to all of such maps, plats and supplements thereto.

(w) "Member" shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.

(x) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(y) "Pet" shall mean and include cats, dogs, birds, reptiles or other household animals, as may be further defined in or supplemented by the Rules and Regulations.

(z) "Plat" means the final plat recorded in the records of the Clerk and Recorder of Boulder County, Colorado.

(aa) "Property" shall mean the property described in or which is subject to the Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

(bb) "Rules and Regulations" shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community, and/or clarification of the Governing Documents, including any amendment to those instruments.

ARTICLE 2 NAMES/DESCRIPTION OF PROPERTY/EASEMENTS

Section 2.1 Name and Type. The type of Common Interest Community is a Planned Community. The name of the Planned Community is "Mill Village". The name of the Association is the "The Residences at Mill Village Master Homeowners Association."

Section 2.2 Property. The Community is located in Boulder County, State of Colorado. The Property of the Community is described in the Original Declaration, in the Map, in the attached Exhibit A, and/or as is consistent with the common scheme and plan for the creation and operation of the Community. Easements for utilities and other purposes over and across the Lots and Common Area may be as shown upon a recorded Map and on any recorded map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.3 Number of Lots. The number of Lots included in the Mill Village Community is 119; 26 of which contain Attached Dwelling Units and 93 of which contain Detached Dwelling Units.

Section 2.4 Easements.

(a) Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, and employees to enter in or to cross over the Common Area and any Lot to perform the duties of operation, installation, maintenance, repair, and replacement of the Lot or Common Area provided for in this Declaration.

(b) Utility, Map and Map Easements. Utility, Map and Map Easements. Easements for utilities and other purposes over and across the Lots and Common Areas may be as shown upon the Plat or Map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

(c) Easement on Attached Dwelling Units. A valid easement is granted to the Association on each Attached Dwelling Unit Lot for the purpose of performing its maintenance and repair obligations as set forth in this Declaration.

(d) Easement for Common and Party Walls. Each Attached Dwelling Unit Owner, his agents and contractors, are granted a non-exclusive easement for the purpose of maintenance, construction, reconstruction and repair, in, over, under and upon adjacent Attached Dwelling Units for purposes of common wall maintenance and repair, in accordance with the party wall provisions contained in this Declaration, upon reasonable notice to the Owners of the common wall. Any damage occasioned to the adjacent Lot or improvements, including the dwelling thereon, in exercising this easement, shall be the responsibility of the Owner whose negligent or wrongful acts or omissions caused the damage.

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

(f) Easements Deemed Appurtenant. The easements and rights herein created for an Owner shall be deemed appurtenant to the Dwelling Units owned by such Owner. All conveyances and instruments affecting title to such Dwelling Unit shall be deemed to grant and reserve the easements and rights of way as provided herein, as though set forth in said document in full, even though no specific reference to such easements or rights of way appear.

Section 2.5 Access. For the purpose of performing the maintenance referred to in this Article and Article 4, and inspections related thereto, the Association, through its duly authorized agents, contractors, employees or the Architectural Review Committee, shall have the right, after reasonable notice to the Owner or occupants thereof and during regular business hours, to enter upon any Lot and improvements thereon, and such entry shall not be deemed a trespass. In emergency situations, the Association or its agents, contractors or employees, may enter without notice at any time, but the Owner or other occupants thereof shall be notified as soon as reasonably possible thereafter. In performing repairs or maintenance authorized under this Article, the Association shall not be liable for any loss, cost or damage caused by its actions, except on account of its willful misconduct.

Section 2.6 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of Owners;
- (b) the right of the Association to adopt Rules and Regulations governing the use of the Common Area;

(c) the right of the Association to borrow money to improve the Common Areas and, upon approval of at least 67% of the total Association vote, to mortgage the Common Area as security for that purpose, provided, that the rights of such mortgage shall be subordinate to the rights of the homeowners;

(d) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication or similar interest through, over or in the Common Area;

(e) the right of the Association to transfer or convey ownership of the Common Area, or any portion thereof, subject to the prior approval of 67% of the total Association vote;

(f) the right of the Association to suspend the voting rights and the right to use of any Common Area during any period of violation of any provision of the Governing Documents; provided that suspension of voting and use rights shall be automatic during any period that an Owner is in default in payment of any Common Expense Assessment;

(g) the right of the Association to close portions of the Common Area for maintenance, repair, replacement, and improvement;

(h) the right of the Association to change use of, add or remove improvements to the Common Area; and

(i) the right of the Association to take such steps as are reasonable necessary to protect the Common Area against foreclosure.

Section 2.7 Delegation of Use. An Owner may delegate, in accordance with the Bylaws and Rules and Regulations adopted by the Board of Directors, his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on the Property. If the Owner delegates rights to use the Common Area and facilities to tenants or contract purchasers who reside on their Lot, the Owner shall not be entitled to use the Common Area and facilities.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership. Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. Each Lot shall be entitled to cast one vote. Fractional and cumulative voting are prohibited.

Section 3.2 Allocated Interests. The Common Expense liability and votes in the Association allocated to each Lot are set according the following formula:

(a) Votes. The Owners of each Lot in the Community shall be entitled to one vote for each Lot owned.

(b) Common Expense Assessment Liability. The Common Expense Assessment is levied upon all Lots on the basis of a fraction, the numerator of which is one and the denominator of which is the total number of Lots then within the Community.

(c) Exterior Maintenance / Insurance Assessment Liability. The Exterior Maintenance/Insurance Assessment Liability is levied upon all Attached Dwelling Units on the basis of a fraction, the numerator of which is one and the denominator of which is the total number of Attached Dwelling Units then within the Community.

Section 3.3 General Purposes and Powers of the Association. The Association, through its Board of Directors, shall perform functions and manage the Community as provided in the Recitals section of this Declaration. All Owners and any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.4 Authority of the Association. The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, the Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be managed under the direction of the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility. The Association may exercise any right or privilege and shall perform all duties and obligations expressly granted or reasonably necessary or implied in the Governing Documents to effect such right or privilege or to satisfy such duty or obligation.

Section 3.5 Managing Agent. The Association may employ or contract for the services of a managing agent to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The agreement shall be by written contract having a term of no more than three years and shall be subject to cancellation by the Association on 30 days notice, with or without cause, and without a cancellation fee. The Board shall not be liable for any omission or improper exercise by a managing agent of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.6 Right to Notice and Comment. Notice of matters affecting the Community shall be given by the Association or through access to Association records, as further provided in the Bylaws or as otherwise provided by the Board of Directors.

Section 3.7 Indemnification. To the full extent permitted by law, each officer, director, committee member and volunteer of the Association shall be and hereby are indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member or volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member or volunteer at the time such expenses are incurred; except in such cases wherein such officer, director, committee member or volunteer is adjudged guilty of breaching his or her duty of care (as set forth in the Act) in the performance of his or her duties.

ARTICLE 4 MAINTENANCE AND SERVICE RESPONSIBILITIES

Section 4.1 Association Maintenance and Service Responsibilities. The Association shall manage, operate, care for, insure, maintain, repair and reconstruct all Common Areas and the improvements located thereon, and certain portions of the Lots as set forth herein, and keep the same in safe, attractive and desirable conditions for the use and enjoyment of all of the Owners. The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities.

(a) The Association shall maintain and keep in good repair as a Common Expense the following:

- (i) all Common Areas and all improvements thereon, including without limitation any recreational facilities, building and outbuildings, playgrounds, signs, landscaping, sprinkler systems, roadways or alleyways, utility lines (to the extent not maintained by utility companies), light fixtures, sidewalks, driveways, pathways, walkways, stairs, walls, retaining walls (unless installed by an Owner), and decks located on the Common Areas which serve the Common Areas and not the Lots (unless maintained by the City of Longmont);
- (ii) all landscaping located on an Attached Dwelling Unit Lot, but excluding any landscaping portion of the back yard of such Lot;
- (iii) all portions of the Attached Dwelling Units' roof(s) and the roof(s) support systems, including the roof(s) joists and cross braces, gutters, downspouts, eaves, and the chimney caps;

(iv) exterior building surfaces of the Attached Dwelling Units, including trim and brickwork, front porches, front patios, front stoops and steps and exterior building surface of the detached garage but excluding the following: glass surfaces, skylights if any, doors, door frames, windows and window screens, window frames, fireplaces, chimney box and flue, which shall be the Attached Residence Lot Owners' responsibility. The Board may further define and clarify this provision as necessary in its sole discretion by resolution and/or adoption of a maintenance chart. An Attached Dwelling Unit Owner shall not paint or change the appearance of the exterior of his residence without the prior written consent of the Architectural Review Committee. The Association shall paint or re-stain the exterior of all Attached Dwelling Units and detached garage as often as necessary in its sole discretion to keep such exteriors in good condition;

(v) front window wells and window well covers located on an Attached Dwelling Unit Lot;

(vi) front walkways, pathways, and sidewalks located on an Attached Dwelling Unit Lot;

(vii) The Association shall have no maintenance, repair, or replacement obligations with respect to Detached Dwelling Units, or the Lots upon which they are situated, except to the extent that: (1) the Association is performing an obligation required of an Owner which has not been performed by the Owner after notice and the opportunity for a hearing from the Association; or (2) the Association assumes the obligation on behalf of all of the Owners of Detached Dwelling Units.

(b) Association Discretion. The Association may, in its sole discretion, assume the obligation for maintenance or repair of additional property, either real or personal, that lies within the Community. The Association shall have the right to assume such obligation even if the obligation currently lies with Owners or other entities, provided however, the Association shall provide Owners with 15 days prior written notice of any such change. The Association, in its sole discretion, shall determine the time and manner in which any maintenance, whether required or assumed, shall be performed as well as the color or type of materials used.

(c) Maintenance of Common Area by Owner. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Area or any portion of the Lot that is Association maintenance responsibility by an Owner or occupant shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

(d) Damage to Lot by Association. The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

Section 4.2 Owner's Maintenance Responsibility.

(a) Attached Dwelling Units. Each Owner of an Attached Dwelling Unit shall have the obligation to maintain, repair and replace all portions of the Attached Dwelling Unit, the Owner's Lot, and any improvements thereon, except as provided in Section 4.1(a) above. Such maintenance shall include, but not be limited to the following:

- (i) all glass surfaces, windows, windows screens, window frames, casings and locks (provided, however, no changes that affect the exterior appearance of the windows may be made unless prior written approval is obtained from the Board), skylights, if any, back window wells and any back window well covers;
- (ii) all doors (including sliding doors), doorways, door frames, hardware, lock mechanisms, peep holes, door knobs and door chimes that are part of the entry system of the Attached Dwelling Unit;
- (iii) any fireplace serving the Attached Dwelling Unit and all components of the fireplace, including the chimney box and flue, but excluding the chimney cap which shall be the responsibility of the Association;
- (iv) back porches, patios, stoops and steps, (including any railing thereon), balconies, decks, all fences (including fencing and/or railing around any patio, deck or lot), all retaining walls, screening walls and brick walls located on the Lot;
- (v) all landscaping on the back portion of the Lot;
- (vi) any portion of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Attached Dwelling Unit, whether located on the Lot or on the Common Area;
- (vii) all utility meters or other apparatus, communications, television, telephone and electrical lines, receptacles and boxes serving the Attached Dwelling Unit, whether located on Lot or Common Area;

- (viii) all exterior light fixtures located on any portion of the Lot, including the light fixtures located on the front and back porches of the residence and including general maintenance of the light fixtures, and bulb replacement;
- (ix) all communications, television, telephone and electrical lines, receptacles and boxes serving only the Attached Dwelling Unit whether located within or without the boundaries of the Lot;
- (x) all Owner-installed additions or alterations made by the Owner to the Lots and to the Common Area (if approved), including retaining walls;
- (xi) any detached garage and all exterior portions thereof, including the roofs, garage doors, and exterior lighting on the garage and garage doors, including bulb replacement, but excluding the exterior building surface of the detached garage;
- (xii) back walkways, pathways, sidewalks, driveways and concrete pads located on the Attached Dwelling Unit Lot; and
- (xiii) all interior portions of the Attached Dwelling Unit, including fixtures, appliances, furnishings, personal property, utility lines, water pipes, ducts, wiring, any other portion of the Lot not otherwise specified herein.

(b) Detached Dwelling Units. Each Owner of a Detached Dwelling Unit is responsible for the maintenance, repair and replacement of the Detached Dwelling Unit, the Lot and any other improvements located within his Lot boundaries. The Association, and its agents, shall have the authority, after giving the Owner 30 days written notice, to enter, replace, maintain, repair and clean up Lots which do not conform to the provisions of this Section, and to charge and collect from the Owners thereof all reasonable costs related thereto as an Assessment hereunder.

Section 4.3 Owner Responsibilities. Each Owner shall have the responsibility to:

- (a) promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible;
- (b) pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants, guests, with the cost thereof to be added to and become part of the Owner's next chargeable Assessment; and

(c) An Owner shall not be liable for injury or damage to person or property caused by or resulting from the Owner's maintenance or lack of maintenance of the Lot except if the Owner has failed to exercise due care in performing said maintenance. An Owner shall not be liable to any other Owner, or any Owner's occupant, guest or family or the Association for any damage or injury caused in whole or in part by the Owner's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Owner's failure to discharge its responsibilities.

ARTICLE 5 PARTY WALLS

Section 5.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of an Attached Dwelling Unit upon the Property and placed on the dividing line between Lots shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

Section 5.2 Sharing of Repair and Maintenance. The cost of reasonable repair, replacement and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

Section 5.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, subject to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 5.4 Liability for Negligence. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for in this Declaration, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and damages as a result of failure to do so.

Section 5.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5.6 Dispute Resolution. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the parties shall submit the dispute to mediation. If the dispute cannot be resolved through mediation, the parties may pursue the dispute in arbitration or through a legal proceeding before a court.

ARTICLE 6
COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Each Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments, Special Assessments, Supplemental Assessments, and such other Assessments as imposed by the Association. Each Owner of an Attached Dwelling Unit also covenants and agrees to pay to the Association (a) Exterior Maintenance Assessments, and (b) Insurance Assessments, as set forth below.

Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association and additional fees charged by the managing agent, including but not limited to, administration and witness fees, shall be the personal obligation of the Owner of such Lot at the time when the Assessment or other charges became or fell due. The Association annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot against which the Common Expense Assessments are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof, except as provided in this Declaration, shall be permitted by 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. Except as provided in this Declaration, all Common Expense Assessments shall be assessed against Lots based on the Allocated Interests, as set forth in this Declaration.

Section 6.2 Basis of Assessments. The Common Expense Assessment may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year.

Section 6.3 Purpose of Assessments.

(a) General. The Assessments levied by the Association upon all Owners shall be used exclusively for the purpose of: (i) promoting the health, safety and welfare of the residents of the Community and the Members of the Association; (ii) providing for the improvements, repair, maintenance and reconstruction of the Common Areas; (iii) providing insurance as set forth in Article 9; and (iv) satisfying any other purpose reasonable, necessary or incidental to such purposes.

(b) Attached Dwelling Units. The Assessments levied by the Association upon all Owners of Attached Dwelling Units shall be used exclusively for the purpose of: (i) providing for Lot maintenance and exterior maintenance of all Attached Dwelling Units within the Community; and (ii) providing insurance on the Attached Dwelling Units, as set forth in Article 9.

(c) Reserve Fund. Assessments shall include the establishment and maintenance of a Reserve Fund for those items which the Association has an ongoing duty to repair, maintain or reconstruct on a periodic basis.

Section 6.4 Apportion of Common Expense. Except as provided in this Declaration, all Assessments for Common Expenses shall be assessed against all Lots in accordance with formula for liability for the Common Expenses as set forth in the Allocated Interests section of this Declaration.

Section 6.5 Annual Assessment. The Common Expense Assessments may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year. The budget for annual Assessments shall be prepared by the Board of Directors at least 60 days prior to the commencement of each calendar year, and a summary of such budget shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The budget may be vetoed by votes of Owners representing at least 67% of the total Association vote. Assessments for Common Expenses shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay. If the Board deems it necessary or desirable to amend the budget, as ratified by the Owners, the Board may adopt a proposed amendment to the budget, and submit it to the Owners for ratification in the same manner as the regular budget. The proposed amendment may be vetoed by votes of Owners representing at least 67% of the total Association vote.

Section 6.6 Special Assessments. In addition to the annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Area, including fixtures and personal property related thereto, or for any other purpose deemed necessary and appropriate by the Board of Directors; provided that any such Assessment shall have the assent of a majority of the votes of the Association. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 6.7 Supplemental Assessments. The Association shall have the right to add to any Owner's Assessment as provided in this Article the following:

- (a) those amounts expended by the Association for the benefit of any individual Lot or any occupant thereof, including but not limited to: improvement, repair, replacement and maintenance specific to a Lot; improvement, repair, replacement and maintenance caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;
- (b) any extraordinary maintenance, repair, improvement and replacement costs of any area which the Association maintains required on fewer than all the Lots;
- (c) any extraordinary insurance costs incurred as a result of the value of a particular Owner's Attached Dwelling Unit or the actions of an Owner (or his agents, guests, licensees, invitees or lessees);
- (d) All fines and costs assessed against an Owner pursuant to the Governing Documents; and
- (e) Any other expenditures or charges which the Board, in its sole discretion, chooses to allocate to a Lot and are reasonably determined to be allocable to a particular Lot.

Section 6.8 Attached Dwelling Units Assessments. The following Assessments shall be prorated among the Attached Dwelling Units in accordance with the Exterior Maintenance Assessment Liability / Insurance Assessment Liability as set forth in Article 3, Section 3.2 hereof.

- (a) Exterior Maintenance Assessments. The Board of Directors shall assess each Owner of an Attached Dwelling Unit the cost of maintenance and repair of the Lot, and the exterior of the Attached Dwelling Unit thereon, in accordance with Article 4 hereof. Such Assessment shall include the establishment and maintenance of a reserve fund for maintenance and repair of the Lot and the exterior of the Attached Dwelling Unit thereon, which the Association has an ongoing duty to maintain, repair and replace on an ongoing basis.
- (b) Insurance Assessments. The Board of Directors shall further assess each Owner of an Attached Dwelling Unit the cost of procuring, maintaining and administering the insurance coverage for such Attached Dwelling Unit in accordance with Article 9 hereof.

Section 6.9 Owner's Negligence or Misconduct. In the event that the need for maintenance, repair or replacement of the Common Area, or any portion thereof, or of any other area that the Association is responsible for maintaining and repairing, is caused through the negligent or willful act or omission or misconduct of an Owner, family, or the Owner's agents, employees, guests, invitees, and licensees, then the expenses, costs and fees incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Owner. If such expenses, costs, and fees incurred by the Association are not repaid to the Association within the time period set forth in the rules and regulations adopted by the Board, the Association shall give notice to the Owner of such expenses, costs, and fees, then the failure to so repay shall be a default by the Owner under the provisions of this Declaration. Such expenses, costs, and fees shall automatically become a default Assessment determined and levied against such Lot, and the Association may proceed in accordance with the applicable provisions of this Article.

Section 6.10 Effect of Non-Payment of Assessments.

(a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid by the due date set forth in the Rules and Regulations or policy established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, on a per annum basis from the due date, and the Association may assess a reasonable late fee thereon as determined by the Board of Directors.

(b) Failure to make payment within 60 days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. The Board may, in its discretion, decelerate the Member's annual Assessment.

(c) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against a Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

(d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Lot, the Board may take possession and rent said Lot

or apply for the appointment of a receiver for the Lot without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 6.11 Application of Payments. All payments received on an account of any Owner or the Owner's Lot shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents, prior to application of the payment to any special or regular Assessments due or to become due with respect to such Owner.

Section 6.12 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said Assessment lien. Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

Section 6.13 Surplus Funds. Any surplus funds of the Association remaining after payment of or making provisions for Common Expenses and any prepayment of or making provisions for reserves shall be retained by the Association as unallocated reserves and need not be credited to the Owners in proportion to their Common Expense Liability to reduce their future Common Expense Assessments.

Section 6.14 No Offsets. All Assessments shall be payable in 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.

Section 6.15 Certificate of Status of Assessments. The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or such holder's designee, upon written request delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Lot. The statement shall be furnished within fourteen calendar days after receipt of the request and is binding on the Association, the Board of Directors, and every Owner. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert a lien upon the Lot for unpaid assessments which were due as of the date of the request.

ARTICLE 7 USE RESTRICTIONS

Section 7.1 Flexible Application of the Subsequent Covenants and Restrictions. All Lots within the Mill Village Community shall be held, used and enjoyed subject to the following limitations and restrictions. 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 of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

Section 7.2 Authority. All provisions of the Governing Documents shall apply to Owners and their guests, tenants, invitees and licensees. Owners and their successors and assigns, by acceptance of a deed to their Lot, acknowledge that they have been given notice, and that:

- (a) The ability of Owners to use their Lots may be limited by the provisions in the Governing Documents.
- (b) The Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents.
- (c) The Board may establish penalties for the infraction of all regulations and Owners will be responsible for fines assessed against their tenants, guests and invitees for violations of the restrictions.
- (d) All fines imposed are collectable as Assessments.

Section 7.3 Use/Occupancy. All Lots within the Community shall be used only for those uses and/or purposes as allowed by the local zoning, control and regulation, and permitted by this Declaration, subject to any Rules and Regulations adopted by the Association. Lots shall not be used for any purpose other than a residential dwelling except as set forth in this Section. Home occupations shall be allowed so long as the home occupations are incidental and secondary to the use of the Lot and does not change the residential character thereof, comply with local zoning ordinances and regulations, and comply with this Declaration. External advertising of any kind is prohibited. In no instance shall a home occupation be visible externally, nor shall any home occupation employ anyone other than the Owner or any residents of such Lot. Uses which have one or more of the following characteristics are not permitted: (a) manufacturing or fabrication of any kind; (b) storage of hazardous materials; (c) increased traffic or parked vehicles beyond that reasonable and customary to a residential dwelling use; (d) permanent or long term parking of heavy equipment, including semi trailers; (e) the use or rental of any structure on a Lot for any transient, hotel, motel, bed and breakfast, restaurant, bar or other commercial purposes.

If the Owner of a Lot is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing the name(s) of the person(s) who will occupy the Lot. The designated person(s) shall not be changed more frequently than once every thirty days, and any such change must be designated in writing within 10 days of the change.

Section 7.4 Leasing and Occupancy. Any Owner shall have the right to lease or allow occupancy of a Lot upon such terms and conditions as the Owner may deem advisable, subject to restrictions of this Declaration, subject to restrictions of record and subject to the following:

- (a) "Leasing" or "Renting" for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person other than the Owner. For the purposes of this Declaration, occupancy by a roommate of an Owner who occupies the Lot as such Owner's primary residence shall not constitute leasing.
- (b) Short term occupancies and rentals (of less than six months) of Lots shall be prohibited, without prior written permission from the Association.
- (c) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Governing Documents. Owners are required to provide tenants with copies of the current Declaration, Articles of Incorporation, Bylaws and any Rules and Regulations of the Association.
- (d) Each Owner who leases his or her Lot shall provide the Association, upon request, a copy of the current lease and tenant information, including the names of all occupants, vehicle descriptions, including license plate numbers, and any other information reasonably requested by the Association or its agents.

(e) Each Owner is strongly encouraged to conduct full background checks, including credit and criminal reports, for each lease applicant.

(f) All occupancies, leases and rental agreements of Lots shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Governing Documents shall constitute a default of the occupancy, lease or rental agreement and of this Declaration and such default shall be enforceable by either the Association or the landlord, or by both of them.

(g) All occupancies of Lots shall be subject to the right of the Association to remove and/or evict the occupant for failure to comply with the terms of the Declaration, the Bylaws of the Association, the Articles of Incorporation or the Rules and Regulations of the Association. If the Association requests that the Owner evict the Owner's tenant based on the terms of this Declaration, and the Owner fails to commence such action within 30 days of the date of the Association's request and notice, the Association may commence eviction proceedings. Upon failure by the Owner to comply with the Association's request to evict, the Owner delegates and assigns to the Association, acting through the Board, the power and authority to evict the lessee as attorney-in-fact on behalf of and for the benefit of the Owner. If the Association evicts the lessee, any costs, including, but not limited to, reasonable attorney fees actually incurred and court costs associated with the eviction shall be an Assessment and lien against the Lot.

(h) Leases shall be for or of the entire Lot.

(i) All Owners who reside at a place other than the Lot shall provide to the Association an address and phone number(s) where the Owner can be reached in the case of emergency or other Association business. It is the sole responsibility of the Owner to keep this information current.

(j) The Association shall have the authority to adopt Rules and Regulations regarding leasing, including the implementation of this restriction, and for implementation of other restrictions in the Declaration and as allowed by law.

Section 7.5 Restrictions on Pets. Pets may be kept on a Lot if the Pet is not a nuisance to other residents. Pets may not be kept for any commercial purposes. No resident shall maintain or keep any Pet which, in the sole discretion of the Board, is considered to be a danger to the Owners, management staff or residents in the Community or is otherwise considered to be a dangerous breed, as may be further defined in the Rules and Regulations. If the Board determines, in its sole discretion, that a Pet is a nuisance or is being kept for commercial purposes or is otherwise in violation of this provision, the resident having control of the Pet shall be given a written notice to correct the problem and if not corrected, that resident will be required to remove the Pet from the Community pursuant to, and in accordance with, any dispute resolution procedures as may be set forth in this Declaration or the Rules and Regulations, if any. When on Common Area, Pets must be on a leash and under control. Feces left by Pets upon the

Common Area must be removed promptly by the owner of the Pet or the person responsible for the Pet. Owners shall hold the Association harmless from any claim resulting from any action of their Pets or the Pets of their tenants, guests or other invitees. Reimbursement for damages caused by Pets and costs incurred by the Association, to include attorneys' fees and costs, in the removal of a Pet(s) may be levied against such Pet's Owner as a Supplemental Assessment in accordance with Article 6, Section 6.7 hereof.

Section 7.6 Antennae. "Permitted Antennas" are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

Permitted Antennas shall be installed in the least conspicuous location available on a Lot which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Lot.

Section 7.7 Nuisances. No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession or the proper use of a Lot or any Common Area, or any portion of the Community by residents. Further, no improper, offensive or unlawful use shall be permitted within the Mill Village Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

Section 7.8 Vehicular Parking, Storage, and Repairs.

- (a) Parking upon any Common Area shall be regulated by the Association.

(b) The following may not be parked or stored within the Community, unless such vehicle is parked or stored so that it is not visible from neighboring Lots or from the street, authorized in writing by the Association or allowed by the Act as an "emergency vehicle": oversized vehicles, commercial vehicles, house trailers, camping trailers, boat trailers, hauling trailers, horse trailers, boats or accessories thereto, self-contained motorized recreational vehicles, or other oversized types of vehicles or equipment as prohibited by rule or regulation. The foregoing may be parked as a temporary expedience for loading, delivery of goods or services, or emergency. No emergency or temporary parking shall continue for more than 72 consecutive hours. This restriction shall not apply to trucks or other commercial vehicles temporarily located within the Community which are necessary for construction or for the maintenance of any Common Area, Lots, or any improvement located thereon.

(c) No abandoned, unlicensed or inoperable automobiles or vehicles of any kind shall be stored or parked on a Lot or within the Community unless parked or stored within a garage. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes governing inoperable, unlicensed or abandoned vehicles on public streets, or as defined by rule or regulation adopted by the Association. In the event that the Association shall determine that a vehicle is an abandoned or inoperable vehicle, then a written notice describing said vehicle shall be personally delivered to the Owner thereof or shall be conspicuously placed upon the vehicle. If the abandoned or inoperable vehicle is not removed within 72 hours after providing such notice, the Association shall have the right to remove the vehicle, and the owner thereof shall be solely responsible for all towing and storage charges.

(d) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted outside of garages. This provision shall not be deemed to prevent washing and polishing of a vehicle, together with those activities normally incident and necessary to such washing and polishing, provided washing is done with a hose with a shut off valve to prevent waste of water. Minor repairs and preventative vehicle maintenance may be performed, provided they may be completed the day commenced, there is no damage (e.g., oil, residue) to paved areas, and all equipment and parts are removed upon completion of the work. No vehicles may be left unattended on jacks or jack stands.

(e) Garage doors are to be closed when not in use.

(f) Parking in fire lanes (as designated by the Association or as designated by local government or a local fire protection authority) shall not be permitted.

(g) Parking is not allowed on landscaped or lawn areas.

(h) If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's Rules and Regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after 72 hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Community stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If 72 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user.

(i) If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Lot, or is obstructing the flow of traffic, is parked on any grassy area, is parked in a space which has been assigned as exclusively serving another Lot, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately.

(j) If a vehicle is towed or booted in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for towing and storage costs or for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 7.9 Use of Common Area. There shall be no obstruction of any Common Area, nor shall anything be kept or stored on any part of any Common Area without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from any Common Area without the prior written approval of the Association.

Section 7.10 No Annoying Lights, Sounds or Odors. No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Association.

Section 7.11 No Hazardous Activities. No activity shall be conducted on and no improvement shall be constructed on any Property within the Community 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. No open fires shall be lighted or permitted on any Property within the Community except in a contained barbecue unit while attended and in use for cooking purposes or within an interior or exterior fireplace

designed to prevent dispersal of burning embers unless otherwise prohibited by governmental ordinances. No Owner shall permit any condition on his Lot which creates a fire hazard or is in violation of applicable fire prevention regulations

Section 7.12 No Unsightliness/Restrictions on Storage Areas. All unsightly conditions, structures, facilities, equipment and other objects shall be enclosed within an approved structure, including all tractors, snow removal equipment, garden or maintenance equipment, except when in actual use. No clotheslines, wood piles or storage areas shall be so located on any Lot so as to be visible from the street. No types of exterior refrigerating, cooling or heating apparatus shall be permitted unless approved by the Committee.

Section 7.13 Restriction on Signs and Advertising Devices. (a) Except as provided in this Section, no sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere on a Lot except such sign or signs as may be approved in writing by the Association. (b) Signs intended to impact the outcome of an election or ballot issue must be displayed in accordance with the Association's Rules and Regulations. (c) One professionally lettered "For Sale" or "For Rent" sign not to exceed 3 feet by 2 feet may be displayed on a Lot.

Section 7.14 Outbuildings. An "outbuilding" shall mean an enclosed or covered structure not directly attached to the dwelling it serves. No outbuilding or temporary structure, including sheds, trailers, mobile homes, tents, shacks, barns, or detached garages or carports, shall be allowed on any Lot unless approved in writing by the Board of Directors or the Design Review Committee. Further, no outbuilding or temporary structure shall be used on any Lot at any time for residential purposes, either temporarily or permanently.

Section 7.15 Trash Removal Restriction. No garbage, refuse, rubbish, or cuttings shall be deposited on any street, road or any Common Area or on any Lot, unless placed in a suitable container suitably located. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage cans, trash cans or receptacles shall be maintained in an exposed or unsightly manner. If trash removal is a service ever offered by the Association to Owners, then the Association shall have the exclusive right to engage a trash removal contractor on behalf of the Owners.

Section 7.16 Rules and Regulations. In furtherance of the provisions of this Declaration, and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time to time by the Board of Directors. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 7.17 Compliance with Governing Documents. Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Association, as amended.

Section 7.18 Compliance With Other Laws. No improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

Section 7.19 Use of the Words Mill Village and The Residences at Mill Village Master Homeowners Association. No resident or Owner shall use the words Mill Village or The Residences at Mill Village Master Homeowners Association or the logo of the Community or Association, if any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

ARTICLE 8 ARCHITECTURAL APPROVAL/DESIGN REVIEW

Section 8.1 Required Approval. No structures, including residences, outbuildings, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted under this Declaration), flag poles, fences, walls, exterior lighting, landscaping, or any other improvements, including any type of recreational equipment, shall be constructed, erected, relocated, removed or installed on a Lot, nor shall any alteration or change to the exterior of the improvements, the exterior of an Attached or Detached Dwelling Unit, to a Lot or to any structure or any attachment to the exterior of a residence (including paint, awnings, patios, decks, or shutters) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the Design Review Committee ("Committee") as may be outlined in the Rules and Regulations. The Committee may require that applications of Owners and their plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee.

Section 8.2 Acknowledgment of Owners. Owners acknowledge, accept and agree to the following:

- (a) Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the Committee;
- (b) Owners shall immediately comply with any request by the Association for additional information relating to an improvement prior to the Committee's approval of a request and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of Committee approval, if previously granted;

(c) Committee approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;

(d) Owners shall notify the Committee of completion of the improvement's installation or construction within five days of such completion;

(e) Upon completion of an improvement, Owners authorize the Committee or its representative(s) to enter onto the Lot for exterior inspection;

(f) Failure of an Owner to notify the Committee of completion of an approved improvement, or refusal to allow inspection, shall result in the withdrawal of the Committee's approval;

(g) If the improvement as built does not conform to the improvement as approved by the Committee, the Committee's approval will be deemed withdrawn, and upon written request of the Committee, Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the submitted and approved plans and specifications;

(h) In the event of withdrawal of Committee approval for any reason(s) cited in this Section, and upon written request from the Committee, the Owner, at his or her expense and cost, shall promptly restore the Lot to substantially the same condition as it existed prior to commencement of the improvement's installation or construction, and such withdrawal will be deemed to toll the statute of limitations as it pertains to the improvement until such time as the improvement is brought into compliance.

Section 8.3 Architectural Criteria. The Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to improvements on a Lot or landscaping of a Lot shall comply with the requirements set forth in this Declaration. The approval or consent of the Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures, (a) not in accordance with the Design Review Guidelines, or (b) is not suitable or desirable in the Committee's opinion for aesthetic or other reasons, and conformity with the specifications and purposes generally set forth in this Declaration. Upon its review of such plans, specifications and submittals, the Committee may require that the applicant(s) reimburse the Board for actual expense incurred by it in its review and approval process.

Section 8.4 Establishment of the Committee. The Committee shall consist of a minimum of three members appointed by the Board of Directors. If no Committee is appointed, the Board of Directors shall act as the Committee. The Board shall have the authority to remove any members of the Committee at their sole discretion.

Section 8.5 Design Review Guidelines. The Committee may propose architectural guidelines from time to time, which guidelines may be approved by the Board of Directors and included in or with any Rules and Regulations of the Association.

Section 8.6 Reply and Communication. The Committee shall reply to all submittal of plans made in accordance herewith in writing within 30 days after receipt; provided, however, that the Committee may have one 15-day extension if needed on any submission and shall notify the Owner in writing of such 15-day extension. In the event the Committee fails to take any action on submitted plans and specifications within 30 days after the Committee has received the plans and specifications (or within 45 days if the Committee has notified the Owner of a 15-day extension), approval shall be deemed to be granted; provided, however, that nothing in this Section shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of this Declaration, the Rules and Regulations or any architectural guidelines adopted by the Board. All communications and submittals shall be addressed to the Committee in care of the Association.

Section 8.7 Condition of Approval. In the discretion of the Board or the Committee, an Owner may be required to enter into a written agreement establishing the approval of an application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest affirms and shall assume, unless otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration.

Section 8.8 Commencement and Completion of Construction. All improvements approved by the Committee must be commenced within as promptly and diligently as possible from the date of approval, but in no event shall commencement start later than 3 months after approval. If not commenced within such time, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work if, in the sole discretion of the Committee, such extension is warranted. Additionally, except with written Committee approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the Committee shall be completed within 8 months of commencement.

Section 8.9 Variations. The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in the Design Review Guidelines.

Section 8.10 Right to Appeal. If the Board of Directors is not acting as the Committee, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the Committee to the Board of Directors. The Board of Directors shall review the decision of the Committee pursuant to the criteria set forth in this Article and the Design Review Guidelines. Any decision of the Committee may be overruled and reversed by a majority of the directors by a written decision setting forth the reasons for the reversal when the directors conclude that the Committee's decision was inconsistent with the criteria set forth in this Article and/or the Design Review Guidelines.

Section 8.11 Waivers. The approval or consent of the Committee, or appointed representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 8.12 Liability. The Committee and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. The Committee shall not bear any responsibility for ensuring structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements.

Section 8.13 Records. The Association shall maintain written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection by any interested party during reasonable hours of the business day according to any policy adopted by the Board.

Section 8.14 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association shall be entitled to recover its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Additionally or in the alternative, the Association may levy fines after notice and an opportunity for a hearing. Failure of the Association to enforce any covenant or restriction in this Section shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE 9 INSURANCE

Section 9.1 Authority to Purchase / General Requirements. All insurance policies relating to the Association, Common Areas, and the Attached Dwelling Units (other than individual Owners' policies discussed below) within the Community shall be purchased by the Association. The Association shall obtain and maintain in full force and effect to the extent reasonably available, and at all times, the insurance coverage set forth in this Declaration, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado. All insurance purchased by the Association shall be purchased from companies with ratings of "A" or better, to the extent that insurance is available at reasonable cost to the Association through such companies. The Board of Directors shall promptly furnish to each Owner, written notice of the procurement of, subsequent changes in, or termination of, insurance coverages on behalf of the Association.

Section 9.2 Owners of Attached Dwelling Units. The Owner of an Owner-occupied Attached Dwelling Unit shall purchase an owner's policy (HO-6) or its equivalent for all of such Owner's personal property and household goods located within such Owner's Attached Dwelling Unit, together with personal liability coverage. Each Owner of a non Owner-occupied Attached Dwelling Unit must purchase an owner's rental liability policy or its equivalent. The Association will not provide the foregoing coverage in its master policies.

Section 9.3 Hazard Insurance/Attached Dwelling Units/Common Areas. The Board of Directors shall obtain and maintain a blanket, "all-risk" form policy of hazard insurance with extended coverage, vandalism, malicious mischief, windstorm, sprinkler leakage (if applicable), debris removal, cost of demolition and water damage endorsements, insuring all of the Attached Dwelling Units, and all insurable improvements located on the Common Areas and real property maintained by the Association.

Such insurance shall at all times insure, among other things, all fixtures, installations or additions comprising a part of the individual Attached Dwelling Units within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the Attached Dwelling Unit, initially installed or replacements thereof made in accordance with the original plans and specifications, or installed by or at the expense of the Owner. All references herein to a "Blanket" type policy of property insurance, are intended to denote "Single Entity" insurance coverage.

Section 9.4 Liability Insurance. The Association shall obtain a comprehensive policy of public liability and property damage liability insurance covering any Common Areas, and other real property maintained by the Association, in such limits as the Board may determine from time-to-time, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership,

operation, maintenance and other uses of the Lots and the Common Area. The foregoing liability insurance shall name the Association as the insured.

Section 9.5 Fidelity Insurance. The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees, volunteers and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The clause "officers, directors, trustees and employees" shall not include any officer, director, agent or employee of any independent, professional manager or managing agent heretofore or hereafter employed by the Association. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees. If the Association retains a Managing Agent, the Managing Agent shall be required to provide such fidelity insurance covering itself and its employees and naming the Association as the loss payee.

Section 9.6 Workers Compensation. The Association shall obtain and maintain workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in forms now or hereafter required by law.

Section 9.7 Director and Officer Liability Insurance. The Association shall purchase directors' and officers' insurance in an amount reasonably necessary to protect the directors and officers.

Section 9.8 Other Insurance. The Association may obtain insurance against such other risks, of similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 9.9 Miscellaneous Terms Governing Insurance Carried by the Association. The Association shall maintain, to the extent reasonably available and necessary, policies with the following terms or provisions:

(a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.

(b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his or her household.

(c) All policies of insurance shall contain waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least 45 days prior written notice to all of the Owners, holders of first mortgages and the Association.

(d) If requested, certificates of insurance and renewals thereof, together with proof of payments of premiums, shall be delivered to all first mortgagees at least 10 days prior to expiration of the then current policies.

(e) All liability insurance shall be carried in blanket form naming the Association, the Board, the manager or managing agent, if any, and the officers of the Association, as insureds.

(f) Prior to renewing casualty insurance and not less than every three years, pursuant to the provisions hereof, the Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement cost of the Common Area, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause.

(g) Any "no other insurance" clauses expressly exclude individual Owners' policies from its operation so that all policies of insurance of the Association shall be primary, providing the primary insurance of the loss, if there is other insurance in the name of the Owner, and in no event shall the insurance coverage obtained and maintained by the Association hereunder provide for or be brought into contribution with insurance purchased by individual Owners or their First Mortgagees, unless otherwise required by law.

(h) All policies of insurance shall provide that the insurance thereunder shall not be invalidated, suspended, voidable or have any condition of recovery due to an act or omission by any Owner, only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Section 9.10 Insurance Obtained by Owners. Each Owner shall be responsible for maintaining insurance which covers his Lot to the extent not covered by policies maintained by the Association. With regard to Attached Dwelling Unit Lots, this would include the following: porches, balconies, decks, patios, stoops and steps, window wells and window well covers, detached garages, landscaping, walkways, driveways, pathways, and any walls located on the Attached Dwelling Unit Lot.

Section 9.11 Annual Insurance Review. The Board shall review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

Section 9.12 Insurance Premium. Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 9.13 Managing Agent Insurance. The manager or managing agent, if any, shall be insured for the benefit of the Association, and shall maintain and submit evidence of such coverage to the Association, including professional liability or errors and omissions insurance, workers' compensation, unemployment and fidelity coverage.

Section 9.14 Waiver of Claims Against Association. As to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners hereby waive and release all claims against one another and the Board, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by these persons.

Section 9.15 Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any first mortgagee. The Association shall hold any insurance proceeds in trust for the Association, Owners and first mortgagees as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association, Owners and first mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored. If the insurance proceeds are insufficient to cover the cost of repair or reconstruction, the Association may levy a Special Assessment to cover the short fall (or deductible) pursuant to this Declaration.

Section 9.16 Duty to Repair. Any portion of the Property and Common Area for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association or Owner.

Section 9.17 Condemnation and Casualty Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be to the parties as their interests and rights are determined or allocated by record or as set forth in the Act.

Section 9.18 Responsibility for Payment of Deductible Amount. Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Area unless the damage is the liability of an Owner, his family, guests, or invitees, as set forth in this Declaration, in which case the Association shall seek reimbursement of the deductible amount as an Assessment in compliance with and under the terms of this Declaration.

(b) Any loss falling within the deductible portion of the Association policies to property for which Owners have repair and maintenance responsibility shall be paid or absorbed by the Owners of the Lots involved in the same proportion as each Owner's claim bears to the total amount of insurance proceeds paid for the occurrence.

(c) If a Lot or Party Wall is damaged, then the Owner of that Lot or the Owners sharing the Party Wall shall have primary responsibility, either directly or through his insurance company, for handling and paying for, any work, repairs, reconstruction or replacement.

Section 9.19 Insurance Assessments. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost shall be a Common Expense. Notwithstanding the budget ratification procedures set forth in this Declaration, the insurance Assessment shall be ratified unless vetoed by 90% of the Members pursuant to Section 303(4) of the Act.

Section 9.20 Association as Attorney-in-Fact. Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of dealing with any improvements covered by insurance written in the name of the Association pursuant to this Article upon their damage or destruction as provided in this Declaration, or a complete or partial taking or condemnation as provided in this Declaration. Acceptance by a grantee of a deed or other instrument of conveyance conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact. Furthermore, if so requested, an Owner shall execute a separate instrument specifically setting forth this appointment.

Section 9.21 Payment of Claims to Delinquent Owners. Notwithstanding anything to the contrary in this Declaration, the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in payment of Assessments owed to the Association under this Declaration hereof, then the Association may retain and apply such proceeds recovered to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

ARTICLE 10
MISCELLANEOUS AND GENERAL PROVISIONS

Section 10.1 Compliance and Enforcement.

(a) Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;

(ii) suspending the right to vote or use Common Area;

(iii) exercising self-help or taking action to abate any violation of the Governing Documents;

(iv) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;

(v) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

(vi) levying specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents; and

(vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

(d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

(e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action.

Section 10.2 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 10.3 Covenants to Run. All of the covenants, easements, servitudes and provisions contained in this Declaration shall be a burden on the title to all of the lands within the Property, and the benefits thereof shall inure to the owners of all of the lands within the Property.

Section 10.4 Termination. Termination of this Common Interest Community shall be in accordance with the Act.

Section 10.5 Attorney Fees. If an Owner or an Owner's family member, guest, tenant, invitee or licensee fails to comply with any provision of the Governing Documents, the Association may require reimbursement for reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. In a legal proceeding in any way related to the Governing Documents or the Community, the court shall award to the party prevailing on each claim the prevailing party's reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded against an Owner or an Owner's family member, guest, tenant, invitee or licensee, shall be charged as an Assessment and shall constitute a lien against the Lot.

Section 10.6 Amendment of Declaration by Owners. Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of at least a majority of the total votes in the Association. Said votes may be obtained in any method allowed by the Governing Documents of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and

Recorder of the Boulder County, of a certificate, setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

Section 10.7 Amendment of Declaration by the Association. The Association shall have the authority to amend, revise, remove, repeal or add any provision to this Declaration, without Owner or mortgagee approval, in order to conform with any applicable state, city or federal law, and/or to bring the Declaration into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA") pursuant to federal law.

Section 10.8 Interpretation. The provisions of this Declaration shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in this Declaration. The Board of Directors shall have the authority to interpret the meaning of any provision contained in this Declaration. Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 10.9 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 10.10 Non-Waiver. Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of such provision.

Section 10.11 Conflict of Provisions. In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control.

Section 10.12 Challenge to this Amendment. All challenges to the validity of this amendment must be made within one year after the date of recording of this document.

Section 10.13 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

The undersigned, being the President and the Secretary of The Residences at Mill Village Master Homeowners Association, hereby certify that the Association has obtained written approval of this Amended and Restated Declaration from at least sixty-seven percent (67%) of the Owners, as evidenced by written instruments filed with the records of the Association. Approvals obtained shall remain in effect until this Declaration is approved unless approval is expressly revoked in writing.

THE RESIDENCES AT MILL VILLAGE MASTER HOMEOWNERS ASSOCIATION, a Colorado nonprofit corporation

By: Jeff Medwetz
President

ATTEST:

By: Valerie Graham
Secretary

STATE OF COLORADO)
COUNTY OF Boulder) ss.

The foregoing was acknowledged before me this 30 day of December, 2009, by Valerie Graham, as President of The Residences at Mill Village Master Homeowners Association, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 7/31/12

Gene L. Anderson
Notary Public

STATE OF COLORADO)
COUNTY OF Boulder) ss.

The foregoing was acknowledged before me this 30 day of December, 2009, by Jeff Medwetz, as Secretary of The Residences at Mill Village Master Homeowners Association, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: 7/31/12

Gene L. Anderson
Notary Public

EXHIBIT A
PROPERTY

[attached]

LEGAL DESCRIPTION OF THE REAL PROPERTY
SUBMITTED TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
MILL VILLAGE
(FIRST PHASE)

Lots 1 through 13, Block 1; Lots 1 through 12 and lots 19 through 24, Block 2; Lots 1 through 9, Block
3.

Legal description of the real property
Submitted hereby to the Declaration of Covenants,
Conditions and Restrictions
of
Mill Village

Filing 2 (Phase 2)
Lots 13-18 Block 2
Lots 10-16 Block 3
Lots 1-7 Block 4

Filing 4 (Phases 1, 2, 3)
Lots 1-11 Block 1
Lots 1-19 Block 2
Lots 1-19 Block 3
Lots 1-10 Block 4

Filing 4
Outlot A
Outlot B
Park described as 4,163 sq ft more or less situated between lots 14 and 15 Block 3