

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
FALL RIVER ESTATES SUBDIVISION  
TOWN OF ESTES PARK, LARIMER COUNTY, COLORADO

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THIS DECLARATION is an Amendment and Complete Restatement of the Declaration of Covenants, Conditions and Restrictions for Fall River Estates Subdivision of the Town of Estes Park, Larimer County, Colorado. This Amended and Restated Declaration is adopted by the voting Members of the Fall River Estates Home Owners Association in accordance with the provisions of Section 14 of the original Declaration of Covenants, Conditions and Restrictions. Fall River Estates Subdivision encompasses sixty nine (69) Lots, and seven (7) Outlots. These Covenants, Conditions and Restrictions are primarily applicable to the Residential Lots, except as otherwise noted.

RESIDENTIAL LOTS zoned R are designated as:

- BLOCK 1: Lots 1, 2, and Lots 4 through 25, Lots 26-1A and 26-3, Lots 27 through 34, Lots 36 through 44
- BLOCK 2: Lots 1 through 12

RESIDENTIAL/MULTI - FAMILY zoned R/M is designated as:

- BLOCK 1: LOT 3

ACCOMMODATIONS zoned A are designated as:

- BLOCK 1: Lot 35
- BLOCK 3: Lots 1, 2, and 4
- BLOCK 4: Lots 1 through 4
- BLOCK 5: Lot 2

ACCOMMODATIONS zoned A-1 are designated as:

- BLOCK 3: Lots 2C, 2D, and 3

COMMERCIAL-OUTLYING zoned CO is designated as:

- BLOCK 5: Lot 1

OUTLOTS: Legal descriptions per Larimer County Property Tax Statements are listed as follows:

- OUTLOT AA, Block 1, AMD Lot 44, Block 1, and OUTLOT A Fall River Estates, EP 20040
- OUTLOT A, Replat Lot 26, Block 1, Fall River Estates, EP
- OUTLOT 'A', Fall River Estates, EP
- OUTLOT 'B', Fall River Estates, EP
- OUTLOT 'C', Fall River Estates, EP
- OUTLOT 'D', Fall River Estates, EP
- OUTLOT 'E', Fall River Estates, E

WITNESSETH:

The Fall River Estates Home Owners Association hereby declares that, in addition to all applicable governmental laws, zoning and land use ordinances and regulations, all of the property within the Fall River Estates Subdivision shall be held, sold and conveyed subject to the following restrictions, covenants, and conditions, which are for the purpose of ensuring the lasting natural beauty and enjoyment of the property and protecting the value and desirability of the property, and which shall run with the property and all improvements thereon, and be binding on all parties having any right, title or interest in the property or any part thereof, their heirs, successors and successors in title, and shall inure to the benefit of each Owner thereof.

**1. Definitions:**

(a) Architectural Control Committee or Committee shall mean the Architectural Control Committee, which shall be appointed by the Board of Directors of the Association.

(b) Association shall mean the Fall River Estates Home Owners Association, a Colorado Nonprofit Corporation. There shall be one Board of Directors and one Architectural Control Committee to govern the Fall River Estates Subdivision.

(c) Board shall mean the Board of Directors of the Association.

(d) By-laws shall mean the By-laws of Fall River Estates Subdivision, as amended from time to time.

(e) Common Expenses shall mean expenses incurred by the Association for the general welfare of the Subdivision including maintenance of any common areas, landscaping of entrance areas, special assessments, together with management, legal, accounting, and insurance coverage expenses.

(f) Lot means any numbered Lot designated as such upon the plat of the Subdivision.

(g) Member shall mean and refer to every person or entity who holds Membership in the Association pursuant to Section 4(a).

(h) Owner means the record Owner, whether one or more persons or entities, of the fee simple title to a Lot.

(i) Property and Subdivision shall mean all land within the Fall River Estates Subdivision in the Town of Estes Park.

(j) Rules and Regulations are procedures, policies, rules and regulations governing the Association and all of its Members, which may be adopted by the Board of Directors. The Board of Directors is authorized to adopt Rules and Regulations to maintain compliance with Colorado Law. Otherwise, Rules and Regulations adopted by the Board of Directors shall be limited to procedural matters.

(k) Outlot shall mean any land, together with any improvements thereon, designated on the plat as such.

## **2. Property Use and Buildings:**

- a) Residential Lots, (R), within the above described property shall be used for residential purposes only, and no building or structure shall be erected, altered, placed or permitted to remain on any Lot or parcel of land other than one single-family dwelling meeting the standards set forth below, except as hereinafter specifically provided. All new such single-family dwellings shall have a minimum of 1200 square feet of living space (finished), for ranch-style, single story or main floor of multi-level dwellings, exclusive of garage, porch, terrace, patio and deck areas. The Architectural Control Committee may grant a variance to allow a smaller single-family dwelling if an Owner cannot comply with such requirements after required building setbacks and Lot topography, are considered. There may be no more than two levels above the crawl space or basement. All such dwellings shall be used for one single-family occupancy only.
- b) Lots Zoned, A, A-1, within the above described property shall be used for any purpose permitted by the Accommodations zoning regulations. Manufacturing of any type is prohibited.
- c) No accessory buildings or dwellings shall be permitted on Residential Lots. Accommodations Lots can include accessory buildings per the Town of Estes Park Zoning and provided they meet a fifteen (15) foot setback from Outlots.
- d) In order to protect the beauty, enjoyment and values of all property within the Subdivision, the Architectural Control Committee shall approve the exterior materials, exterior design and site location of all single-family dwellings and accommodations dwellings, upon every Lot within the Subdivision, prior to the commencement of construction or location thereof. For exterior materials, the Committee shall give preference to, but not be bound to, glass, wood, brick, log, and stone. For exterior colors, the Committee shall give preference to earth tone colors and colors which are harmonious with the then existing colors of the single-family dwellings in the Subdivision. For Residential Lots, the Committee shall approve only single-family design. The Committee shall not approve dome, geodesic, or A-frame designs. No mobile homes (whether or not on foundation) or used buildings shall be permitted by the Committee. No modular housing will be permitted, and for this purpose modular shall mean built from sections that are substantially manufactured or built off-site, and should a dispute arise in this regard, the Architectural Control Committee shall resolve the such dispute in accordance with Section 10 hereof. For roofing materials, the Committee shall approve only

slate, tile, built-up asphalt, metal standing seam, or equivalent fire resistant materials as determined by the Committee. All construction must comply with the latest edition of the Town of Estes Park Building Codes.

- e) No trailer (of any type, including camper or utility), boat, or any type of recreational vehicle shall be kept on any Lot where it is visible from the street at the front of the Lot. No recreational vehicle, tent, trailer or any other structure except the single-family dwelling or accessory dwelling shall be used as a residence or rental. Exception, recreational vehicles or trailers may be parked with no occupancy or rental permitted for not more than thirty (30) days in a calendar year.
- f) Exterior satellite dishes attached to the single-family dwelling shall be allowed. Plans for all other types of exterior antennas must be submitted to the Committee for review. Antennas must be unobtrusive and be in keeping with the item d, above.
- g) No Lot shall be used for the storage of any material of any nature whatsoever in the open except during the construction period of the single-family dwelling and accessory dwelling. Rubbish, garbage, or other waste shall be kept and disposed of in a sanitary manner, and containers therefore shall be kept in a clean and sanitary condition, and shall be kept inside. No incinerator shall be permitted upon any Lot. No unlicensed or inoperative motor vehicles shall be permitted to remain upon any Lot for more than thirty (30) days during any calendar year, unless the same is garaged. No equipment or machinery shall be permitted on any Lot unless garaged. Exception: No more than two cords of firewood to be used on site may be stored and must be stacked neatly.
- h) Persistent offensive or loud noises, and uses considered to be a nuisance, shall not be permitted on any Lot or at any location within the Subdivision, and for the purpose of this covenant, a noise or use shall be considered offensive and a use a nuisance if it is so determined by the Board. This restriction shall also apply to the use of motor bikes and motorcycles and similar vehicles. Use of ham radios or similar types of transmissions which interfere with normal radio and televisions signals within the Subdivision is prohibited.
- i) No animals, livestock, horses, cattle, swine, fowl or poultry of any kind whatsoever shall be housed, raised, kept or left on any Lot, with the following exceptions: household pets may be kept so long as the same are not raised or kept for a commercial purpose. All household pets shall be confined within the boundaries of the Lot unless under the direct control of the Owner.
- j) No signs shall be located on any Residential Lot with the exception of one professionally made sign, approved by the Board; and one sign advertising the property for sale by Owners or by a realtor, so long as any such for sale sign does not exceed four (4) square feet in size and is not more than six (6) feet higher than the grade at the point of its location. Nothing herein contained shall prevent the Board from erecting a Subdivision identification sign or signs, at entrances to the Subdivision. Accommodations Lots may post signs that conform to the Sign Code of the Town of Estes Park. The sign design must be approved by the

Architectural Control Committee for blending into the landscape and the preservation of the beauty found in this Subdivision.

- k) Fencing: The intent of this section is to ensure that fences do not interfere with the free movement of wildlife or obstruct the view of the neighborhood or the view from neighborhood homes or properties. Protective fencing around vegetation is permitted without prior Board approval as long as it encloses an area less than one hundred twenty (120) square feet and does not obstruct views (must be able to see through the fence). No other wall, fence, or barrier of any kind shall be constructed on any Lot without the written approval of the Committee. Such other enclosures will require prior Board approval and must comply with the intent of this section, be at least fifty (50) feet from the street property line, and be at least twenty five (25) feet from the side or rear property lines. An Owner may request, in writing, a variance from the required setbacks, which the Board may grant or deny after giving adjacent property Owners notice of the request, and an opportunity to comment. In exercising its discretion, the Committee may take into account (among other things) the location of the fence and whether the fence may appear unattractive. All fences must have Committee approval prior to the beginning of construction.
- l) The Owner of a single-family dwelling on any Residential Lot may use a portion of the interior thereof for a private office upon the following conditions: that any such use is conducted entirely within the dwelling and is carried on by only the inhabitants thereof without any other employees, paid or unpaid; and that such use is in compliance with the Estes Valley Development Code. Any such use shall be incidental and secondary to the use of the dwelling or the property. Provided, however, no article shall be sold or offered for sale except such as may be produced by Members of the immediate family residing on the premises; and provided that such use does not regularly result in more vehicular traffic in the Subdivision, or motor vehicles being parked upon the Lot at any given time.
- m) Operation of a Bed and Breakfast on a Residential Lot shall be considered a business, and is not allowed in the Subdivision. Rental or leasing of all or any portion of a non-accommodations residence must be for terms of not less than thirty (30) consecutive days, and any shorter term or vacation rental shall be considered a business, and is not allowed in the Subdivision. Any rental must comply with current Town of Estes Park rental policy.
- n) No residential Lot, Zoned R, within the Subdivision shall ever be split, re-platted or subdivided in any manner, unless the result is the same or less density use (for example, two Owners purchasing the Lot between the properties together, and then adding one-half of the newly acquired Lot to each of their pre-existing Lots); and building setbacks and envelopes shall be as shown on the Subdivision plat, and further subject to all applicable rules and regulations of the Estes Valley Development Code. All construction must comply with the latest edition of the Town of Estes Park Building Codes including all current setback requirements for residential structures and driveways unless the Owner requests a variance and such is approved by the Board after notice to all adjacent property owners with the opportunity to comment.

- o) All construction of any permitted structure and all improvements must be completed within twelve (12) months of commencement of construction. The exterior construction of any single-family dwelling must be completed prior to occupancy. No construction shall commence without the issuance of a building permit, and the obtaining of all other approvals required by this Declaration.
- p) Trees shall not be harvested for any purpose and beetle or otherwise infested or diseased trees shall be the responsibility of the Lot Owner for treatment or removal in accordance with the recommendation of the appropriate governmental agency. Thinning trees for fire mitigation (creation of or addition to a defensible space) shall not be considered harvesting.
- q) Owners shall be responsible for fire mitigation on their Lot. Owners shall remove excess fallen pine cones, pine needles and dead branches where they pose a fire mitigation hazard.
- r) No exterior lighting, including methods of illumination and type and design of light poles or standards, shall be permitted unless approved by the Committee, except low illumination porch and door lights and low illumination landscape accent lights as per Town of Estes Park Building and Lighting Codes.
- s) No new construction of foundation of cinder block or concrete shall be exposed to view from other Lots or from the streets within the Subdivision. Foundation facing may be of wood, brick, stone or stucco appearing material, unless otherwise permitted by the Committee. No metal facing shall be allowed.
- t) No parking of construction equipment shall be permitted in the Subdivision streets at any time without the express approval of the Board. No Owner shall park or allow others to park recreation vehicles and/or camper-trailers in the Subdivision streets.
- u) All Lots must be maintained in a reasonably organized and neat condition at all times during the construction of improvements. The contractor must place and maintain a trash container or dumpster on the Lot. The contractor shall collect trash at the end of each work day and deposit construction trash, packing material, unusable scraps and other debris in a suitable container, protected from the wind and regularly serviced. The contractor shall pick up all debris blown onto other Lots daily. No trash may be burned, buried or otherwise disposed of on the property. The contractor is responsible for the installation and maintenance of an approved portable toilet facility during construction. The portable toilet must be located on the Lot at a location approved by the Committee, and removed from the site as soon as construction of the improvements has been completed.
- v) All utility service lines, including but not limited to electric, gas, water, sewer, television, and telephone service lines, must be placed underground. Existing overhead electric lines that are part of the general utility grid may remain overhead.
- w) All Owners shall maintain their Lots and improvements. No structural exterior alterations, additions, improvements or remodeling will be made without the advance consent of the

Committee. No Owner shall permit his Lot or the improvements on it to fall into disrepair, and Owners shall make reasonable efforts to control noxious and invasive weeds.

- x) In the event of casualty loss or damage to the improvements located on a Lot, the Owner will be entitled to reconstruct the improvements as they existed prior to the damage or loss without review by the Committee, provided however, that alterations or deviations from the originally approved plans shall require review and approval. Nothing in the Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. Such temporary measures may be taken without the consent or approval of the Board or Committee, provided that any such measures must be of a temporary nature, and repair or reconstruction must begin as soon as circumstances will permit. No damaged structure will be permitted to remain on any Lot for more than one hundred eighty (180) days, weather permitting, without repairs commencing, and any damaged structure which does remain unrepaired after one hundred eighty (180) days following the occurrence of damage is deemed a nuisance which may be abated by the Association.
- y) Each Owner of the sixty nine (69) lots shall have use of the seven (7) Outlots for the purposes of fishing on Fall River, and hiking into Rocky Mountain National Park. These Outlots have been placed into the Estes Valley Land Trust Deed of Conservation Easement and shall be restricted per the EVLT easement prohibitions.

### **3. Architectural Control Committee:**

- a) The Architectural Control Committee shall be appointed by the Board. No improvement of any nature whatsoever shall be placed upon any Lot within the Subdivision without the prior, written approval of the Architectural Control Committee.
- b) Thirty (30) days prior to the commencement of construction of any improvement upon any Lot within the Subdivision, a material list, plans and specifications, and a site location map shall be submitted to the Architectural Control Committee in duplicate. These are to be professionally prepared, and the Committee shall have the right to reject the same if the Committee, in its sole discretion, deems any of the same to be incomplete or insufficient. All exterior colors and exterior materials must be approved in advance by the Architectural Control Committee. The following items must be included with said documents in addition to other items which the Committee may reasonably require from time to time:
  - 1. Size and square footage of finished space including floor plans;
  - 2. Exterior elevations;
  - 3. Description of exterior colors, materials and roofing materials;
  - 4. Specification for driveway;
  - 5. Verification that any proposed culvert meets requirements of applicable governmental drainage plans;

6. Plot layout and site plans with respect to topography, grade and drainage in relation to existing dwellings and drainage;
  7. The proposed construction schedule.
- c) The Committee's approval or disapproval shall be in writing or indicated upon the Owner's set of plans and specifications, and dated. In the event the Committee fails to approve or disapprove within thirty (30) days subsequent to delivery of all required construction documents and details, the Committee shall be deemed to have approved the plans and specifications as submitted. An approval or disapproval relating to the development of one Lot shall not bind the Committee to approve or disapprove similar development on any other Lot.
  - d) In the event the Committee has questions or issues related to architecture or engineering, it shall be the Owner's responsibility to obtain reasonable commentary, explanation, or certifications from the Owner's engineers or architects, at the sole expense of the Owner, addressing such questions or concerns.
  - e) All improvements shall be constructed in accordance with the development plans and specifications submitted to and approved by the Committee. Any variances or deviations from the approved plans and specifications must be submitted to the Committee for approval. Upon request, the Committee shall provide the Owner of a Lot with a certificate setting forth the status of compliance as to any improvements on the Lot, and if the status is non-compliant, setting forth the specific reason such improvement is not in compliance.

#### **4. Association Membership and Voting Rights:**

- a) Every Owner of a Residential Lot within Fall River Estates Subdivision shall be a Member of the Association upon acquisition of said Lot. Membership shall be appurtenant to and may not be separated from said Ownership. Each of the Accommodations Lots shall be de facto Members of the Association, to the extent provided in the Amended Protective Covenants for Fall River Estates recorded August 15, 2016, reception #20160053645 of the records of Larimer County, Colorado. Many of such Lots are condominium developments, and have been fully developed with separate restrictive covenants or condominium declarations. Accommodations Lots may designate one (1) individual to attend and participate in meetings of the Association, but individual condominium Owners within an Accommodations Lot shall not be considered Members of the Association.
- b) All Members shall be entitled to notice of meetings of the Membership, which notice shall include an agenda of all items to be considered at the meeting. In meetings of the Membership, only Members shall be entitled to vote, and there shall be only one (1) vote per Lot. In the case of multiple Owners or entity Owners, there shall be only one (1) vote cast per Lot, which vote shall be cast by an individual designated by the Owners of that Lot as the voting representative. Said designation shall be made known to the chairman of the meeting prior to convening the meeting of the Membership.



- c) All Members shall be entitled to notice of, and to attend meetings of the Board. Meetings of the Board are considered "open meetings" under Colorado Law. Members of the Association are not entitled to vote in Board meetings, nor are Members entitled to participate in the meeting, unless invited to do so by the Board during the course of the meeting. However, Members shall have the right to comment on matters before the Board, and the Board shall allow reasonable opportunity for Members to make comments prior to voting.
- d) A meeting of the Architectural Control Committee for the sole purpose of considering matters entrusted to the Committee, shall not be considered a meeting of the Board. Members shall not be entitled to notice of, or to attend meetings of the Committee. Provided however, the Committee may not consider, discuss or vote on any matter that is a Board issue unless Members have been given notice of the meeting, and are permitted to attend as provided section 4(c).

**5. Board of Directors:**

- a) The Board of Directors of the Association shall be elected by the Members in accordance with the Association By-laws. The Board of Directors shall adopt By-laws, and may adopt Rules and Regulations that are non-discriminatory and which do not conflict with this Declaration. The authority of the Board of Directors to adopt Rules and Regulations shall be limited to those items necessary to maintain compliance with Colorado Law. Otherwise, Rules and Regulations adopted by the Board of Directors shall be limited to procedural matters. Rules and Regulations adopted pursuant to this section shall be adopted by majority vote of the Board of Directors only after all Members are given notice of proposed action including copies of the proposed Rules and Regulations. The Board shall set a specific meeting date for voting on the proposed Rules and Regulations, and such meeting shall be open to all Members who shall be given the reasonable opportunity to comment on the proposed Rules and Regulations.
- b) The Board shall not enter into any agreement or pay any expense resulting in direct or indirect pecuniary gain to any Director (conflict of interest transaction), unless the material facts as to the Director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board, and the Board in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum. Provided however, the conflicting interest transaction must be fair as to the Association.

**6. Assessment for Common Expenses:**

- a) All Members of the Association shall be obligated to pay the assessments per Lot imposed by the Board to meet the common expenses and special assessments that may be deemed necessary and/or in the best interest of Fall River Estates Subdivision by the Board of Directors. All assessments shall be equal for each Lot, unless the expenses paid by such assessments specifically benefit fewer than all Lots, as determined by the Board. Assessments shall be due annually or at such other intervals as may be set by the Board. The

Board shall prepare and mail to each Member a statement for the common expenses and assessments.

- b) Assessments made for the common expenses shall be based upon an annual budget representing the total annual cash requirements expected by the Board based upon anticipated expenses, including payment of any deficit remaining from a previous period and a reasonable amount for the creation of a contingency or other reserve fund for future expenses. The budget shall be adopted by the Board of Directors prior to the annual meeting of the Membership, and a copy thereof shall be mailed to each Member along with the notice of annual Membership meeting. Assessments for common expenses shall be divided equally among all Lots (unless specifically allocated to fewer than all Lots pursuant to Section 6(a) above), irrespective of whether the Lot is improved.
- c) The Association shall, upon written request of any Owner, mortgagee or contract purchaser, issue its certificate executed by an officer of the Association certifying the status of the assessment or assessments with respect to that Lot. The Association shall be entitled to collect a reasonable fee for the issuance of any such certificate.
- d) The grantee, whether by purchase or other transfer, of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the Lot up to the time of the conveyance, without prejudice to grantee's right to recover from the grantor the amounts paid by the grantee therefore.

**7. Right to Lien or Suit for Non-Payment of Assessments:**

- a) If any Member of the Association shall fail or refuse to pay an assessment when due, the amount thereof shall constitute a lien on the Member's Lot.
- b) To evidence such lien for unpaid assessments, the Association may prepare a written notice setting forth the amount, the due dates, the name of the Owner and a description of the Lot. Such notice shall be signed on behalf of the Association by an officer of the Association and recorded in the office of the Clerk and Recorder of Larimer County, Colorado. Such lien may be enforced by the foreclosure by the Association of the defaulting Owner's Lot in like manner as mortgages on real property. The lien provided herein shall be in favor of the Association. In any such foreclosure the Owner shall be required to pay the cost and expenses of such proceedings, interest at the rate of fifteen (15) % per annum, and all expenses and reasonable attorney fees incurred by the Association for filing the notice of lien and in connection with such foreclosure action. The Owner shall also remain liable to pay the Association the assessment during the period of foreclosure. The Association shall have the power to bid at the foreclosure sale and to acquire the property.
- c) An action to recover non-payment of assessments may also be brought by the Association in any Court having jurisdiction, and by purchasing a Lot within the above described Subdivision, an Owner submits himself to the venue and jurisdiction of the courts in Larimer County, Colorado. Any suit to recover a money judgement for unpaid assessments may be

pursued without foreclosing, and without waiving any lien securing the same, until judgement is entered.

- d) No Member may exempt himself from liability for payment of assessments by waiver of the use or enjoyment of any of the functions of the Association or of the use of any property.
- e) The lien of the assessments provided or herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for herein. However, the sale or transfer of any Lot pursuant to first mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability of any assessments thereafter coming due or from the lien thereof.

### **8. Members Obligation for Payment of Assessments and Collection Policy:**

Each assessment made by the Association against each Lot shall be the personal and individual debt of the Owners of the Lot at the time the assessment is made, and shall incur interest at the rate of fifteen (15) % per annum. The Board shall adopt a Collection Policy for collection of Assessments in accordance with Section 5, which Collection Policy shall be consistent with Colorado Law and the Declaration.

### **9. Covenants to Run With the Land:**

These covenants shall run with the lands herein described, and shall be binding upon all parties and all persons owning a Lot in Fall River Estates Subdivision in perpetuity. All Owners and occupants, now and in the future, shall be subject to and shall comply with the provisions of this Declaration.

### **10. Violations and Disputes:**

If any person violates or attempts to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated within the above described property, or in its discretion, the Board, to prosecute enforcement proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants, either to prevent such person from so doing or to recover damages therefore. It is the intent of all Members of the Association that any dispute be resolved informally and promptly through good faith negotiation between the Members and the Board. The Board shall adopt a policy or procedure for dispute resolution, and the Members agree that should any dispute or controversy arise, the policies and procedures set forth in the Rules and Regulations shall be followed.

### **11. Invalidation and Compliance With Law:**

The provisions of this Declaration are severable. Invalidation of any portion hereof by a court of competent jurisdiction shall in no manner affect any of the other provisions herein contained which shall remain in full force and effect.

This Association is governed by the Colorado Common Interest Ownership Act C.R.S. Section 38-33.3-101 *et seq.* ("CCIOA"). The following provisions refer to specific provisions of CCIOA, as such may be amended from time to time. In referring to statutory provisions, such provisions are incorporated within the Declaration by reference to minimize the need for future amendments to the Declaration, and in order to avoid repetition of statutory language in the Declaration. In the event the applicable statute calls for rules, regulations, procedures or other supplemental materials, the Members agree that the Board may adopt Rule and Regulations pursuant to Section 5 hereof addressing such requirements. Owners and prospective Owners should review the CCIOA and statutes referred to in this Section.

The Association shall comply with the provisions of C.R.S. Section 38-33.3-106.5, which describes certain "Prohibitions contrary to public policy." The Association shall not adopt or enforce any provisions in the Declaration, By-laws nor make Rules or Regulations in violation of this statutory provision.

The Association shall comply with the provisions of C.R.S. Section 38-33.3-106.7, which describes certain "Unreasonable restrictions on energy efficiency measures." The Association shall not adopt or enforce any provisions in the Declaration, By-laws nor make Rules or Regulations in violation of this statutory provision.

The Association shall comply with the provisions of C.R.S. Section 38-33.3-106.8, which describes certain "Unreasonable restrictions on vehicle charging systems." The Association shall not adopt or enforce any provisions in the Declaration, By-laws nor make Rules or Regulations in violation of this statutory provision.

The Association shall comply with the provisions of C.R.S. Section 38-33.3-401, which describes certain "Registration." The Board of the Association shall ensure that the Association is in compliance with all Registration requirements.

If the Association engages the services of a Home Owners Association Manager, the Association shall comply with the provisions of C.R.S. Section 38-33.3-402, which describes "Manager Licensing" The Board of the Association shall ensure that any manager engaged by the Association is in compliance with all licensing requirements imposed under C.R.S. Section 12-61-1001 *et seq.*

The Board may authorize, and account for as a common expense, reimbursement of Board Members for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of unit Owners' Associations. The course content of such educational meetings and seminars shall be specific to Colorado, and shall make reference to applicable sections of this article.

The Association shall provide, or cause to be provided, education to Owners at no cost on at least an annual basis as to the general operations of the Association and the rights and responsibilities of Owners, the Association, and its executive Board under Colorado law. The criteria for

compliance with this section shall be determined by the Board and shall be addressed through Rules and Regulations adopted pursuant to Section 5 hereof.

**12. Non-Waiver:**

Failure to enforce a breach or violation of this Declaration and restrictions herein shall not enjoin or waive the right to enforce a subsequent breach or violation of the same or other covenant or restriction. The approval or disapproval by the Committee of any proposed development of any Lot shall not be deemed to constitute a waiver of any right to approve or disapprove any similar development plan subsequently or additionally submitted for approval of the Committee by any Owner.

**13. Liability:**

No officer, Member of the Board, or Member of the Committee, or a Member of any other committee established by the Board, shall be personally liable to any other Member for any error or omission unless the same is an intentional act. The Association will indemnify the directors, officers and agents of the Association against any and all claims arising against them personally which are a result of the good faith exercise of the powers, duties and responsibilities of their office under this Declaration.

**14. Association Disclosures and Availability of Association Information:**

The Association shall provide, or cause to be provided, Association records to Owners at least annually, and upon request of a Member, as to the function and operations of the Association in accordance with C.R.S. Section 38-33.3-317. The Board shall adopt Rules and Regulations pursuant to Section 5 hereof, addressing the availability of such information and implementation of this provision of the Declaration.

**15. Amendments or Revocation:**

This Declaration shall not be revoked or amended unless fifty one (51%) percent or more of the voting Members (each Lot shall have one (1) vote) of the Association consent in writing to such revocation or amendment, which instrument shall be duly recorded in the County real estate records, and refer to this Declaration as well as to all previous amendments, by recording information.



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