



COUNTY CLERK
CITY & COUNTY OF DENVER

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

2727 CEDAR AVENUE

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
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Table of Contents

	<u>Page</u>
ARTICLE 1 <u>GENERAL</u>	1
1.1 <u>Community</u>	1
1.2 <u>CCIOA Exemption.</u>	1
1.3 <u>Purposes of Declaration</u>	1
1.4 <u>Declaration</u>	1
ARTICLE 2 <u>DEFINITION</u>	2
2.1 <u>Administrative Functions</u>	2
2.2 <u>Articles of Incorporation</u>	2
2.3 <u>Assessment</u>	2
2.4 <u>Association</u>	2
2.5 <u>Association Properties</u>	2
2.6 <u>Board of Directors</u>	2
2.7 <u>Budget</u>	2
2.8 <u>Bylaws</u>	2
2.9 <u>Common Area</u>	2
2.10 <u>Common Assessment</u>	3
2.11 <u>Community</u>	3
2.12 <u>County</u>	3
2.13 <u>Declaration</u>	3
2.14 <u>Declarant</u>	3
2.15 <u>Deed of Trust</u>	3
2.16 <u>Front Yard.</u>	3
2.17 <u>Improvement</u>	3
2.18 <u>Improvement to Property</u>	3
2.19 <u>Leases</u>	3
2.20 <u>Lot</u>	3
2.21 <u>Maintenance Funds</u>	4
2.22 <u>Member</u>	4
2.23 <u>Membership Interest</u>	4
2.24 <u>Mortgage</u>	4
2.25 <u>Mortgagee</u>	4
2.26 <u>Mortgagor</u>	4
2.27 <u>Notice and Hearing</u>	4
2.28 <u>Notice of Completion</u>	4
2.29 <u>Owner</u>	4
2.30 <u>Person</u>	4
2.31 <u>Property</u>	4
2.32 <u>Record or Recorded</u>	4
2.33 <u>Reimbursement Assessment</u>	4
2.34 <u>Rules and Regulations</u>	5
2.35 <u>Site Plan</u>	5
2.36 <u>Special Assessment.</u>	5

Table of Contents
(continued)

	<u>Page</u>
ARTICLE 3	<u>GENERAL RESTRICTIONS APPLICABLE TO COMMUNITY</u> 5
3.1	<u>Maintenance of Community</u> 5
3.2	<u>Property Uses</u> 5
3.3	<u>Construction Type</u> 5
3.4	<u>No Noxious or Offensive Activity</u> 5
3.5	<u>Annoying Sounds or Odors</u> 6
3.6	<u>No Hazardous Activities</u> 6
3.7	<u>No Unsightliness</u> 6
3.8	<u>Weeds</u> 6
3.9	<u>Restrictions on Garbage and Trash</u> 6
3.10	<u>Animals</u> 6
3.11	<u>No Temporary Structures</u> 6
3.12	<u>Restriction on Antennae, Pipes, Utility Lines and Transmitters</u> 6
3.13	<u>Restrictions on Signs and Advertising</u> 7
3.14	<u>Restrictions on Mining or Drilling</u> 7
3.15	<u>Maintenance of Drainage</u> 7
3.16	<u>Compliance with Insurance Requirements</u> 7
3.17	<u>Compliance with Laws</u> 7
3.18	<u>Further Subdivision of Lots</u> 7
3.19	<u>Restrictions on Sewage Disposal Systems</u> 7
3.20	<u>Restrictions on Water Systems</u> 7
3.21	<u>Restoration in the Event of Damage or Destruction</u> 7
3.22	<u>Storage</u> 8
3.23	<u>Vehicle Repairs</u> 8
3.24	<u>Storage of Gasoline and Explosives, Etc.</u> 8
3.25	<u>Trailers, Campers and Junk Vehicles</u> 8
3.26	<u>Fences Prohibited</u> 8
3.27	<u>Air Conditioning and Heating Equipment</u> 8
3.28	<u>Owner's Right to Lease Lot</u> 8
ARTICLE 4	<u>ARCHITECTURAL APPROVAL</u> 9
4.1	<u>Approval of Improvements Required</u> 9
4.2	<u>Improvement to Property Defined</u> 9
4.3	<u>Submission of Plans</u> 9
4.4	<u>Criteria for Approval</u> 9
4.5	<u>Design Standards</u> 9
4.6	<u>Design Review Fee</u> 10
4.7	<u>Decision of Committee</u> 10
4.8	<u>Failure of Board to Act on Plans</u> 10
4.9	<u>Prosecution of Work After Approval</u> 10
4.10	<u>Notice of Completion</u> 10
4.11	<u>Inspection of Work</u> 10
4.12	<u>Notice of Noncompliance</u> 10
4.13	<u>Failure of Committee to Act After Completion</u> 10
4.14	<u>Correction of Noncompliance</u> 11
4.15	<u>No Implied Waiver or Estoppel</u> 11
4.16	<u>Board Power to Grant Variances</u> 11
4.17	<u>Estoppel Certificates</u> 11

Table of Contents
(continued)

		<u>Page</u>
4.18	<u>Nonliability of Committee Action</u>	11
4.19	<u>Construction Period Exception</u>	12
ARTICLE 5	<u>ASSOCIATION PROPERTIES</u>	12
5.1	<u>Member's Rights of Use and Enjoyment Generally</u>	12
5.2	<u>Right of Association to Regulate Use</u>	12
5.3	<u>No Partition of Association Properties</u>	12
5.4	<u>Liability of Owners for Damage by Member</u>	12
5.5	<u>Association Duties if Damage or Destruction to Association Properties</u>	12
5.6	<u>Association Powers in the Event of Condemnation</u>	13
5.7	<u>Title to Association Properties on Dissolution of Association</u>	13
ARTICLE 6	<u>DECLARANT'S RIGHTS AND RESERVATIONS</u>	13
6.1	<u>Period of Declarant's Rights and Reservations</u>	13
6.2	<u>Right to Construct Additional Improvements on Association Properties</u>	13
6.3	<u>Declarant's Rights to Use Association Properties in the Promotion and Marketing of Community</u>	14
6.4	<u>Declarant's Rights to Complete Development of Community</u>	14
6.5	<u>Declarant's Approval of Conveyances or Changes in Use of Association Properties</u>	14
6.6	<u>Declarant's Rights to Grant and Create Easements</u>	14
6.7	<u>Declarant's Rights to Convey Additional Property to Association</u>	14
6.8	<u>Expansion of Permitted Property Uses</u>	15
ARTICLE 7	<u>ASSOCIATION OPERATION</u>	15
7.1	<u>Association</u>	15
7.2	<u>Association Board of Directors</u>	15
7.3	<u>Membership in Association</u>	15
7.4	<u>Voting Rights of Members</u>	15
7.5	<u>Determination of Member Voting Percentages</u>	15
ARTICLE 8	<u>DUTIES AND POWERS OF ASSOCIATION</u>	16
8.1	<u>General Duties and Powers of Association</u>	16
8.2	<u>Duty to Accept Property and Facilities Transferred by Declarant</u>	16
8.3	<u>Duty to Manage and Care for Association Properties</u>	16
8.4	<u>Front Yards.</u>	16
8.5	<u>Duty to Pay Taxes.</u>	17
8.6	<u>Duty to Maintain Casualty Insurance</u>	17
8.7	<u>Duty to Maintain Liability Insurance</u>	17
8.8	<u>General Provisions Respecting Insurance</u>	17
8.9	<u>Segregation of Funds</u>	18
8.10	<u>Other Insurance and Bonds</u>	18
8.11	<u>Duty to Prepare Budgets</u>	18
8.12	<u>Duty to Levy and Collect Assessments</u>	18
8.13	<u>Duty to Keep Association Records</u>	18
8.14	<u>Duties with Respect to Board of Directors Approvals</u>	19
8.15	<u>Power to Acquire Property and Construct Improvements</u>	19
8.16	<u>Power to Adopt Rules and Regulations</u>	19

Table of Contents
(continued)

	<u>Page</u>
8.17	<u>Power to Enforce Declaration and Rules and Regulations</u> 19
8.18	<u>Power to Grant Easements</u> 19
8.19	<u>Power to Convey and Dedicate Property to Governmental Agencies</u> 19
8.20	<u>Power to Borrow Money and Mortgage Property</u> 20
8.21	<u>Power to Engage Employees, Agents, and Consultants</u> 20
8.22	<u>General Corporate Powers</u> 20
8.23	<u>Powers Provided by Law</u> 20
ARTICLE 9	<u>ASSESSMENTS, BUDGETS, AND FUNDS</u> 20
9.1	<u>Maintenance Funds To Be Established</u> 20
9.2	<u>Establishment of Other Funds</u> 20
9.3	<u>Deposit of Common Assessments to Maintenance Funds</u> 20
9.4	<u>Start-Up Deposits</u> 21
9.5	<u>Other Deposits to Maintenance Funds</u> 21
9.6	<u>Disbursements from Maintenance Funds</u> 21
9.7	<u>Authority for Disbursements</u> 21
9.8	<u>Common Assessments</u> 21
9.9	<u>Apportionment of Common Assessments</u> 21
9.10	<u>Funding of Reserve Funds</u> 21
9.11	<u>Supplemental Common Assessments</u> 21
9.12	<u>Annual Budgets</u> 22
9.13	<u>Commencement of Common Assessments</u> 22
9.14	<u>Payment of Assessment</u> 22
9.15	<u>Failure to Fix Assessment</u> 22
9.16	<u>Special Assessments for Capital Expenditures</u> 22
9.17	<u>Reimbursement Assessments</u> 23
9.18	<u>Late Charges and Interest</u> 23
9.19	<u>Surplus Funds</u> 23
9.20	<u>Notice of Default and Acceleration of Assessments</u> 23
9.21	<u>Remedies to Enforce Assessments</u> 23
9.22	<u>Lawsuit to Enforce Assessments</u> 24
9.23	<u>Lien to Enforce Assessments</u> 24
9.24	<u>Estoppel Certificates</u> 24
9.25	<u>No Offsets</u> 24
ARTICLE 10	<u>MISCELLANEOUS</u> 24
10.1	<u>Term of Declaration</u> 24
10.2	<u>Amendment of Declaration by Declarant</u> 24
10.3	<u>Amendment of Declaration by Members</u> 24
10.4	<u>Amendment of Articles and Bylaws</u> 25
10.5	<u>Special Rights of First Mortgagees</u> 25
10.6	<u>Association Right to Obtain Mortgage Information</u> 25
10.7	<u>Notices</u> 25
10.8	<u>Persons Entitled To Enforce Declaration</u> 25
10.9	<u>Violations Constitute a Nuisance</u> 25
10.10	<u>Enforcement of Self-Help</u> 25
10.11	<u>Violations of Law</u> 26
10.12	<u>Remedies Cumulative</u> 26

Table of Contents
(continued)

	<u>Page</u>
10.13 <u>Costs and Attorneys' Fees</u>	26
10.14 <u>Limitation on Liability</u>	26
10.15 <u>Liberal Interpretation</u>	26
10.16 <u>Governing Law</u>	26
10.17 <u>Severability</u>	26
10.18 <u>Number and Gender</u>	26
10.19 <u>Captions for Convenience</u>	26
10.20 <u>Mergers or Consolidations</u>	26
10.22 <u>Disclaimer Regarding Safety</u>	26
10.23 <u>No Representations or Warranties</u>	27

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
2727 CEDAR AVENUE

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made as of this 22nd day of April, 1996, by Cherry Creek Seven, LLC, a Colorado limited liability company ("Declarant").

ARTICLE 1

GENERAL

1.1 Community. Declarant is the owner of that certain parcel of land located in the City and County of Denver, Colorado, more particularly described on **Exhibit A** attached hereto, which is defined in this Declaration as the "Property." Declarant intends to develop the Property, subject to the Easements and Licenses as a high quality, Planned Community of single family residential homes with a maximum of seven (7) Lots.

1.2 CCIOA Exemption. The Community contains less than ten (10) lots and is not subject to any development rights. Consequently, pursuant to Colorado Revised Statutes § 38-33.3-121, this Declaration is not subject to the provisions of the Colorado Common Interest Ownership Act found in Colorado Revised Statutes § 38-33.3-101 et.seq.

1.3 Purposes of Declaration. This Declaration is executed (a) in furtherance of a common and general plan for the development of the Community, as hereinafter defined; (b) to protect and enhance the quality, value, aesthetic, desirability and attractiveness of the Community; (c) to provide for an Association as a vehicle to hold, maintain, care for and manage Association Properties, including internal landscaped areas which will benefit all Owners of Lots; (d) to define the duties, powers and rights of the Association; and (e) to define certain duties, powers and rights of Owners of Lots within the Community.

1.4 Declaration. Declarant, for itself, its successors and assigns, hereby declares that the Property, and all property which becomes subject to this Declaration in the manner hereinafter provided from the date the same becomes subject to this Declaration, shall be owned, held, transferred, conveyed, sold, leased, rented, hypothecated, encumbered, used, occupied, maintained, altered and improved subject to the covenants, conditions, restrictions, limitations, reservations, exceptions, equitable servitudes and other provisions set forth in this Declaration. The provisions of this Declaration are intended to and shall run with the land and, until their expiration in accordance with the terms hereof, shall bind, be a charge upon and inure to the mutual benefit of: (a) the Property and all property which becomes part of the Community; (b) Declarant and its successors and assigns; (c) the Association and its successors and assigns; and (d) all Persons having or acquiring any right, title or interest in the Property or in any property which becomes part of the Community, or any Improvement thereon, and their heirs, personal representatives, successors or assigns. This Declaration shall be Recorded in every county in which any portion of the Community is located and shall be indexed in the grantee's index in the name of Cherry Creek Seven, LLC and the Association and in the Grantor's Index in the name of each person or entity executing this Declaration.

ARTICLE 2

DEFINITIONS

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

2.1 Administrative Functions. "Administrative Functions" shall mean all functions of the Association as are necessary and proper under this Declaration and shall include, without limitation, providing management and administration of the Association; providing architectural review services under Article 4 hereof; incurring reasonable attorneys' fees and accountants' fees; obtaining errors and omissions insurance for officers, directors and agents of the Association; obtaining fidelity bonds for any Person handling funds of the Association; paying taxes levied against the Association Properties; incurring filing fees, recording costs and bookkeeping fees; obtaining and maintaining offices and office furniture and equipment; and performing such other reasonable and ordinary administration tasks associated with operating the Association.

2.2 Articles of Incorporation. "Articles of Incorporation" shall mean the Articles of Incorporation of the 2727 Cedar Avenue Homeowners' Association which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may be amended from time to time.

2.3 Assessment. "Assessment" shall mean a Common Assessment, Special Assessment, or a Reimbursement Assessment.

2.4 Association. "Association" shall mean the 2727 Cedar Avenue Homeowners' Association, Inc., a Colorado non-profit corporation, its successors and assigns.

2.5 Association Properties. "Association Properties" shall mean all real and personal property: (a) now or hereafter owned by the Association including all Common Areas and Improvements; (b) with respect to which the Association holds an easement or license for the use, care, or maintenance thereof; or (c) for which the Association has a right or duty to maintain and which is held for the common use and enjoyment of the Members as provided herein, or for such other purposes as may be permitted by this Declaration.

2.6 Board of Directors. "Board of Directors" or "Board" shall mean the Board of Directors of the Association.

2.7 Budget. "Budget" shall mean a written, itemized estimate of the income to be derived and the expenses to be incurred by the Association in performing its functions under this Declaration and prepared pursuant to Article 4 of this Declaration.

2.8 Bylaws. "Bylaws" shall mean the Bylaws of the Association which have been or will be adopted by the Board of Directors of the Association, as the same may be amended from time to time.

2.9 Common Area. "Common Area" shall mean any portions of the Community which is owned or maintained by the Association for the common use and enjoyment of the Members, including, but not limited to, gardens or other open or landscaped space, easements for the use and benefit of the Owners, all roads within the Property, all private utilities servicing the Property, the security gate at the entrance to the Property, and all fencing surrounding the perimeter of the Property.

2.10 Common Assessment. "Common Assessment" shall mean the assessments levied against each Owner hereunder and made for the purpose of paying the annual costs of operating the Association, including expenses incurred by the Association in connection with the performance of any Administrative Functions.

2.11 Community. "Community" shall mean the real property which is described on Exhibit A attached hereto and all other real property which is made subject to the terms and provisions of this Declaration.

2.12 County. "County" shall mean Denver County, Colorado.

2.13 Declaration. "Declaration" shall mean this instrument as it may be amended or supplemented from time to time.

2.14 Declarant. "Declarant" shall mean Cherry Creek Seven, LLC, a Colorado limited liability company, its successors and assigns. A Person shall be deemed to be a "successor and assign" of Cherry Creek Seven, LLC as Declarant only if specifically designated in a duly Recorded instrument as a successor or assign of Declarant under this Declaration and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant under this Declaration which are specifically designated in the written instrument. However, a successor to Declarant by consolidation or merger shall automatically be deemed a successor or assign of Declarant as Declarant under this Declaration.

2.15 Deed of Trust. "Deed of Trust" shall mean a Mortgage.

2.16 Front Yard. "Front Yard" shall mean that portion of any lot bounded by the street adjacent to the Lot, the property line of adjacent Lots and the fence constructed from the residence on the Lot out to the property lines of the adjacent Lots.

2.17 Improvement. "Improvement" shall mean all structures and improvements located upon or made to a Lot and any appurtenances thereto of every type or kind, including, but not limited to, buildings, outbuildings, swimming pools, patio covers, awnings, the painting of any exterior surfaces of any visible structure, additions, walkways, outdoor sculptures or art work, sprinkler pipes, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior tanks, solar equipment, exterior air conditioning and water softener fixtures.

2.18 Improvement to Property. "Improvement to Property" shall mean any change, alteration, or addition to any Lot or property located within the Community. "Improvement to Property" is more particularly defined in Article IV of this Declaration.

2.19 Leases. "Lease" shall mean and refer to any agreement for the leasing or rental of a Lot, or any dwelling unit located thereon and shall specifically include, without limitation, a month-to-month rental.

2.20 Lot. "Lot" shall mean a physical portion of the Community which is designated for separate ownership or occupancy and the boundaries of which are depicted as Parcels 1-7 upon the Site Plan. The term Lot shall not include: (a) any property owned by a public body; or (b) Association Properties.

2.21 Maintenance Funds. "Maintenance Funds" shall mean the accounts into which the Board shall deposit monies paid to the Association and from which disbursements shall be made in the performance of the functions of the Association pursuant to Article 8 hereof.

2.22 Member. "Member" shall mean the Person or, if more than one, all Persons collectively, who constitute the Owner of a Lot.

2.23 Membership Interest. "Membership Interest" shall mean each Member's voting percentage with respect to Association matters which shall be equal to a fraction, the numerator of which shall be the number of Lots owned by such Member in the Community and the denominator of which shall be the total number of Lots within the Community.

2.24 Mortgage. "Mortgage" shall mean any mortgage, deed of trust or other such instrument given voluntarily by the Owner of a Lot, which encumbers such Lot to secure the performance of an obligation or the payment of a debt and which is required to be released upon performance of the obligation or payment of the debt. The term "Deed of Trust" when used herein shall be synonymous with the term "Mortgage."

2.25 Mortgagee. "Mortgagee" shall mean a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, as the case may be, and the assignees of such Mortgagee.

2.26 Mortgagor. "Mortgagor" shall mean the Person who mortgages his or its property to another (i.e., the maker or grantor of a Mortgage). The term "Mortgagor" shall include a trustor or grantor under a Deed of Trust.

2.27 Notice and Hearing. "Notice and Hearing" shall mean a written notice from and public hearing before the Board of Directors or a tribunal appointed by the Board, as may be provided in the Bylaws, in the manner provided by the Bylaws.

2.28 Notice of Completion. "Notice of Completion" shall mean written notice to the Board of Directors of the completion of any Improvement to Property pursuant to Article 4 of this Declaration.

2.29 Owner. "Owner" shall mean the Person, including Declarant, or, if more than one, all Persons collectively, who hold fee simple title to a Lot, including sellers under executory contracts of sale and excluding buyers thereunder.

2.30 Person. "Person" shall mean a natural person, a corporation, a partnership, a limited liability company or any other entity permitted to hold title to real property pursuant to Colorado law.

2.31 Property. "Property" shall mean the real property more particularly described on Exhibit A attached hereto.

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

2.33 Reimbursement Assessment. "Reimbursement Assessment" shall mean a charge against a particular Owner and such Owner's Lot for the purpose of reimbursing the Association for expenditures and other costs and expenses incurred by the Association which arise from or are related to any violation of the Declaration or the Rules and Regulations by an Owner, together with late charges and interest thereon as more fully provided for herein.

2.34 Rules and Regulations. "Rules and Regulations" shall mean rules and regulations adopted by the Board of Directors.

2.35 Site Plan. "Site Plan" shall mean that site plan of the property attached hereto as Exhibit B.

2.36 Special Assessment. "Special Assessment" shall mean a charge against each Owner and such Owner's Lot representing a portion of the costs of the Association for the purpose of funding major capital repairs, maintenance, replacements and Improvements pursuant to the Section of this Declaration entitled "Special Assessments for Capital Expenditures."

ARTICLE 3

GENERAL RESTRICTIONS APPLICABLE TO COMMUNITY

All real property within the Community shall be held, used, and enjoyed subject to the following limitations and restrictions and subject to the rights and reservations of Declarant set forth in this Declaration. The strict application of the following limitations and restrictions in any specific case may be modified or waived in whole or in part by the Board of Directors if such strict application would be unreasonably or unduly harsh under the circumstances. Any such modification or waiver must be in writing or be contained in written guidelines or rules promulgated by the Board of Directors. Violation of any provision of this Article by an Owner shall permit the Association to enter upon the Lot of such Owner to cure such violation or otherwise cause compliance with such provision; provided, however, that there shall be no entry into the interior of an Improvement intended for human occupancy without the consent of the Owner thereof unless a clear emergency exists.

3.1 Maintenance of Community. No property within the Community shall be permitted to fall into disrepair and all property within the Community, including any Improvements, shall be kept and maintained in a clean, attractive, and sightly condition. Maintenance, repair, and upkeep of each Lot shall be the responsibility of the Owner of the Lot subject to the obligation of the Association to maintain the Front Yard of each Lot. Maintenance, repair, and upkeep of Association Properties shall be the responsibility of the Association as more particularly provided herein.

3.2 Property Uses. All Lots shall be used for private residential purposes. Except as otherwise provided herein, no dwelling unit erected or maintained within Community shall be used or occupied for any purpose other than for a single-family residence. Notwithstanding the foregoing, business activities associated with the sale of Lots or residences constructed thereon shall be allowed. In addition, in-home businesses not involving the servicing of customers or employees shall be allowed, provided such activities are conducted solely within the residence and do not create or result in any unreasonable, unwarranted, or unlawful use or interference with public rights, including, but not limited to, unreasonable or unwarranted use or interference with public streets, rights-of-way, or sidewalks, or in any other offensive or noxious activities.

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

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

3.5 Annoying Sounds or Odors. No sound or odor shall be emitted from any property within the Community which is noxious or unreasonably offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, other than security devices used exclusively for security purposes, shall be located or used on any property except with the prior written approval of the Board of Directors.

3.6 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 and 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 the dispersal of burning embers.

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

3.8 Weeds. All yards and open spaces and the entire area of every Lot on which no Improvement has been constructed shall be kept mowed to a maximum height of 6 inches. In addition, each Lot shall be kept free from brush or other growth or trash which, in the reasonable opinion of the Board of Directors, is unsightly or causes undue danger of fire.

3.9 Restrictions on Garbage and Trash. No refuse, garbage, trash, lumber, grass, shrub, tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored, or allowed to accumulate on any Lot except within an enclosed structure or appropriately screened from view, except that any container containing such materials may be placed outside at such times as may be necessary to permit garbage or trash pick-up.

3.10 Animals. No animals, live stock or poultry of any kind shall be raised, bred or kept on any Lot, except that domesticated birds or fish and other small domestic animals permanently confined indoors will be allowed. No other animals, except an aggregate of not more than three domesticated animals (e.g., two cats and one dog), will be permitted within the Community; provided that they are not kept, bred, or maintained for any commercial purpose. No animal of any kind shall be permitted which in the opinion of the Board of Directors makes an unreasonable amount of noise or odor or is a nuisance. All household pets shall be controlled by their Owner and shall not be allowed off the Owner's Lot except when properly leashed and accompanied by the pet Owner or such Owner's representative. Each Owner of a household pet shall be financially responsible and liable for any damage caused by said household pet.

3.11 No Temporary Structures. No tent, shack, storage shed, temporary structure, or temporary building shall be placed upon any property within the Community except with the prior written consent of the Board of Directors.

3.12 Restriction on Antennae, Pipes, Utility Lines and Transmitters. Pipes for water, gas, sewer, drainage or other purposes, all wires, poles, aerials, antennae, satellite dishes and other facilities for the transmission or reception of audio or visual signals or electricity, and all utility meters or other utility facilities shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure. No exterior radio antenna, television antenna, or other antenna of any type shall be erected or maintained within the Community except as may be approved by the Board of Directors. With the approval of the Board of Directors, a master antenna or cable television antenna may, but need

not, be provided for use of all Owners or a group of Owners, and Declarant may grant easements for such purposes. No electronic or radio transmitters of any kind other than garage door openers or cordless telephones shall be operated in or on any structure or within any Lot.

3.13 Restrictions on Signs and Advertising. No sign, poster, billboard, advertising device, or display of any kind shall be erected or maintained anywhere within the Community so as to be evident to public view, except: (a) signs as may be approved in writing by the Board of Directors; or (b) signs, posters, billboards or any other type of advertising device or display erected by Declarant incidental to the development, construction, promotion, marketing or sales of Lots within the Community. A sign advertising a Lot for sale or for lease may be placed on a Lot; provided, however, that standards relating to dimensions, color, style, and location of such sign shall be determined from time to time by the Board of Directors.

3.14 Restrictions on Mining or Drilling. No property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

3.15 Maintenance of Drainage. There shall be no interference with the established drainage pattern over any property within the Community except as approved in writing by the Board of Directors. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern which exists at the time the overall grading of any property is completed and shall include any established drainage pattern shown on any plans approved by the Board of Directors. The established drainage pattern may include the drainage pattern: (a) from Association Properties over any Lot; (b) from any Lot over the Association Properties; (c) from any property owned by the County or other Persons over any Lot; (d) from any Lot over property owned by the County or other Persons; or (e) from any Lot over another Lot.

3.16 Compliance with Insurance Requirements. Except as may be approved in writing by the Board of Directors, nothing shall be done or kept on property within the Community which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

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

3.18 Further Subdivision of Lots. The Owner of a Lot shall not further subdivide that Lot.

3.19 Restrictions on Sewage Disposal Systems. No cesspool, septic tank or other sewage disposal system shall be installed within the Community without the prior written consent of the Board of Directors. Any sewage disposal system installed for property within the Community shall be subject to all applicable laws, rules and regulations of any governmental authority having jurisdiction over the Community.

3.20 Restrictions on Water Systems. No individual water supply system shall be installed or maintained for any property within the Community unless such system is approved in writing by the Board of Directors and is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any applicable water and sanitation district or other governmental authority having jurisdiction.

3.21 Restoration in the Event of Damage or Destruction. In the event of the damage or destruction of any Improvement on any Lot, the Owner thereof shall cause the damaged or destroyed

Improvement to be restored or replaced to its original condition or such other condition as may be approved in writing by the Board of Directors, or the Owner shall cause the damaged or destroyed Improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the Board of Directors, so as to present a pleasing and attractive appearance.

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

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

3.24 Storage of Gasoline and Explosives, Etc. No Lot shall be used for the storage of explosives, gasoline or other volatile and/or incendiary materials or devices. Gasoline or fuel for an Owner's lawn mower, snowblower and the like may be maintained on an incidental basis on the Lot in an amount not to exceed five (5) gallons.

3.25 Trailers, Campers and Junk Vehicles. No boat, camper (on or off supporting vehicles), trailer, tractor, truck, industrial or commercial vehicle (both cabs or trailers), towed trailer unit, motorcycle, disabled, junk, or abandoned vehicles, motor home, mobile home, recreational vehicle, or any other vehicle, the primary purpose of which is recreational, sporting or commercial use, shall be parked or stored in, on, or about any Lot or street within the Community except within the attached garage or unless such vehicles are concealed from view and approved by the Board of Directors. For the purposes of this covenant, a 3/4-ton or smaller vehicle commonly known as a pickup truck shall not be deemed a commercial vehicle or truck. The Association shall have the right to enter an Owner's Lot to remove and store, at such Owner's expense, vehicles in violation of this Section. An Owner shall be entitled to 14 days' written notice prior to such action by the Association.

3.26 Fences Prohibited. No fences shall be constructed along or adjacent to the boundary or lot line of any Lot without the prior approval of the Board of Directors unless in conformance with standard design specifications previously approved by the Board of Directors. Privacy fences, security fences, and fences for screening purposes shall also be approved by the Board of Directors unless in conformance with standard design specifications previously approved by the Board of Directors.

3.27 Air Conditioning and Heating Equipment. No heating, air conditioning or refrigeration equipment shall be placed, allowed or maintained anywhere other than on the ground; provided, however, that solar units meeting all governmental guidelines for residential uses may be located on the roof if (a) such solar unit is built into and made an integral part of the roof flashing or the structure of any house constructed on such Lot; and (b) such solar unit is specifically approved by the Board of Directors in accordance with Article 4 below.

3.28 Owner's Right to Lease Lot. All Owners shall have the right to lease such Owner's Lot provided that: (a) all Leases shall be in writing; (b) all Leases shall be for a Lot with a completed residence thereon; (c) all Leases shall provide that the terms of the Lease and the lessee's occupancy of the Lot shall be subject to this Declaration, the rules and regulations of the Association and that any failure by the lessee to comply with any of the aforesaid documents in any respect shall be a default under such Lease; and (d) such Owner shall notify the Association immediately upon the leasing of such Lot and register with the Association both the name(s) of the tenant(s) and new mailing information for notices to be sent by the Association directly to such Owner.

ARTICLE 4

ARCHITECTURAL APPROVAL

4.1 Approval of Improvements Required. The approval of the Board of Directors shall be required for any Improvement to Property on any Lot except: (a) for any Improvement to Property made by Declarant; (b) where approval is not reasonably required to carry out the purposes of this Declaration; and (c) where prior approval of Improvements to Property may be waived or certain Improvements to Property may be exempted in writing or under written guidelines or rules promulgated by the Board of Directors.

4.2 Improvement to Property Defined. "Improvement to Property" requiring approval of the Board of Directors shall mean and include, without limitation: (a) the construction, installation, erection or expansion of any building, structure or other Improvement, including utility facilities, landscaping features, and fences; (b) the removal, demolition or destruction, by voluntary action, of any building, structure, landscaping, trees or other Improvement; (c) the grading, excavation, filling, or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level, change of drainage pattern, or change of stream bed; and (d) any change or alteration of any previously approved Improvement to Property including any change of exterior appearance, color, or texture.

4.3 Submission of Plans. Prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property ("Applicant") shall submit to the Board of Directors at its offices such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Board of Directors shall request showing the nature, kind, shape, height, width, color, materials and location of the proposed Improvement to Property. The Applicant shall be entitled to receive a receipt for the same from the Board of Directors or its authorized agent. The Board of Directors may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Board of Directors of all required materials in connection with the proposed Improvement to Property, the Board of Directors may postpone review of any materials submitted for approval.

4.4 Criteria for Approval. The Board of Directors shall approve any proposed Improvement to Property only if it deems in its reasonable discretion that: (a) the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Community as a whole; (b) the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Community; (c) the Improvement to Property will not detract from the beauty, wholesomeness and attractiveness of the Community or the enjoyment thereof by Owners; (d) the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association; and (e) the proposed Improvement to Property does not affect the drainage plan for the Community or any portion thereof. The Board of Directors may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the Board of Directors may deem appropriate.

4.5 Design Standards. The Board of Directors may issue standards or rules ("Design Standards") relating to the procedures, materials to be submitted, fees and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement to Property. The Design Standards may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part because strict application of such limitations or restrictions would be unreasonable or unduly harsh under the circumstances. The Design Standards may waive the requirement for approval of certain Improvements to Property or exempt certain Improvements to Property from the requirement for approval, if such approval is not reasonably required to carry out the purposes of this Declaration.

4.6 Design Review Fee. The Board of Directors may, through the Design Standards or otherwise, provide for the payment of a fee to accompany each request for approval of any proposed Improvement to Property. The Board of Directors may provide that the amount of such fee shall be uniform for similar types of proposed Improvements to Property or that the fee shall be determined in any other reasonable manner including the estimated cost of the proposed Improvement to Property.

4.7 Decision of Committee. Any decision of the Board of Directors shall be made within thirty (30) days after receipt by the Board of Directors of all materials required by the Board of Directors, unless such time period is extended by mutual agreement. The decision shall be in writing and if the decision is not to approve a proposed Improvement to Property, the reasons therefor shall be stated. The decision of the Board of Directors shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Board of Directors.

4.8 Failure of Board to Act on Plans. Any request for approval of a proposed Improvement to Property shall be deemed approved unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Board of Directors within thirty (30) days after the date of receipt by the Board of Directors of all required materials.

4.9 Prosecution of Work After Approval. After approval of any proposed Improvement to Property, the proposed Improvement to Property shall be accomplished as promptly and diligently as possible and in complete conformity with: (a) the description of the proposed Improvement to Property; (b) any materials submitted to the Board of Directors in connection with the proposed Improvement to Property; and (c) any conditions imposed by the Board of Directors. Failure to complete the proposed Improvement to Property within one hundred twenty (120) days after the date of approval or such other period as specified in writing by the Board of Directors, or to complete the Improvement to Property in accordance with the description and materials furnished to, and the conditions imposed by, the Board of Directors, shall constitute noncompliance with the requirements for approval of Improvements to Property.

4.10 Notice of Completion. Upon completion of the Improvement to Property, the Applicant may give written Notice of Completion to the Board of Directors. Until the date of receipt of such Notice of Completion, the Board of Directors shall not be deemed to have notice of completion of such Improvement to Property.

4.11 Inspection of Work. The Board of Directors or its duly authorized representative shall have the right to inspect any Improvement to Property prior to or after completion; provided that the right of inspection shall terminate thirty (30) days after the Board of Directors shall have received a Notice of Completion from Applicant.

4.12 Notice of Noncompliance. If, as a result of inspections or otherwise, the Board of Directors finds that any Improvement to Property has been done without obtaining the approval of the Board of Directors or was not done in complete conformity with the description and materials furnished to, and any conditions imposed by, the Board of Directors, the Board of Directors shall notify the Applicant in writing of the noncompliance, which notice shall be given, in any event, within thirty (30) days after the Board of Directors receives a Notice of Completion from the Applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

4.13 Failure of Committee to Act After Completion. If, for any reason other than the Applicant's act or neglect, the Board of Directors fails to notify the Applicant of any noncompliance within thirty (30) days after receipt by the Board of Directors of written Notice of Completion from the

Applicant, the Improvement to Property shall be deemed in compliance if the Improvement to Property was, in fact, completed as of the date of Notice of Completion.

4.14 Correction of Noncompliance. If the Applicant does not comply with the Board ruling within fourteen (14) days from the receipt by the Applicant of the Notice of Non-Compliance, the Board may, at its option, record a Notice of Noncompliance against the real property on which the noncompliance exists, may enter upon such property and remove the noncomplying Improvement to Property, or may otherwise remedy the noncompliance, and the Applicant shall reimburse the Association, upon demand, for all costs and expenses incurred by the Association in connection therewith including, but not limited to, attorneys' fees. If such expenses are not promptly repaid by the Applicant or Owner to the Association, the Board may levy a Reimbursement Assessment against the Owner of the Lot for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity or under this Declaration. The Applicant and Owner of the Lot shall have no claim for damages or otherwise on account of the entry upon the property and removal of the noncomplying Improvement to Property.

4.15 No Implied Waiver or Estoppel. No action or failure to act by the Board of Directors shall constitute a waiver or estoppel with respect to future action by the Board of Directors with respect to any Improvement to Property. The approval of the Board of Directors of any Improvement to Property shall not be deemed a waiver of any right to withhold approval for any similar Improvement to Property or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvement to Property.

4.16 Board Power to Grant Variances. The Board of Directors may authorize variances from compliance with any of the provisions of this Declaration, including restrictions upon height, size, floor area or placement of structures or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require such variances. Such variances must be evidenced in writing and shall become effective when signed by at least a majority of the members of the Board of Directors. If any such variance is granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

4.17 Estoppel Certificates. The Board of Directors shall, upon the reasonable request of any interested Person furnish a certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether any Improvement to Property was made in compliance herewith. Any Person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

4.18 Nonliability of Committee Action. There shall be no liability imposed on the Association, any member of the Board of Directors, or Declarant for any loss, damage, cost, expense or injury arising out of or in any way connected with the performance of the duties of the Board of Directors unless due to the willful misconduct of the party to be held liable. In reviewing any matter, the Board of Directors shall not be responsible for reviewing, nor shall its approval of an Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or such Improvement to Property's conformance with building codes or other governmental laws or regulations.

4.19 Construction Period Exception. During the course of actual construction of any permitted structure or Improvement to Property, and provided construction is proceeding with due diligence, the Board of Directors shall temporarily suspend the provisions contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction, provided that during the course of any such construction, nothing is done which will result in a violation of any of the provisions of this Declaration upon completion of construction and nothing is done which will constitute a nuisance or unreasonable interference with the use and enjoyment of other property within the Community.

ARTICLE 5

ASSOCIATION PROPERTIES

5.1 Member's Rights of Use and Enjoyment Generally. Unless otherwise provided in this Declaration, all Members may use Association Properties.

5.2 Right of Association to Regulate Use. The Association, acting through the Board, shall have the power to regulate the use of Association Properties by Members and the public to further enhance the overall rights of use and enjoyment of all Members.

5.3 No Partition of Association Properties. No Owner shall have the right to partition or seek partition of the Association Properties or any part thereof.

5.4 Liability of Owners for Damage by Member. Each Member shall be liable to the Association for any damage to Association Properties or for any expense or liability incurred by the Association, to the extent not covered by insurance, which may be sustained by reason of (a) the actions or conduct of such Member or any Person using the Association Properties through such Member; or (b) for any violation of this Declaration, or any Rule and Regulation adopted by the Association, by such Member or any such Person using the Association Properties through such Member. The Association shall have the power, as elsewhere provided in this Declaration, to levy and collect a Reimbursement Assessment against a Member, after Notice and Hearing as provided in the Bylaws, to cover all costs and expenses incurred by the Association arising from or related to violation of this Declaration, the Rules and Regulations of the Association, or for any increase in insurance premiums directly attributable to any of the foregoing actions.

5.5 Association Duties if Damage or Destruction to Association Properties. In the event of damage to Association Properties by fire or other casualty, or in the event any governmental authority shall require any repair, reconstruction or replacement of any Association Properties, the Association shall have the duty to repair, reconstruct or replace the same. Any insurance proceeds payable by reason of the damage or destruction of Association Properties by fire or other casualty shall be paid to the Association and shall be used, to the extent necessary, to pay the costs of repair, reconstruction, or replacement. If funds from insurance proceeds or from reserves for replacement are insufficient to pay all costs of repair, reconstruction or replacement of Improvements damaged or destroyed, or if the Association is required to make repairs, replacements or Improvements by governmental authorities, the Association may, in order to make up any deficiency in the insurance proceeds or to pay for the required repair, replacement, or improvement, levy a Special Assessment against the Members in accordance with Article 9 of this Declaration. If any Member or group of Members is liable for any such damage, the Association may levy a Reimbursement Assessment against the Member or group of Members responsible therefor, to provide the additional funds necessary. Repair, reconstruction or replacement of Association Properties shall be done under such contracting and bidding procedures as the Association shall determine are appropriate. If insurance proceeds available to the Association exceed the cost of repair, reconstruc-

tion and replacement of any Improvement, the Association may use the same for any future maintenance, repair or replacement of any Improvement, and for the operation of other Association Properties.

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

5.7 Title to Association Properties on Dissolution of Association. In the event of the dissolution of the Association, the Association Properties shall, to the extent permitted by law and reasonably possible, be conveyed or transferred to appropriate public, governmental or quasi-governmental agencies or organizations or to a nonprofit corporation, association, trust or other organization, to be used for the common benefit of Owners for similar purposes for which the particular Association Property was held by the Association. To the extent the foregoing is not possible, the Association Properties shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed to Members in proportion to each Member's Membership Interest.

ARTICLE 6

DECLARANT'S RIGHTS AND RESERVATIONS

6.1 Period of Declarant's Rights and Reservations. Declarant shall have, retain and reserve certain rights as hereinafter set forth in this Article 6 with respect to Lots owned by the Declarant and with respect to the Association and the Association Properties from the date hereof, until: (a) the time that the last Lot within the Community has been sold and conveyed by Declarant to persons other than Declarant and a certificate of occupancy has been issued for the residence constructed thereon; or (b) the date which is fifty (50) years from the recordation of this Declaration, whichever event occurs first. The rights and reservations hereinafter set forth shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association whether or not specifically stated therein and in each deed or other instrument by which any property within the Community is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration. Declarant's consent to any one such amendment shall not be construed as consent to any other subsequent amendment. Declarant makes no assurances that Declarant will exercise the rights reserved by Declarant herein with respect to all or any portion of the Community and Declarant reserves the right to exercise such rights with respect to the Community in such time frames, in such order and in such a manner as Declarant deems fit in its sole and absolute discretion. Declarant expressly reserves the right to assign the rights reserved hereunder, either partially or in their entirety, to any party without the approval of the Association or the Members, in its sole and absolute discretion.

6.2 Right to Construct Additional Improvements on Association Properties. Declarant shall have and hereby reserves the right, but not the obligation to construct additional Improvements on Association Properties at any time and from time to time in accordance with this Declaration for the improvement and enhancement thereof and for the benefit of the Association and Owners. Declarant shall

convey or transfer such Improvements to the Association and the Association shall be obligated to accept title to, care for, and maintain the same as Association Properties as elsewhere provided in this Declaration.

6.3 Declarant's Rights to Use Association Properties in the Promotion and Marketing of Community. Declarant shall have and hereby reserves the right to use Association Properties and services offered by the Association in connection with the promotion and marketing of the Community. Without limiting the generality of the foregoing, Declarant may (a) erect and maintain on any part of the Association Properties or upon any Lot owned by Declarant such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development, and marketing of real property within the Community; (b) use vehicles and equipment on Association Properties for promotional purposes; (c) permit prospective purchasers of Lots to use Association Properties at reasonable times and in reasonable numbers; (d) maintain sales offices, management offices, and model homes within the Community upon Lots owned by Declarant or upon Association Properties in such sizes and in such locations as determined by Declarant in its sole and absolute discretion; and (e) refer to the Association Properties and to the Association and services offered by the Association in connection with the development, promotion and marketing of property within the boundaries of the Community.

6.4 Declarant's Rights to Complete Development of Community. No provision of this Declaration including, but not limited to the Use Restrictions contained in Article 3 hereof shall be construed to prevent or limit Declarant's rights to (a) complete the development of property within the boundaries of the Community; (b) construct or alter Improvements on any property owned by Declarant within the Community, including temporary buildings; (c) maintain model homes, sales offices, management offices, temporary buildings or offices for construction or sales purposes, or similar facilities on any property owned by Declarant or owned by the Association within the Community upon such Lots and in such sizes as Declarant determines in its sole and absolute discretion; or (d) post signs incidental to the development, construction, promotion, marketing or sales of property within the Community. Nothing contained in this Declaration shall limit the right of Declarant or require Declarant to obtain approvals to: (a) excavate, cut, fill or grade any property owned by Declarant or to construct, alter, demolish or replace any Improvements on any property owned by Declarant; (b) use any structure on any property owned by Declarant as a construction, model home or real estate sales office in connection with the sale of any property within the boundaries of the Community; or (c) to require Declarant to seek or obtain the approval of the Board of Directors or of the Association for any such activity or Improvement to Property on any property owned by Declarant. Nothing in this Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

6.5 Declarant's Approval of Conveyances or Changes in Use of Association Properties. Until Declarant has lost the right to appoint members of the Board of Directors as elsewhere provided herein, the Association shall not, without first obtaining the prior written consent of Declarant, which consent shall not be unreasonably withheld, convey, change, or alter the use of Association Properties, Mortgage the Association Properties or use Association Properties other than solely for the benefit of Members or as specifically allowed hereunder.

6.6 Declarant's Rights to Grant and Create Easements. Declarant shall have and hereby reserves the right to grant or create temporary or permanent easements for access, utilities, drainage, and water in, on, under, over and across Lots owned by Declarant and Association Properties for any purpose incident to the development and sale of Lots within the Community.

6.7 Declarant's Rights to Convey Additional Property to Association. Declarant shall have and hereby reserves the right, but not the obligation to convey additional real property and Improvements thereon to the Association at any time and from time to time in accordance within this Declaration.

6.8 Expansion of Permitted Property Uses. Notwithstanding anything to the contrary contained herein, Declarant reserves the right to expand the permitted uses for Lots as provided in Article 3 hereof provided that such uses: (a) are consistent with Declarant's overall development plan for the Community; and (b) are in accordance with County rules, regulations, requirements and approvals.

ARTICLE 7

ASSOCIATION OPERATION

7.1 Association. The Association has been or will be formed as a Colorado corporation under the Colorado Nonprofit Corporation Act. The Association has been or shall be organized prior to the date the first Lot located in the Community is conveyed to a Person other than Declarant. The Association shall have all duties, powers and rights set forth in the Colorado Non-Profit Corporation Act, this Declaration and in its Articles of Incorporation and Bylaws.

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

7.3 Membership in Association. Each Owner of a Lot within the Community shall be a Member of the Association. There shall be one Membership in the Association for each Lot within the Community. The Person or Persons who constitute the Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot, and the Membership appurtenant thereto shall automatically pass with fee simple title to the Lot. Declarant shall hold a Membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from the fee simple title to a Lot except that an Owner may assign some or all of his rights as an Owner and as a Member of the Association to a tenant or Mortgagee and may arrange for a tenant to perform some or all of such Owner's obligations as provided in this Declaration, but no Owner shall be permitted to relieve himself of the responsibility for fulfillment of the obligations of an Owner under this Declaration.

7.4 Voting Rights of Members. Each Member shall have the right to cast one vote for each Lot owned by such Member in accordance with the Bylaws, provided in no event shall there be more than one (1) vote per Lot. If title to a Lot is owned by more than one (1) Person, such Persons shall collectively vote their interest as a single vote. Notwithstanding the foregoing, Declarant shall be entitled to select and appoint, in its sole discretion, Directors, in accordance with the Bylaws, until the expiration of the Declarant's Control Period, as hereinafter defined. The "Declarant's Control Period" shall mean the period commencing on the date of recordation of this Declaration and ending upon the occurrence of any one of the following events, whichever occurs earlier: (a) when the last Lot within the Community has been sold and conveyed by Declarant to persons other than Declarant and a Certificate of Occupancy has been issued for the residence constructed thereon; (b) five (5) years from the date of the recording of this Declaration; or (c) when, in its discretion, Declarant so determines. Within sixty (60) days of the expiration of the Declarant's Control Period, the Owners shall elect a Board of at least three members.

7.5 Determination of Member Voting Percentages. Notwithstanding anything to the contrary contained herein, only Members whose voting rights are in good standing under the Association's Bylaws

(e.g., voting rights which have not been suspended as provided therein) shall be entitled to vote on Association matters. In accordance therewith, any and all provisions contained herein requiring the approval of a requisite percentage of Members of the Association shall be deemed satisfied when the requisite percentage of Members entitled to vote has been met.

ARTICLE 8

DUTIES AND POWERS OF ASSOCIATION

8.1 General Duties and Powers of Association. The Association has been formed to further the common interests of the Members. The Association, acting through the Board or Directors or Persons to whom the Board has delegated such powers, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance the common interests of the Members, to maintain, improve and enhance Association Properties and to improve and enhance the attractiveness, aesthetics and desirability of the Community.

8.2 Duty to Accept Property and Facilities Transferred by Declarant. The Association shall accept title to any real property, including any Improvements thereon, and personal property transferred to the Association by Declarant, together with the responsibility to perform any and all Administrative Functions associated therewith, provided that such property and Administrative Functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use. Any property or interest in property transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens and encumbrances (other than the lien of property taxes and assessments not then due and payable), but shall be subject to the terms of this Declaration, and such easements, covenants, conditions, restrictions and equitable servitudes or other encumbrances of record. The property or interest in property transferred to the Association by Declarant shall not impose any unreasonable or special burden on the Association other than the normal burdens of ownership of property.

8.3 Duty to Manage and Care for Association Properties. The Association shall manage, operate, care for, maintain and repair all Association Properties, and keep the same in an attractive and desirable condition for the use and enjoyment of the Members.

8.4 Front Yards. Duty to Manage and Care for Certain Improvements. The Association shall provide for the maintenance, repair and replacement of the Front Yard of each Lot within the Community. Maintenance of each Front Yard shall include: (a) all landscaping located upon each Front Yard including but limited to the irrigation, fertilization, trimming and mowing of all lawns, plants, hedges, bushes and trees located upon each Front Yard but excluding therefrom the maintenance, repair and replacement of any landscape feature installed by an Owner without the prior written approval of the Board of Directors, including, but not limited to, any gardens or potted plants located within window sills or containers; and (b) removal of snow from the driveway located on each Lot in a reasonable manner and within a reasonable time period after an accumulated snowfall. In accordance with the foregoing maintenance obligations, the Association shall have the right to determine, in its sole and absolute discretion: (i) the materials and supplies to be used in conjunction with the foregoing maintenance responsibilities; provided that such materials shall, if economically feasible, be substantially similar to those materials used in conjunction with the original landscaping of the Lot; (ii) the time of day that such maintenance obligations shall be performed; provided that such services will be performed at reasonable hours depending upon the nature of the service being performed; and (iii) the amount, nature and degree of maintenance, repair or replacement reasonably necessary for a given Lot. In the event that any

maintenance, repair or replacement work required to be performed by the Association hereunder arises from or is related to the intentional acts or omissions or negligence of any Owner, or any guest, invitee, or tenant of any Owner, the Association shall have the right to levy a Reimbursement Assessment against such Owner for any and all additional maintenance costs and expenses incurred by the Association which arise from or are related to such acts or omissions. The Association shall have the authority to obtain such insurance in such amounts as is necessary to insure its maintenance, repair and replacement obligations hereunder. All insurance carried by Owners of Lots within the Community Area shall contain waivers of subrogation against the Association, the Declarant and the members of the Board of Directors relating to the maintenance, repair and replacement obligations of the Association hereunder. All Owners, by their acceptance of a deed for a Lot hereunder agree to assign to the Association any and all insurance proceeds to which such Owners may be entitled and which are reasonably attributable to the Association's maintenance, repair and replacement obligations hereunder.

8.5 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Association Properties and all taxes and assessments payable by the Association. The Association shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of any lien for such tax or assessment and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

8.6 Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable: (a) property insurance on all insurable Improvements and personal property owned by the Association for broad form covered causes of loss, including casualty and fire; and (b) extended coverage insurance with respect to all insurable Improvements and personal property owned by the Association including, if available at reasonable cost, coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake, and war risk. Such insurance shall, to the extent reasonably obtainable, be for the full insurable replacement cost of the insured property, less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavation, foundations and other items normally excluded from property policies.

8.7 Duty to Maintain Liability Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Association Properties and covering public liability for bodily injury and property damage and, if the Association owns or operates motor vehicles, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles. Such liability insurance for other than motor vehicle liability shall, to the extent reasonably obtainable: (a) have limits of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence; (b) insure the Board, the Association, the managing agent of the Association, if any, and their respective employees, agents and all Persons acting as agents; (c) include the Declarant as an additional insured in such Declarant's capacity as a Member or Board member; (d) include the Members as an additional insured, but only for claims and liabilities arising in connection with the ownership, existence, use or management of Association Properties; and (e) cover claims of one or more insured parties against other insured properties.

8.8 General Provisions Respecting Insurance. Insurance obtained by the Association may contain such deductible provisions as good business practice may dictate. If the insurance described is not reasonably available, or if any policy of such insurance is cancelled or renewed without a replacement policy therefor having been obtained by it, the Association shall promptly cause notice of that fact to be

delivered to all Members. The Association may carry any other type of insurance it considers appropriate, in amounts it deems appropriate, to insure the interests of the Association. Insurance policies carried pursuant to this Article 8 shall provide that: (a) each Member is an insured person under the policy with respect to liability arising out of such Member's interest in the Association Properties or membership in the Association; (b) the insurer waives its right of subrogation under the policy against the Association, each Member, and any Person claiming by, through, or under such Member or any other director, agent, or employee of the foregoing; (c) no act or omission by any Member, unless acting within the scope of such Member's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and (d) if, at the time of a loss under the policy, there is other insurance in the name of a Member covering the same risk covered by the policy, the Association's policy shall be the primary insurance. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration for all deductibles paid by the Association. Insurance obtained by the Association shall, to the extent reasonably possible and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Board of Directors to ascertain whether coverage under the policies is sufficient in light of the current values of the Association Properties and in light of the possible or potential liabilities of the Association. The aforementioned insurance may be provided under blanket policies covering the Association Properties and property of Declarant. In no event shall insurance coverage obtained or maintained by the Association be bought in conjunction with insurance purchased by Owners, occupants or their Mortgagees.

8.9 Segregation of Funds. Any Managing Agent shall maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by such Managing Agent and maintain all reserve accounts of each association so managed separate from operational accounts of the Association. The Managing Agent shall further prepare and provide to the Association an annual accounting of Association funds and a financial statement provided that such annual accounting may be prepared by a public or certified public accountant.

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

8.11 Duty to Prepare Budgets. The Association shall prepare Budgets for the Association as provided in Article 9 of this Declaration.

8.12 Duty to Levy and Collect Assessments. The Association shall levy and collect Assessments as provided in Article 9 of this Declaration.

8.13 Duty to Keep Association Records. The Association shall keep financial records including, but not limited to, financial records sufficiently detailed to provide a statement setting forth the amount of any unpaid Assessments currently levied against an Owner.

8.14 Duties with Respect to Board of Directors Approvals. The Association shall perform the architectural review functions as elsewhere provided in this Declaration.

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

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

8.16 Power to Adopt Rules and Regulations. The Association may adopt, amend, repeal, and enforce Rules and Regulations as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of Association Properties, and the use of any other property within the Community, including Lots. Any such Rules and Regulations shall be effective only upon adoption by resolution of the Board of Directors. Notice of the adoption, amendment, or repeal of any Rule or Regulation shall be given in writing to each Member at the address for notices to Members as elsewhere provided in this Declaration or the Bylaws, and copies of the currently effective Rules and Regulations shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such Rules and Regulations and shall see that Persons claiming through such Member comply with such Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of conflict between the Rules and Regulations and the provisions of this Declaration, the provisions of this Declaration shall prevail.

8.17 Power to Enforce Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause such compliance by each Member and each Person claiming by, through, or under such Member ("Related User"). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of this Declaration and the Rules and Regulations by any one or more of the following means: (a) by entry upon any property within the Community after Notice and Hearing (unless a bona fide emergency exists), without liability to the Owner thereof or the Association, for the purpose of enforcement or causing compliance with this Declaration or the Rules and Regulations; (b) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (c) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (d) by suspension, after Notice and Hearing, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of such Member of this Declaration or the Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for a period not to exceed sixty (60) days from the date such breach is cured; (e) by levying and collecting a Reimbursement Assessment against any Member for breach of this Declaration or the Rules and Regulations by such Member or Related User of such Member; and (f) uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or the Rules and Regulations by such Member or Related User of such Member.

8.18 Power to Grant Easements. The Association shall have the power to grant access, utility, drainage, water facility, and other such easements in, on, over, or under Association Properties, as well as the power to designate portions of the Association Properties as limited common elements for the benefit of specific Lot owners.

8.19 Power to Convey and Dedicate Property to Governmental Agencies. The Association, with the approval of Members representing at least eighty percent (80%) of the voting power of the Association entitled to vote (exclusive of the voting power of the Declarant), shall have the power to grant, convey, dedicate, or transfer any Association Properties or facilities to any public, governmental or quasi-governmental agency or authority for such purposes and subject to such terms and conditions as the Association shall deem appropriate, subject to the provisions elsewhere contained in this Declaration for approval of the same by Declarant with respect to property transferred to the Association by Declarant.

8.20 Power to Borrow Money and Mortgage Property. The Association shall have the power to borrow money and, with the approval of Members representing at least eighty percent (80%) of the voting power of the Association entitled to vote (exclusive of the voting power of Declarant), to encumber Association Properties as security for such borrowing, subject to provisions elsewhere contained in this Declaration with respect to required approvals and consents to such action. An Agreement to convey, or subject the Association Properties to a security interest in accordance with this Section and Section 8.18 above shall be evidenced by the execution of an agreement, or ratification thereof, by the requisite number of Owners. The agreement shall specify a date after which the agreement will be void unless recorded before that date and shall be effective upon recordation.

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

8.22 General Corporate Powers. The Association shall have all of the ordinary powers and rights of a Colorado corporation formed under the Colorado Nonprofit Corporation Act, including, without limitation, entering into partnership and other agreements, subject only to such limitations upon such powers as may be set forth in this Declaration or in the Articles of Incorporation or Bylaws. The Association shall also have the power to do any and all lawful things which may be authorized, required, or permitted to be done under this Declaration or the Articles of Incorporation or Bylaws and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration and the Articles of Incorporation or Bylaws.

8.23 Powers Provided by Law. In addition to the above-referenced powers, the Association shall have full power to take and perform any and all actions which may be lawfully taken by the Association under the Colorado Nonprofit Corporation Act as the same may be amended from time to time.

ARTICLE 9

ASSESSMENTS, BUDGETS, AND FUNDS

9.1 Maintenance Funds To Be Established. The Association shall establish and maintain the following separate Maintenance Funds: (a) an "Operating Fund"; and (b) a "Reserve Fund." The Maintenance Funds shall be established as one or more trust savings or trust checking accounts at any financial institution in which deposits are insured by an agency of the federal government.

9.2 Establishment of Other Funds. The Association may establish other funds as and when needed. Nothing herein shall limit, preclude or impair the authority of the Association to establish other funds for specified purposes authorized by this Declaration. If the Association establishes any additional funds, the Board shall designate an appropriate title for the fund to distinguish it from other funds maintained by the Association.

9.3 Deposit of Common Assessments to Maintenance Funds. Monies received by the Association from Common Assessments shall be deposited in the Maintenance Funds in accordance with the following provisions: (a) there shall be deposited in the Operating Fund that portion of the Common Assessments which, according to the Association Budget for the year, was budgeted for operating costs and expenses relating to or arising from the performance of Administrative Functions by the Association; and (b) there shall be deposited to the Reserve Fund that portion of the Common Assessments which were budgeted for capital repairs, replacements and improvements.

9.4 Start-Up Deposits. In connection with the conveyance of any Lot from the Declarant to persons other than the Declarant, a start-up deposit of Five Hundred Dollars (\$500.00) shall be collected from each purchaser. These funds shall be deposited in the Operating Fund. No such deposit shall be collected in connection with the conveyance of a Lot from other than the Declarant.

9.5 Other Deposits to Maintenance Funds. The Association shall deposit monies received by the Association from sources other than Common Assessments in the Maintenance Fund determined by the Board of Directors to be most appropriate. For example, Reimbursement Assessments shall be deposited to the Maintenance Fund from which the costs and expenses were or will be paid which form the basis for the Reimbursement Assessments and Special Assessments for capital repairs, maintenance, replacements and Improvements shall be deposited to the Reserve Fund from which such capital costs have been or will be paid. Interest and late charges received on account of delinquent assessments may be allocated among the Maintenance Funds in the same proportions as the delinquent assessments were allocated or, at the discretion of the Board of Directors, may be allocated to any one or more of the Maintenance Funds or other funds.

9.6 Disbursements from Maintenance Funds. All amounts deposited in the Maintenance Funds shall be used solely for the common benefit of all the Members for purposes authorized by this Declaration. Disbursements from particular Maintenance Funds shall be limited to specified purposes as follows: (a) disbursements from the Operating Fund may be made for such purposes as are necessary or proper under this Declaration, except those purposes for which disbursements are to be made from other Maintenance Funds; and (b) disbursements from the Reserve Fund shall be made solely for purposes of funding those Administrative Functions which cannot be expected to recur on an annual or more frequent basis.

9.7 Authority for Disbursements. The Board shall have the authority to make or to authorize an agent to make disbursements of any monies to or from any Maintenance Fund.

9.8 Common Assessments. For each calendar year, the Association may levy Common Assessments against Owners of the Lots. Each Owner shall be obligated to pay the Common Assessments levied against and allocated to such Owner and the Lot of such Owner, as hereinafter provided. For the purposes of this Declaration, the Common Assessment for the calendar year 1996 shall be One Hundred Twelve Dollars per month per Lot (the "Initial Assessment"). No Lot shall be subject to a Common Assessment until after such lot has been sold and conveyed by Declarant to a person other than Declarant.

9.9 Apportionment of Common Assessments. The amount of the Common Assessments for any year, payable by the Owner of such Lot, shall be computed by multiplying the total amount to be raised by the Common Assessments for that year, as shown in the Association Budget for that year, by a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots in the Community as of the first day of that calendar year.

9.10 Funding of Reserve Funds. The Board, in budgeting and levying Common Assessments, shall endeavor to fund the Reserve Fund by regularly scheduled payments included as part of the Common Assessments rather than by large Special Assessments.

9.11 Supplemental Common Assessments. Except as otherwise provided herein, if the estimated sums contained in the Budget prove inadequate for any reason, including nonpayment of any Owner's Common Assessment, the Board may, from time to time, levy a Supplemental Common Assessment for any of the Maintenance Funds. Such Supplemental Common Assessment shall be assessed against the Owner of each Lot, in the same manner Common Assessments are originally assessed each year by the Board with respect to the particular Maintenance Fund. Written notice of any change

in the amount of any annual Common Assessment shall be sent to every Owner subject thereto, not less than thirty (30) days prior to the effective date of such change.

9.12 Annual Budgets. The Board of Directors shall cause to be prepared, at least sixty (60) days prior to the commencement of each calendar year, a Budget for such calendar year, including a reasonable provision for contingencies and deposits into the Operating Fund and the Reserve Fund. The Budget shall show, in reasonable detail, the categories of expenses and the amount of expenses in each Maintenance Fund, and shall reflect any expected income of the Association for the coming calendar year and any expected surplus from the prior year and any existing surplus in any Reserve Fund. The Budget may include an amount for contingencies and amounts deemed necessary or desirable for deposits to create, replenish, or add to the proper Reserve Fund for major capital repairs, replacements, and improvements for Association Properties. Within thirty (30) days after the adoption of any Budget by the Board, the Board shall cause a copy of the Budget to be distributed to each Member, shall cause a copy of the Budget to be posted at the principal office of the Association, and shall set a date for a meeting of the Owners to consider ratification of the Budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Such meeting may be concurrent with the annual meeting of Members as provided in the Bylaws. Unless at that meeting a majority of the Owners reject the Budget, the Budget shall be deemed ratified, whether or not a quorum is present. In the event the Budget is rejected, the periodic Budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent Budget proposed by the Board. In the event the Association does not have an address for any Member, the posting of such Budget at the principal office of the Association shall be deemed notice to any such Member. At such time as the Association publishes a newsletter for Members, the Budget shall be published in such newsletter. Copies of the Budget shall be made available by the Association to any Members requesting a copy of the same upon payment of the reasonable expense of copying the same.

9.13 Commencement of Common Assessments. Except as otherwise provided herein, Common Assessments shall commence as to each Lot within the Community on the first day of the first month following the date of recordation of the first deed conveying a Lot within that Community. The Common Assessments for the then current calendar year shall be prorated within the Community on the basis of the number of months in such calendar year remaining from the date of commencement of such Common Assessments to the end of such calendar year.

9.14 Payment of Assessment. Common Assessments shall be due and payable in advance to the Association by the assessed Member during the calendar year in equal semi-annual installments, on or before February 1 and August 1 of each calendar year, or in such other manner and on such other dates as the Board of Directors may designate in its sole and absolute discretion. Notice of the amount of the Common Assessments shall be given to each Member as soon as practical after the Budget as been ratified by the Members.

9.15 Failure to Fix Assessment. The failure by the Board of Directors to levy an Assessment for any year shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments, or any installment thereof, for that or any subsequent year. No abatement of the Common Assessment or any other Assessment shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or Improvements to Association Properties or from any action taken to comply with any law or any determination of the Board of Directors or for any other reason.

9.16 Special Assessments for Capital Expenditures. In addition to Common Assessments, the Board of Directors may, subject to the provisions of this Section, levy Special Assessments for the purpose of raising funds not otherwise provided under the Budget from Common Assessments to (a) construct or reconstruct, repair or replace capital Improvements upon Association Properties, including

necessary personal property related thereto; (b) add to the Association Properties; (c) provide for necessary facilities and equipment to offer the services authorized in this Declaration; or (d) repay any loan made to the Association to enable it to perform the duties and functions authorized in this Declaration. The Board of Directors shall not levy Special Assessments without the vote of the Members representing at least two-thirds (2/3) of the Owners of Lots subject to the Special Assessment who are entitled to vote. Special Assessments for capital Improvements which may be used by all Members of the Association shall be levied solely on the basis of, and in proportion to, the Membership Interest of an Owner. The Association shall notify Members in writing of the amount of any Special Assessment and of the manner in which, and the dates on which, any such Special Assessment is payable and the Members shall pay any such Special Assessment in the manner so specified.

9.17 Reimbursement Assessments. The Board of Directors may, subject to the provisions hereof, levy a Reimbursement Assessment against any Member if the willful or negligent failure of a Member, or a Person acting by or through a Member, to comply with this Declaration, the Articles of Incorporation, the Bylaws or the Rules and Regulations results in the expenditure of funds by the Association including, but not limited to, court costs and attorneys' fees. Such Assessment shall be known as a Reimbursement Assessment. The amount of the Reimbursement Assessment shall be due and payable to the Association thirty (30) days after notice to the Member of the decision of the Board of Directors that the Reimbursement Assessment is owing. A Member shall be entitled to Notice and Hearing prior to the issuance of a Reimbursement Assessment against such Owner by the Association.

9.18 Late Charges and Interest. If any Assessment, or any installment thereof, is not paid when due, the Member obligated to pay the Assessment may be required to pay a reasonable late charge to be determined by the Board. Any Assessment, or installment of Assessment, which is not paid when due shall bear interest from the date such Assessment was due at a rate of eighteen percent (18%) per annum.

9.19 Surplus Funds. The Association shall not be required to pay, or otherwise refund to the Members, any surplus funds remaining after payment of, or provision for, Administrative Functions or reserves.

9.20 Notice of Default and Acceleration of Assessments. If any Assessment, or any installment thereof, is not paid when due, the Board of Directors may, but shall not be required to, mail a notice of default ("Notice of Default") to the Owner and to each first Mortgagee of the Lot who has requested a copy of the notice. The notice shall specify (a) the fact that the installment is delinquent; (b) the action required to cure the default; and (c) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the Assessment or the installments of the Assessment for the then current calendar year and the filing and foreclosure of the lien for the Assessment against the Lot of the Member. If the delinquent Assessment or installment and any late charges or interest thereon are not paid in full on or before the date specified in the notice, the Board, at its option, may declare all of the unpaid balance of the Assessment to be immediately due and payable without further demand and may enforce the collection of the full Assessment and all charges and interest thereon in any manner authorized by law or in this Declaration, subject to the protection afforded to Mortgagees under this Declaration.

9.21 Remedies to Enforce Assessments. Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Owner or Member against whom the same is assessed. In the event of a default in payment of any Assessment or installment thereof, whether Common, Special, or Reimbursement, the Board may, in addition to any other remedies provided under this Declaration or by law, enforce such obligation on behalf of the Association by suit or by the filing and foreclosure of a lien as hereinafter provided.

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

9.23 Lien to Enforce Assessments. The Association shall have a lien on a Lot for any Assessment levied against that Lot, or fines imposed against its Owner, from the time such Assessment or fine becomes due. All fees, charges, late charges, attorneys' fees, fines and interest outstanding from such Owner shall be included in such lien. The lien created hereby shall be prior to any declaration of homestead rights recorded after the time that the Lot becomes a part of the Community and shall have the priority attached to such lien under Colorado law. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for the foreclosure of mortgages in the State of Colorado or in any other manner provided under Colorado law.

9.24 Estoppel Certificates. Upon the written request of any Member and any Person with, or intending to acquire, any right, title, or interest in the Lot of such Member, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Lot and the Owner thereof, and setting forth the amount of any Assessment levied against such Lot which is not yet due and payable. Such statement shall, with respect to the Person to whom it is issued, be conclusive against the Association and all Persons for all purposes, that no greater or other amounts were then due or accrued and unpaid and that no other Assessments have been levied.

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

ARTICLE 10

MISCELLANEOUS

10.1 Term of Declaration. Unless amended as herein provided, each provision contained in this Declaration shall continue and remain in full force and effect until December 31, 2055, and thereafter shall be automatically extended for successive periods of ten (10) years each unless terminated by the vote, by written ballot, of Members holding at least seventy-five percent (75%) of the voting power of Members of the Association entitled to vote. In the event this Declaration is terminated, the termination of this Declaration shall be evidenced by a termination agreement ("Termination Agreement"), or ratification thereof, executed by the requisite number of Owners. The Termination Agreement shall specify a date after which the Termination Agreement will be void unless recorded before such date. The Termination Agreement shall be recorded and the termination of this Declaration shall be effective upon such recording.

10.2 Amendment of Declaration by Declarant. Until such time as Declarant has conveyed any portion of the Community to a third party, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration may be amended or terminated by Declarant by the recordation of a written instrument, executed by Declarant, setting forth such amendment or termination.

10.3 Amendment of Declaration by Members. Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of the

amendment by Members holding at least seventy-five percent (75%) of the voting power of the Association entitled to vote. The approval of any such amendment or repeal shall be evidenced by a certification executed by the requisite number of Members. The amendment shall be effective upon the recordation of a certificate, executed by the President or a Vice President and the Secretary or an Assistant Secretary of the Association setting forth the amendment in full and certifying that the amendment or repeal has been approved by the Members. Any amendment to the Declaration made hereunder shall be effective only when Recorded.

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

10.5 Special Rights of First Mortgagees. Any First Mortgagee (meaning a Mortgagee with first priority over other Mortgages) of a Mortgage encumbering any Lot in the Community, upon filing a written request therefor with the Association, shall be entitled to (a) written notice from the Association of any default by the Mortgagor of such Lot in the performance of the Mortgagor's obligations under this Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations, which default is not cured within sixty (60) days after the Association learns of such default; (b) examine the books and records of the Association during normal business hours; (c) receive a copy of financial statements of the Association including any annual financial statement within ninety (90) days following the end of any fiscal year of the Association; (d) to receive written notice of all meetings of Members; (e) designate a representative to attend any meeting of Members; (f) receive immediate written notice as soon as the Association receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Association Properties.

10.6 Association Right to Obtain Mortgage Information. Each Owner hereby authorizes any First Mortgagee holding a Mortgage on such Owner's Lot to furnish information to the Association concerning the status of such First Mortgage and the loan which it secures.

10.7 Notices. Any notice permitted or required to be given under this Declaration shall be in writing and may be given either personally or by mail, telephone, telecopier or telegraph. If served by mail, each notice shall be sent postage prepaid, addressed to any Person at the address given by such Person to the Association for the purpose of service of such notice, or to the Lot of such Person if no address has been given to the Association and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second business day after it is deposited in a regular depository of the United States Postal Service. Such address may be changed from time to time by notice in writing to the Association.

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

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

10.10 Enforcement of Self-Help. Declarant or the Association, or any authorized agent of either of them, may enforce, by self-help, any of the provisions, covenants, conditions, restrictions, and

equitable servitudes contained in this Declaration, provided such self-help is preceded by Notice and Hearing as set forth in the Bylaws.

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

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

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

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

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

10.16 Governing Law. This Declaration shall be construed and governed under the laws of the State of Colorado.

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

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

10.19 Captions for Convenience. The titles, headings, and captions used in this Declaration are intended solely for convenience of reference and shall not be considered in construing any of the provisions of this Declaration.

10.20 Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights, and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving consolidated association may administer and enforce the covenants, conditions, and restrictions established by this Declaration governing the Property, together with the covenants and restrictions established upon any other property, as one plan.

10.21 Exhibits Incorporated. All Exhibits to this Declaration are incorporated herein and made a part hereof as if fully set forth herein.

10.22 Disclaimer Regarding Safety. DECLARANT HEREBY DISCLAIMS ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSONS OR PROPERTY WITHIN THE COMMUNITY. ANY OWNER OF PROPERTY WITHIN THE COMMUNITY ACKNOWLEDGES

THAT DECLARANT IS ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED HEREIN, OR IN THE ARTICLES OF INCORPORATION AND BYLAWS, AND IS NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS OR PROPERTY WITHIN THE COMMUNITY.

10.23 No Representations or Warranties. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, SHALL BE DEEMED TO HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE COMMUNITY, OR ANY IMPROVEMENT THEREON, ITS OR THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, UNLESS AND EXCEPT AS SHALL BE SPECIFICALLY SET FORTH IN WRITING IN A SEPARATE DOCUMENT.

IN WITNESS WHEREOF, Declarant has executed this Declaration the day and year first above written.

CHERRY CREEK SEVEN, LLC,
a Colorado limited liability company

By: *Greg S. Hayutin*
Title: Managing Member

STATE OF COLORADO)
) ss.
COUNTY OF DEUEN)

The foregoing instrument was acknowledged before me this 26th day of April, 1996, by Greg S. Hayutin, as Managing Member of Cherry Creek Seven, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires 9-23-97.

Paul E. Reed
Notary Public

EXHIBIT A

Legal Description

PARCEL 1:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLOT 8; THENCE ALONG THE WEST LINE OF SAID PLOT 8 NORTH 00 DEGREES 19 MINUTES 06 SECONDS WEST 61.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST LINE NORTH 00 DEGREES 19 MINUTES 06 SECONDS WEST 138.49 FEET; THENCE DEPARTING SAID WEST LINE SOUTH 77 DEGREES 24 MINUTES 46 SECONDS EAST 81.27 FEET; THENCE 12.62 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 26.83 FEET, A DELTA ANGLE OF 26 DEGREES 56 MINUTES 57 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 30 DEGREES 13 MINUTES 57 SECONDS EAST 12.51 FEET; THENCE SOUTH 00 DEGREES 19 MINUTES 06 SECONDS EAST 4.31 FEET; THENCE 47.52 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 65.50 FEET, A DELTA ANGLE OF 41 DEGREES 34 MINUTES 02 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 20 DEGREES 27 MINUTES 55 SECONDS WEST 46.48 FEET; THENCE SOUTH 41 DEGREES 14 MINUTES 56 SECONDS WEST 15.29 FEET; THENCE 57.45 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 104.50 FEET, A DELTA ANGLE OF 31 DEGREES 30 MINUTES 00 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 25 DEGREES 29 MINUTES 56 SECONDS WEST 56.73 FEET; THENCE NORTH 80 DEGREES 15 MINUTES 04 SECONDS WEST 3.50'; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 30.66 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLOT 8; THENCE ALONG THE WEST LINE OF SAID PLOT 8 NORTH 00 DEGREES 19 MINUTES 06 SECONDS WEST 199.99 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST LINE NORTH 00 DEGREES 19 MINUTES 06 SECONDS WEST 100.00 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 08 SECONDS EAST 39.29 FEET; THENCE SOUTH 28 DEGREES 50 MINUTES 45 SECONDS EAST 101.95 FEET; THENCE 31.46 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 26.83 FEET, A DELTA ANGLE OF 67 DEGREES 11 MINUTES 30 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 16 DEGREES 50 MINUTES 16 SECONDS WEST 29.70 FEET; THENCE NORTH 77 DEGREES 24 MINUTES 46 SECONDS WEST 81.27 FEET TO THE POINT OF BEGINNING.

EXHIBIT A (Cont'd)

Legal Description

PARCEL 3:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID PLOT 8; THENCE ALONG THE WEST LINE OF SAID PLOT 8 NORTH 00 DEGREES 19 MINUTES 06 SECONDS WEST 299.99 FEET; THENCE DEPARTING SAID WEST LINE NORTH 89 DEGREES 59 MINUTES 08 SECONDS EAST 39.29 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 59 MINUTES 08 SECONDS EAST 130.25 FEET; THENCE SOUTH 27 DEGREES 55 MINUTES 32 SECONDS WEST 100.80 FEET; THENCE 36.63 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 26.83 FEET, A DELTA ANGLE OF 78 DEGREES 12 MINUTES 58 SECONDS, AND A CHORD BEARING AND DISTANCE OF SOUTH 89 DEGREES 32 MINUTES 30 SECONDS WEST 33.85 FEET; THENCE NORTH 28 DEGREES 50 MINUTES 45 SECONDS WEST 101.95 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLOT 8; THENCE ALONG THE SOUTH LINE OF SAID PLOT 8 SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 209.98 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 00 DEGREES 20 MINUTES 13 SECONDS WEST 200.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 77 DEGREES 02 MINUTES 37 SECONDS WEST 81.45 FEET; THENCE 32.46 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 26.83 FEET, A DELTA ANGLE OF 69 DEGREES 18 MINUTES 29 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 16 DEGREES 41 MINUTES 46 SECONDS WEST 30.52 FEET; THENCE NORTH 27 DEGREES 55 MINUTES 46 SECONDS EAST 100.80 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 08 SECONDS EAST 40.34 FEET; THENCE SOUTH 00 DEGREES 20 MINUTES 13 SECONDS EAST 100.04 FEET; TO THE POINT OF BEGINNING.

EXHIBIT A (Cont'd)

Legal Description

PARCEL 5:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLOT 8; THENCE ALONG THE SOUTH LINE OF SAID PLOT 8 SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 209.98 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 00 DEGREES 20 MINUTES 13 SECONDS WEST 100.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 77 DEGREES 23 MINUTES 02 SECONDS WEST 101.30 FEET; THENCE 43.46 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 101.83 FEET, A DELTA ANGLE OF 24 DEGREES 27 MINUTES 04 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 13 DEGREES 47 MINUTES 41 SECONDS EAST 43.13 FEET; THENCE 9.12 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 13.17 FEET, A DELTA ANGLE OF 39 DEGREES 39 MINUTES 25 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 21 DEGREES 23 MINUTES 52 SECONDS EAST 8.93 FEET; THENCE 10.90 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 26.83 FEET, A DELTA ANGLE OF 23 DEGREES 16 MINUTES 06 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 29 DEGREES 35 MINUTES 31 SECONDS EAST 10.82 FEET; THENCE NORTH 77 DEGREES 02 MINUTES 37 SECONDS EAST 81.45 FEET; THENCE SOUTH 00 DEGREES 20 MINUTES 13 SECONDS EAST 100.00 FEET TO THE POINT OF BEGINNING.

PARCEL 6:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLOT 8; THENCE ALONG THE SOUTH LINE OF SAID PLOT 8 SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 209.98 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE NORTH 52 DEGREES 14 MINUTES 19 SECONDS WEST 151.99 FEET; THENCE NORTH 41 DEGREES 14 MINUTES 56 SECONDS EAST 8.75 FEET; THENCE 27.07 FEET ALONG THE ARC OF A CURVE TO THE LEFT WHICH HAS A RADIUS OF 101.83 FEET, A DELTA ANGLE OF 15 DEGREES 13 MINUTES 43 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 33 DEGREES 38 MINUTES 04 SECONDS EAST 26.99 FEET; THENCE SOUTH 77 DEGREES 23 MINUTES 02 SECONDS EAST 101.30 FEET; THENCE SOUTH 00 DEGREES 20 MINUTES 13 SECONDS EAST 100.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT A (Cont'd)

Legal Description

PARCEL 7:

BEING A PARCEL OF LAND LOCATED PLOT 8, MILLER PARK, SITUATED IN THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PLOT 8; THENCE ALONG THE SOUTH LINE OF SAID PLOT 8 SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 86.06 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID SOUTH LINE NORTH 45 DEGREES 09 MINUTES 33 SECONDS WEST 18.52 FEET; THENCE NORTH 00 DEGREES 19 MINUTES 06 SECONDS WEST 29.80 FEET; THENCE 3.91 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 64.00 FEET, A DELTA ANGLE OF 03 DEGREES 30 MINUTES 14 SECONDS, AND CHORD BEARING AND DISTANCE OF NORTH 01 DEGREES 26 MINUTES 01 SECONDS EAST 3.91 FEET; THENCE NORTH 86 DEGREES 48 MINUTES 52 SECONDS WEST 4.17 FEET TO A POINT ON A CURVE; THENCE 45.29 FEET ALONG THE ARC OF A CURVE TO THE RIGHT WHICH HAS A RADIUS OF 68.17 FEET, A DELTA ANGLE OF 38 DEGREES 03 MINUTES 48 SECONDS, AND A CHORD BEARING AND DISTANCE OF NORTH 22 DEGREES 13 MINUTES 02 SECONDS EAST 44.46 FEET; THENCE NORTH 41 DEGREES 14 MINUTES 56 SECONDS EAST 6.54 FEET; THENCE SOUTH 52 DEGREES 14 MINUTES 19 SECONDS EAST 151.99 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 123.92 FEET TO THE POINT OF BEGINNING.

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EXHIBIT B

Site Plan

See attached

