

**AMENDED DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR
SADDLEBACK RIDGE ESTATES SUBDIVISION
CLEAR CREEK COUNTY, CO**

Effective Date - January 22, 2001

(These Amended Covenants, Conditions, and Restrictions replace and supersede all previous Protective Covenants, Covenants, Conditions, and Restrictions, as amended in their entirety, regarding Saddleback Ridge Estates First, Second, Third and Fourth Filings.)

THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SADDLEBACK RIDGE ESTATES SUBDIVISION (the "Declaration", which shall also include the Recitals set forth herein) is made by Saddleback Mountain Homeowners Association, a Colorado Nonprofit Corporation (the "Declarant" and/or the "Association").

RECITALS

A. The Declarant is a Colorado Nonprofit Corporation, the members of which are the owners of real property located in the Saddleback Ridge Estates Subdivision, County of Clear Creek, Colorado (the "County"), more particularly described on the attached Exhibit A (the "Property").

B. The Declarant hereby elects to amend, replace and supercede all previous covenants, protective covenants, conditions, and restrictions, as amended in their entirety (the "Previous Covenants"), regarding Saddleback Ridge Estates First, Second, Third and Fourth Filings regardless of whether any of the Previous Covenants are specifically referenced herein.

C. The owners of the property located in the First and Second Filings of the Property, pursuant to Paragraph 11 of the Saddleback Ridge Estates Amended Protective Covenants First and Second Filings recorded in the County at Book 335 and Page 735 *et seq*, by a majority affirmative vote, have approved the action taken in this Declaration. Each such owner's vote was based upon the percentage of land owned by such owner as compared with the total land in the First and Second Filings of the Property.

D. The Amended Protective Covenants Under Saddleback Ridge Estates - Third Filing recorded in the County at Reception Number 61717, Book 339 and Page 297 *et seq* and dated on or



about May 19, 1973 (the "Third Filing Covenants") purport to subject the property located in the First and Second Filings to the provisions of the Third Filing Covenants. Accordingly, the owners of the property located in the First and Second Filings of the Property also, by a majority affirmative vote, have approved the action taken in this Declaration pursuant to Paragraph 11 of the Third Filing Covenants. Each such owner's vote was based upon the percentage of land owned by such owner as compared with the total land in the First and Second Filings of the Property.

E. By subsequent amendment, the owners of the property located in the Third Filing became subject to the Declarations of Covenants, Conditions, and Restrictions For Saddleback Ridge Estates recorded in the County at Reception Number 83272, Book 371 and Page 627 *et seq* dated on or about November 18, 1977 (the "Fourth Filing Covenants"). Accordingly, the owners of the property located in the Third and Fourth Filings of the Property, pursuant to Article IV, Paragraph A of the Fourth Filing Covenants, by a two-thirds affirmative vote, have approved the action taken in this Declaration. Each such owner was entitled to one vote for each lot owned in the Third and Fourth Filings of the Property.

F. The owners of the property located in North Santa Fe Mountain, specifically Parcels 1, 2, 3, and 4, have been required by the County to become Members of the Association pursuant to Platting Conditions, Case 98-AX-12 recorded in the County at Reception Number 198159, Book 590 and Page 458 *et seq* dated on or about November 17, 1999. The owners of Parcels 1, 2, 3, and 4 have approved the action taken in this Declaration.

ARTICLE 1 DECLARATION AND SUBMISSION

Section 1.1 *Declaration*. The Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following covenants, restrictions and easements, which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having any right, title or interest in all or any part of the Property.

ARTICLE 2 DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration, the Articles of Incorporation or any Amendments thereto, and the Bylaws or any Amendments thereto, shall have the following meanings:

Section 2.1 "*Articles*" mean the Articles of Incorporation for the Association currently on file with the Colorado Secretary of State, and any amendments that may be made to those Articles from time to time.



Section 2.2 "*Annual Assessment*" means the Assessment levied pursuant to an annual budget.

Section 2.3 "*Assessments*" means the Annual, Special and Default Assessments levied pursuant to Article 7. Assessments are also referred to as a Common Expense Liability as defined under the Act.

Section 2.4 "*Associate Member*" means each person or entity, which is not an Owner, that holds membership in the Association based upon conditions and requirements as determined by the Executive Board. Associate Members shall have no voting rights.

Section 2.5 "*Association*" means Saddleback Mountain Homeowners Association, a Colorado nonprofit corporation, and its successors and assigns.

Section 2.6 "*Association Documents*" means this Declaration, the Articles of Incorporation, the Bylaws and any procedures, rules, regulations or policies adopted under such documents by the Association.

Section 2.7 "*Bylaws*" means the Bylaws adopted by the Association, as amended from time to time.

Section 2.8 "*Clerk and Recorder*" means the office of the Clerk and Recorder in the County of Clear Creek, Colorado.

Section 2.9 "*Committee*" means the Architectural Control Committee, its successors and assigns as described within this Declaration and the Bylaws.

Section 2.10 "*Common Element*" means all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners.

Section 2.11 "*Common Expenses*" means (i) all expenses expressly declared to be common expenses by this Declaration or the Bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing or replacing the Common Elements; and (iii) all expenses lawfully determined to be common expenses by the Executive Board.

Section 2.12 "*County*" means the County of Clear Creek, Colorado.

Section 2.13 "*Declaration*" means this Declaration and amendments and supplements thereto.



Section 2.14 "*Dwelling*" means the primary building on the Lot used as the residence

Section 2.15 "*Executive Board*" means the governing body of the Association.

Section 2.16 "*Lot*" means each platted, numbered and recorded division of land as depicted on the Plat. The maximum number of Lots in the Subdivision is 180.

Section 2.17 "*Member*" means each Owner.

Section 2.18 "*Outbuilding*" means an enclosed covered building to be used as a barn, garage, or for other storage purposes, not directly attached to the Dwelling which it serves.

Section 2.19 "*Owner*" means the owner of record, whether one or more persons or entities, of fee simple title to any Lot, and "Owner" also includes the purchaser under a contract for deed covering a Lot with a current right of possession and interest in the Lot.

Section 2.20 "*Plat*" means the final Plat of the subdivided Parcels recorded with the Clerk and Recorder, depicting the subdivision of the Property subject to this Declaration and any supplements and amendments thereto.

Section 2.21 "*Property*" means the real property described in Exhibit "A" attached hereto.

Section 2.22 "*Subdivision*" means the common interest community created by this Declaration consisting of the Property and the Common Elements.

Each capitalized term not otherwise defined in this Declaration shall have the same meanings specified or used in the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statutes § 38-33.3-101 *et seq.* (the "Act").

ARTICLE 3 RESTRICTIONS

Section 3.1 *Land Use and Building Types.*

3.1.1 All Lots in this Subdivision shall only be used for residential purposes except the specific Lots which are designated for commercial use as of the effective date of this Declaration and except as provided in Section 3.1.5.



3.1.2 All Lots in this Subdivision shall be in compliance with applicable zoning regulations of the County and the restrictions herein. Any further subdividing of any Lot shall require compliance with all local, state and federal rules and laws and the approval of the Committee.

3.1.3 All structures and construction activity shall be approved by the Committee and be in compliance with the County Building Codes and all local, state and federal rules and laws.

3.1.4 No trailer, motor home, mobile home, basement dwelling, tent, shack, garage, barn, outbuilding or other such structure of a temporary or permanent nature, may be used as a Dwelling.

3.1.5 Home offices shall be permitted except that no Lot or building shall be used for any ongoing business or commercial purpose that generates customer or client traffic.

3.2 Dwelling Size and Other Restrictions.

3.2.1 No Dwelling shall be erected or placed on any Lot in this Subdivision unless said Dwelling has a ground floor area, exclusive of basements, porches, and garages, of at least 1,500 square feet of finished living area. These requirements must be met at the time of issuance of Certificate of Occupancy.

3.2.2 No more than two (2) Outbuildings will be permitted on any one (1) Lot.

3.2.3 Open storage of building materials will only be permitted during construction. Unsightly storage of any kind will not be permitted at any time.

3.2.4 The covering of each roof shall be made of "Class A" fire retardant materials and in earth and/or forest tone colors.

3.3 Additions, Remodeling and Replacements to existing Structures.

3.3.1 Any addition(s) to a Dwelling must bring said Dwelling into minimum square foot requirements of Section 3.2.1.

3.3.2 Any roof replacement in excess of 50% must bring roof into compliance with Section 3.2.4.

3.4 *Construction Plans.* No building or other structure shall be constructed, erected, or maintained on any Lot, nor shall any addition thereto or change or alteration thereon be made until



the Committee approves plans submitted for said activities. Four (4) copies of the complete working plans and specifications (including but not limited to the floor plan, elevations, plot and grading plans, the specifications of principal exterior materials, exterior color schemes, and the location and character of all utilities) shall be submitted by the Owner(s) to the Committee for its approval, as described in Section 3.5. A fee, to be determined by the Executive Board, must be submitted to defray the costs described in Section 3.5.4. Each building or other structure shall be constructed, erected and maintained in strict accordance with such plans and specifications (if approved). All applicable building codes, permits, County and State of Colorado approvals must be obtained before construction commences.

3.5 Approval of Construction Plans.

3.5.1 The Committee shall act upon the plans and specifications submitted to it within thirty (30) days after receipt of the plans and specifications. Within the thirty (30) day period, the Committee may: (a) accept and approve the plans; (b) disapprove the plans or; (c) request additional information. In the event of disapproval, the Committee shall state the reason(s) for disapproval. The Owner(s), after any disapproval or after any request for additional information to the Committee, may submit four (4) copies of the new plans or four (4) copies of the additional information to the Committee, along with a fee, to be determined by the Executive Board, to be acted upon in the same manner within thirty (30) days after receipt. If no action is taken by the Committee within said thirty (30) day periods, the plans and specifications shall be deemed approved and accepted by the Committee.

3.5.2 In passing upon all such plans and specifications, the Committee shall take into consideration the suitability of the proposed Dwelling or Outbuilding(s), the materials of which it is to be built, the harmony with the natural surroundings, the affect the Dwelling or Outbuilding(s) will have on the ecology, and the view from adjacent or neighboring Lots and the effect upon the Subdivision.

3.5.3 The Committee agrees to use reasonable judgment in passing upon all such plans and specifications, but the Committee shall not be liable to any person for the Committee's actions in connection with submitted plans and specifications, unless it is proven that the Committee's action was wanton and willful.

3.5.4 Neither the Committee nor its duly authorized representatives shall be entitled to, nor be allowed to receive, any compensation for services, nor shall the Committee or its duly authorized representatives be liable, in any manner, for any action or failure of action taken in performing their duties subject to the conditions of Section 3.5.3. The Committee shall have the authority to use the services of consultants and can spend the fees as in their sole opinion they deem appropriate to defray the fees of such consultants and other costs, including but not limited to secretarial, storage, stationery, and postage costs.



3.5.5 Any unexpended fees described in Sections 3.4 and 3.5 shall be deposited in the Association General Fund.

3.6 *Signs.* No signs, billboards, or other advertising structure of any kind shall be erected, constructed or maintained on any Lot for any purpose whatsoever, other than:

- (a) A name plate of the occupant and the street number;
- (b) "For Sale" signs approved by the Committee.
- (c) Signs for the purposes of the Association and Committee.

3.7 *Garbage, Refuse Disposal, and Open Burning.* No litter or trash shall be permitted to accumulate on any Lot. Each Lot, at all times, shall be kept in a clean, sightly and wholesome condition. Reasonable precautions shall be taken against fire hazards, and no outdoor burning of any kind shall be permitted within the Subdivision. Owner(s) shall provide suitable receptacles for the temporary storage and collection of refuse, and all such receptacles shall be screened from public view and protected from disturbance.

3.8 *Automobiles and Recreational Vehicles.*

3.8.1 No abandoned vehicles shall be permitted on any Lot. A vehicle shall be considered "abandoned" if it remains nonoperative or unregistered for a period greater than 60 days.

3.8.2 Storage of recreational vehicles will be allowed so long as, in the Committee's sole determination, they are not considered obtrusive or objectionable.

3.9 *Nuisance, Firearms and Explosives.* No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done or permitted which shall constitute a public nuisance therein; nor shall any firearms be discharged within the Subdivision. Firearms as used herein shall be construed to include not only pistols, rifles and cannons, but also any fireworks, explosives, air rifles, BB or pellet guns, or similar devices. Any exceptions must have the prior approval of the County and the Committee.

3.10 *Fences.* No fence, wall, or similar type barrier of any kind shall be constructed, erected or maintained on any Lot for any purpose whatsoever, except such fences or walls as may be approved by the Committee. No fence, wall or barrier of any kind will be constructed, erected or maintained within fifty (50) feet of any front Lot line.



3.11 *Livestock and Poultry.*

3.11.1 No animals, livestock, or poultry of any kind shall be raised, or kept, on any Lot except that dogs, cats, or other domestic household pets, may be kept provided they are not kept, bred or maintained for any commercial purposes. Domestic household pets must be kept within the boundaries of the Lot and in accordance with the County Leash Laws at all times. Horses, or other pack animals as approved by the Committee, may be kept as provided in Section 3.11.2.

3.11.2 Owner(s) may quarter as many as two (2) horses, or other pack animals as approved by the Committee, on any one (1) Lot in a fenced corral only. The corral shall not exceed 3,000 square feet in area and shall be located at least fifty (50) feet from all streams and Lot lines. Said corral shall be maintained so as not to create a nuisance to any adjoining Owner(s). A horse/pack animal barn, with a stall for each horse/pack animal, shall be required. Its exterior design and appearance shall be compatible with the exterior design of the Dwelling on said Lot. Approval for construction of said barn and corral shall be obtained from the Committee. It shall be permissible for a horse(s)/pack animal(s) to be quartered elsewhere and to be ridden to and from an Owner's Lot.

3.12 *Easements.* There are hereby reserved for the purpose of installing and maintaining public, quasi-public, and/or private utilities certain easements, which easements are reserved as described on the Plat. No encroachments shall be made upon any of such easements. The building of fences, buildings, garages, and similar structures and the planting of shrubbery, trees and other plants shall not interfere with the full and unrestricted use of such easements.

3.13 *Landscaping.* All natural surface areas disturbed by construction shall be returned promptly to their natural condition and replanted in native grasses and trees.

3.14 *Parking.* Parking shall be accommodated on site with no overnight parking allowed on public streets or roads. Each Lot shall provide at least a one (1) car garage or equivalent enclosed parking area, and a minimum of two (2) additional parking spaces. Each additional parking unit shall contain 300 square feet including driveways and shall be located entirely within the Lot lines.

3.15 *Outside Antennas and Satellite Dishes.* No outside television, short wave or radio antennas and/or towers shall be allowed without prior approval of the Committee. All satellite dishes in excess of 24" in diameter must have prior approval of the Committee.

3.16 *Outside Lighting.* Outside lighting that is considered in the Committee's sole determination as obtrusive or objectionable shall not be allowed.

3.17 *Pre-existing Improvements.* All Dwellings, Outbuildings, garages, barns, fences, walls, antennas, satellite dishes or other improvements (the "Pre-existing Improvements") which exist as



of the effective date of this Declaration and which are in compliance with the Previous Covenants shall be deemed to be in compliance with this Declaration. Notwithstanding the foregoing, the Pre-existing Improvements must comply with Section 3.1 in any event. When any Pre-existing Improvements are demolished or replaced, any such replacement or other improvement must comply with all of the terms of this Declaration.

3.18 *Variances.* The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Article 3, in order to overcome practical difficulties or prevent unnecessary hardships arising by reason of the application of any such conditions and restrictions. Such variances or adjustments (1) shall be granted only in case the granting thereof shall not be materially detrimental or injurious to the other property or improvements in the Subdivision; (2) shall not materially deviate from the general intent and purpose hereof; and (3) shall not set a precedent for any other applicant.

3.19 *Appeal.*

3.19.1 If an application for approval of construction plans is approved or denied by the Committee or if the Committee has taken other action or failed to take action, any Owner shall have the right to appeal such decision, action or inaction to the Executive Board, if a written request for a hearing on an appeal of the same shall be submitted to the Executive Board within twenty (20) days after such approval, denial, action or inaction by the Committee. Upon submission of an appeal, the Committee shall within ten (10) days forward all copies of plans, specifications and any additional information to the Executive Board. The Executive Board shall act upon the appeal submitted to it within thirty (30) days after receipt of the plans, specifications and additional information or may extend the time for acting upon an appeal for up to an additional thirty (30) days. If no action is taken by the Executive Board within said thirty (30) day period or any extension thereof, the appeal shall be deemed denied.

3.19.2 The Executive Board shall be bound by the terms of this Declaration, the Articles and the Bylaws in considering any appeal. The Executive Board shall have the authority to review an appeal and consider all issues over again and to proceed as the Executive Board deems appropriate, including affirming the determination of the Committee or rendering a different decision.

3.19.3 The Executive Board shall have the authority to amend or rescind any rule of procedure or policy established by the Committee, which is the subject of an appeal, if in the judgment of the Executive Board such rule of procedure or policy is contrary to the intent or the terms of this Declaration, the Articles or the Bylaws.



ARTICLE 4
MEMBERSHIP AND VOTING RIGHTS; ASSOCIATION OPERATION

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

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

Section 4.3 *Membership*. Membership in the Association shall consist of two classes. One class, which shall be Members, shall consist of all Owners. The second class, which shall consist of non-voting Associate Members, shall be open to membership to others who are not Owners, based upon conditions and requirements as determined by the Executive Board. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in Association matters as set forth in the Bylaws. Each Owner is subject to all the rights and duties assigned to Owners under the Association Documents.

Section 4.4 *Voting*. There shall be one vote per Lot.

(a) The owner(s) of each Lot shall have one (1) vote per Lot owned.

(b) If only one of several owners of a Lot is present at a meeting of the Association, the owner present is entitled to cast the vote allocated to the Lot. If more than one of the owners are present, the vote allocated to the Lot may be cast only in accordance with the agreement of a majority in interest of the owners. There is majority agreement if any one of the owners casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by another owner of the Lot.

Section 4.5 *Books and Records*. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners, current copies of the Association Documents and the books, records and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 4.6 *Rights of Action*. The Association on behalf of itself and any aggrieved Owner shall be granted a right of action against any and all Owners for failure to comply with the provisions of the Association Documents, or with decisions of the Executive Board made pursuant to authority granted to the Association in the Association Documents. The Owners shall have a right of action



against the Association for failure to comply with the provisions of the Association Documents, or for failure of the Association to comply with decisions of the Executive Board made pursuant to authority granted to the Association in the Association Documents. In any action covered by this section, the Association or any Owner shall have the right but not the obligation to enforce the Association Documents by any proceeding at law or in equity, or as set forth in the Association Documents, or by mediation or binding arbitration if the parties so agree. The prevailing party in any arbitration or judicial relief shall be entitled to reimbursement from the non-prevailing party or parties, for all reasonable costs and expenses, including attorneys' fees in connection with such arbitration or judicial relief. Failure by the Association or by any Owner to enforce compliance with any provision of the Association Documents shall not be deemed a waiver of the right to enforce any provision thereafter.

Section 4.7 *Implied Rights and Obligations.* The Association may exercise any right or privilege expressly granted to the Association in the Association Documents and by the Colorado Nonprofit Corporation Act.

Section 4.8 *Notice.* Any notice to an Owner of matters affecting the Subdivision by the Association or by another Owner shall be deemed to be sufficiently given if in writing and effective immediately when delivered personally, by courier or private service delivery, or five days after deposit in the United States mail, properly addressed with first class postage prepaid to the address of record for real property tax assessment notices with respect to that Owner's Lot or such other address as the Owner has provided to the Association in writing. Alternatively, if an Owner has provided the Association with an electronic mail address, the notice shall also be sufficient immediately upon transmission of the electronic mail. It shall be the obligation of the Owner to provide the Association with any changes in the Owner's electronic or other mailing address. Notice may also be given in accordance with the Colorado Nonprofit Corporation Act.

ARTICLE 5

POWERS OF THE EXECUTIVE BOARD OF THE ASSOCIATION

Except as provided in the Bylaws and the Act, the Executive Board may act in all instances on behalf of the Association, to:

- (a) Adopt and amend bylaws and rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves and collect Assessments;
- (c) Hire and terminate managing agents and other employees, agents and independent contractors;



- (d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or one or more Owners on matters affecting the Subdivision and to institute, defend or intervene in litigation or administrative proceedings on behalf of the Committee and to enforce the decisions of the Committee;
- (e) Make contracts and incur liabilities;
- (f) Regulate the use, maintenance, repair, replacement and modification of Common Elements, if any;
- (g) Cause additional improvements to be made as a part of the Common Elements, if any;
- (h) Acquire, hold, encumber and convey in the name of the Association any right, title or interest to real or personal property, except that Common Elements, if any, may be conveyed or subjected to a security interest only if Members entitled to cast at least sixty-seven percent (67%) of the votes agree to that action;
- (i) Grant easements, leases, licenses and concessions through or over the Common Elements, if any;
- (j) Impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements, if any;
- (k) Impose charges for late payment of Assessments, recover reasonable attorney's fees and other legal costs for collection of Assessments and other actions to enforce the power of the Association, regardless of whether or not suit was initiated, and after notice and opportunity to be heard, levy reasonable fines for violations of the Association Documents;
- (l) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;
- (m) Provide for the indemnification of its Officers, Executive Board and Committee members and maintain directors' and officers' liability insurance, and;
- (n) Exercise any other powers conferred by this Declaration, the Articles or the Bylaws.



ARTICLE 6
MECHANIC'S LIENS

Section 6.1 *No Liability*. If any Owner shall cause any material to be furnished to his Lot or any labor to be performed therein or thereon, no Owner of any other Lot shall under any circumstances be liable for the payment of any expense incurred or for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to contractors, laborers, materialmen and other persons furnishing labor or materials to his Lot.

Section 6.2 *Indemnification*. If, because of any act or omission of any Owner, any mechanic's or other lien or order for the payment of money shall be filed against the Common Elements, if any, or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his own cost and expense cause the same to be canceled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty (20) days after the date of filing thereof, and further shall indemnify and hold all the other Owners and the Association harmless from and against any and all costs, expenses, claims, losses or damages including, without limitation, reasonable attorney's fees resulting therefrom.

Section 6.3 *Association Action*. Labor performed or materials furnished for the Common Elements, if any, if duly authorized by the Association in accordance with this Declaration or its Bylaws, shall be the basis for the filing of a lien pursuant to law against the Common Elements, if any. Any such lien shall be limited to the Common Elements, if any, and no lien may be effected against an individual Lot or Lots.

ARTICLE 7
ASSESSMENTS

Section 7.1 *Obligation*. Each Owner, including Declarant while an Owner of any Lot, is obligated to pay to the Association (1) the Annual Assessments; (2) Special Assessments; and (3) Default Assessments.

Section 7.2 *Annual Assessments*. Annual Assessments made for Common Expenses shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance and operation of the Common Elements, if any, expenses of management and insurance premiums for insurance coverage as deemed desirable or necessary by the Association, landscaping of the Property, care of grounds within the Common Elements, if any, routine repairs, replacements and renovations within any of the Common Elements,



if any, wages, common water and utility charges for the Common Elements, if any, legal and accounting fees, management fees, expenses and liabilities incurred by the Association under or by reason of this Declaration, payment of any default remaining from a previous assessment period, and the creation of a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general, routine maintenance, repairs and replacement of improvements within the Common Elements, if any, on a periodic basis, as needed.

Annual Assessments shall be payable as determined by the Executive Board. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year.

Section 7.3 Apportionment of Annual Assessments. The Common Expenses shall be allocated among the Lots on the basis of the Allocated Interests for Common Expenses in effect on the date of assessment, provided, however, that the Association reserves the right to allocate all expenses relating to fewer than all of the Lots to the Owners of the affected Lots only.

Section 7.4 Special Assessments. In addition to the Annual Assessments, the Association may levy in any fiscal year one or more Special Assessments, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements, if any, or for any other expense incurred or to be incurred as provided in this Declaration. Notice in writing of the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than ten (10) days after such notice shall have been given.

Section 7.5 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least ten (10) days prior to the due date.

Section 7.6 Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special or Default Assessment, which is not paid on or before its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:



- (a) Assess a late charge for each delinquency in such amount as the Association deems appropriate;
- (b) Assess an interest charge from the due date at the yearly rate of eighteen percent (18%), or such other lawful rate as the Executive Board may establish;
- (c) Suspend the voting rights of the Owner during any period of delinquency;
- (d) Suspend the rights of the Owner, and the Owner's family, guests, lessees and invitees, to use Common Element facilities during any period of delinquency;
- (e) Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;
- (f) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and
- (g) Proceed with foreclosure as set forth in more detail below.

Assessments chargeable to any Lot shall constitute a lien on such Lot. The Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Association shall have the power to bid on a Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 7.7 Personal Obligation. Each Assessment against a Lot is the personal obligation of the person who owned the Lot at the time the Assessment became due and shall not pass to successors in title unless they agree to assume the obligation. No Owner may exempt himself, herself or itself from liability for the Assessment by abandonment of the Owner's Lot or by waiver of the use or enjoyment of all or any part of the Common Elements, if any. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 7.8 Maintenance Accounts; Accounting. If the Association delegates powers of the Executive Board or its officers relating to collection, deposit, transfer or disbursement of Association



funds to other persons or to a manager, then such other persons or manager must (a) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by the other person or manager, (b) maintain all reserve and working capital accounts of the Association separate from the operational accounts of the Association, and (c) provide to the Association an annual accounting and financial statement of Association funds prepared by the manager, a public accountant or a certified public accountant.

ARTICLE 8
DURATION OF COVENANTS AND AMENDMENT

Section 8.1 *Term.* The covenants and restrictions of this Declaration shall run with and bind the land for twenty (20) years and shall be automatically extended for successive twenty (20) year periods, unless an instrument is signed revoking or terminating the subdivision pursuant to the provisions of the Act.

Section 8.2 *Amendment.* This Declaration, or any provision of it, may be amended at any time by Owners holding not less than sixty-seven percent (67%) of the votes possible to be cast under this Declaration at a meeting of the Owners called for that purpose. Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying the approval of a sufficient number of Owners of the amendment.

ARTICLE 9
GENERAL PROVISIONS

Section 9.1 *Enforcement.* Except as otherwise provided in this Declaration, the Executive Board, Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2 *Severability.* Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.



Section 9.3 *Conflicts Between Documents*. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

DECLARANT:

Saddleback Mountain Homeowners Association

Gordon Gohlke, President

Gordon Gohlke, President

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 20th day of FEBRUARY, 2001, by Gordon Gohlke, President of Saddleback Mountain Homeowners Association.

Witness my hand and official seal.

James V. Pearson

Notary Public

My Commission Expires April 15, 2003
James V. Pearson
1990 Broadway, #2000
Denver, Colorado 80202

My commission expires

CERTIFICATE OF SECRETARY

I hereby certify that the foregoing Amended Declaration of Covenants, Conditions, and Restrictions for Saddleback Ridge Estates Subdivision, Clear Creek County, CO consisting of seventeen (17) pages, including this page, was duly adopted, as set forth within the Recitals of this Declaration, by the Owners of the Property described in Exhibit "A" attached hereto, effective as of January 22, 2001.

Maureen Gohlke, Secretary

Maureen Gohlke, Secretary of Saddleback Mountain Homeowners Association

