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## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR EAGLE'S VIEW SUBDIVISION

This Declaration of covenants, conditions and restrictions is made on this 9<sup>th</sup> day of September, 1997, by EVSD, LLC, ("EVSD") hereinafter referred to as "Declarant".

Declarant is owner of the real property in the Town of Silt, Garfield County, Colorado, described in the Plat, as hereinafter defined, which shall be hereinafter referred to as the "Subdivision". Said Subdivision which is the subject of this Declaration shall be known as the Eagle's View Subdivision, a planned community. This Declaration shall provide for creation of the Eagle's View Subdivision Homeowner's Association, Inc., a non-profit corporation, to manage and maintain the Common Elements, administer and enforce these Covenants, Conditions and Restrictions, collect and disburse funds pursuant to the assessments hereinafter created, and to perform such other acts are herein provided to benefits its members.

Desiring to protect the value and desirability of the Subdivision and to develop the Subdivision in accordance with a master plan and general scheme of development into a residential community, Declarant hereby declares that each and all Restrictions, Covenants, and Conditions shall be applicable to and run with the lots in Eagle's View Subdivision. The Declarant reserves the right to create 80 lots with boundaries described in the Plat.

### ARTICLE 1 DEFINITIONS

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

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

1.2 "Articles" shall mean the Articles of Incorporation of the Association, as such may be amended from time to time, or of any successor to the Association.

1.3 "Association" shall mean the Eagle's View Subdivision Homeowner's Association, Inc. The Association has been incorporated as a non-profit corporation to serve as the governing body for all of the owners and Members for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Subdivision, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds, and other matters as provided in this Declaration, the Articles and Bylaws of the Association and Association Rules or Design Guidelines. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners and Members in accordance with the provisions of this Declaration, and its Articles and Bylaws. The Association shall specifically have management, control and maintenance of the water distribution system, all Common Elements and all irrigation systems, which are not otherwise dedicated to or under the control of the Town.

1.4 "Association Rules" shall mean the rules and regulations adopted by the Association, which Rules shall not conflict with the provisions of the Declaration.

1.5 "Board" means the Board of Directors of the Association.

1.6 "Bylaws" means the Bylaws of the Association adopted in accordance with the Articles, as such Bylaws may be amended from time to time.

1.7 "Common Assessment" shall mean each Member's prorata share of Common Expenses as reflected in the Common Expense Liability, to be assessed by the Board on each Lot.

1.8 "Common Elements" shall mean all real estate, as defined in the Act, within the Subdivision owned or leased by the Association for the common use and enjoyment of the Members. Such Common Elements shall include the sign and its structure on First Mesa Drive, utility easements, drainage easements, the fence structure located within the boundaries of the easement for the Silt Pump Canal, and all other easements and interests in real estate described on the Plat which are not otherwise dedicated to the Town.

1.9 "Common Expenses" shall mean the costs incurred by the Association in maintaining and operating the Common Elements of the Subdivision, such costs to be shared proportionately by each Member as set forth by "Common Expense Liability". Such costs shall be reflected in the Regular Assessment, and the Special Assessments. Said Common Expenses may also include that amount of the Common Assessments and Individual Special Assessments which are unpaid by a defaulting Member.

1.10 "Common Expense Liability" shall mean that each Lot owner shall be liable to pay a prorata share of the common expenses. Such share of the common expense liability shall be determined by a ratio, the numerator being the number of Lots owned by a Member and the denominator being the number of Lots in the Eagle's View Subdivision.

1.11 "County" means Garfield County, Colorado.

1.12 "Declaration" means this instrument as from time to time amended.

1.13 "Declarant" means EVSD, its successors and assigns, or any person to whom the Declarant's rights hereunder are assigned by recorded instrument, or any Mortgagee of the Declarant which acquired title to or succeeds to the interest of the Declarant in any Lot or other portion of the Subdivision by reason of the foreclosure, conveyance in lieu of foreclosure or trustee's sale under the Mortgage.

1.14 "Declarant Control Period" means that period during which the Declarant is entitled, in its sole discretion, to select, appoint, and remove members of the Board.

1.15 "Home Occupation" shall mean a business operated from a single-family residential home which does not require customers or clients to visit the home and is conducted entirely within the Lot Owner's residential dwelling or permitted appurtenant structures.

1.16 "Individual Special Assessment" means a charge against a particular Member and his Lot for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any violation directly attributable to the Member, of the Declaration or the Association Rules, together with late charges and interest as provided for herein. Said Individual Special Assessment shall be deemed a Common Expense to be charged ratably against all of the Members in the event of default in payment thereof by the particular Member and the inability of the Association to collect the

same from such Member.

1.17 "Lot" means any final platted lot intended for separate ownership, as shown on the Plat or any amendment thereto. Lot shall mean the same as "unit", as defined by the Act.

1.18 "Majority of Members" means the Members holding more than 50% of the total votes entitled to be cast with respect to a given matter. Unless otherwise specified, any provision herein requiring the approval of the Members means the approval of a Majority of Members.

1.19 "Member" means the members of the Association and shall mean the Person or, if more than one, all Persons collectively who constitute the Owner of a Lot.

1.20 "Mortgage" means any mortgage or deed of trust or other such instrument given voluntarily by the Owner of a Lot, encumbering the 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 shall be synonymous with "Mortgage".

1.21 "Mortgagee" means a mortgagee under a Mortgage or a beneficiary under a Deed of Trust, and the assignees of such mortgagee.

1.22 "Mortgagor" means the Person who mortgages his or its property to another. The term "Mortgagor" shall include a grantor under a Deed of Trust.

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

1.24 "Person" shall mean a natural person, a corporation, a partnership, or any other entity capable of holding title to real property pursuant to the laws of the State of Colorado, and their heirs, successors and assigns.

1.25 "Plat" shall mean the final Subdivision plat of Eagle's View Subdivision, recorded as Reception No. 513711 in the County Records and all amendments thereto made in accordance with this Declaration and the land use regulations of the Town.

1.26 "President" shall mean the duly elected or appointed president of the Association.

1.27 "Record" or "Recording" shall mean the filing for record of any document in the office of the Clerk and Recorder of Garfield County.

1.28 "Regular Assessment" means costs incurred for:

(a) maintenance, management, operation, reconstruction, replacement and repair of the Common Elements and all other areas in the Subdivision which are maintained by the Association.

(b) unpaid Individual Special Assessments, as long as such Individual Special Assessment is unpaid by the particular Lot Owner and uncollectable therefrom.

(c) costs of management and administration of the Association, including but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees.

(d) any expenses connected with the Green Mountain Water Service Contract.

(e) the costs of leasing 10 acre-feet of irrigation water from the Silt Water Conservancy District (1997 cost is \$10/acre-feet): Such costs shall not be treated as a utility.

(f) the costs of fire, casualty, liability, worker's compensation, other appropriate insurance covering the Common Elements, and any other insurance obtained by the Association, including officer's and director's liability insurance.

(g) the costs of bonding the members of the Board, the President, any professional managing agent or any other person handling the funds of the Association.

(h) taxes paid by the Association.

(i) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Elements or portion thereof.

(j) costs incurred by the Design Review Committee.

(k) costs incurred by committees established by the Board or the President.

(l) other expenses incurred by the Association for any reason whatsoever in connection with the Common Elements, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.29 "Special Assessment" shall mean in the event that the estimated Common Assessments prove inadequate to meet the costs of the Common Expenses, the President with the consent of the Board shall issue a supplemental estimate and levy a supplemental assessment to be paid by each Member in the same proportion as Common Assessments.

1.30 "Subdivision Improvements Agreement" shall mean the agreement made by Declarant and the Board of Trustees of the Town.

1.31 "Town" means Town of Silt, Garfield County, Colorado.

In addition to the foregoing definitions, other definitions are contained in certain of the following specific provisions of the Declaration.

**ARTICLE 2**  
**RESTRICTIONS ON USE AND OCCUPANCY**

2.1 Members' Right of Enjoyment. Every Member shall have a non-exclusive easement for use and enjoyment in and to the Common Elements subject to the Rules of the Association, which right shall be appurtenant to and shall pass with such Member's fee simple title in that Member's Lot.

2.2 Right of Association to Regulate Use. The Association, acting through the Board, shall have the power to regulate use of all of the Common Elements to enhance the overall rights of use and enjoyment of all Members through the promulgation of Rules and Regulations. The Association shall also have the power to suspend the right of a Member or a members of the family of a Member to use the Common Elements during any time in which any Assessment owing by such Member remains unpaid and delinquent, or for a period not to exceed sixty days for any single infraction of the Association Rules or breach of this Declaration, and up to one year for any subsequent violation of the same or similar provision of the Association Rules or this Declaration, provided that any suspension of such right to use the Common Elements, except for failure to pay Assessments, shall be made only by the President, the Board or a duly appointed committee of the Board, after notice and hearing given and held in accordance with the Bylaws.

2.3 Owner's Responsibility. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Lot. Each Owner shall, at his sole cost and expense, repair his residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

2.4 Maintenance of Common Elements. Except as otherwise provided herein to the contrary, maintenance, repairs and replacements of the Common Elements shall be furnished by the Association as part of the Common Expenses, subject to the Bylaws and Association Rules. If, due to the act or neglect of an Owner or Member, or the invitee, guest or other authorized visitor of either, or an occupant of such Owner or Member's Lot, damage shall be caused to the Common Elements or to a Lot or Lots owned by others, and maintenance, repairs or replacement shall be required which would otherwise be a Common Expense, then such Owner or Member shall pay for the damage and for such maintenance, repairs and replacement as may be determined necessary or appropriate by the Association, to the extent not covered by the Association's insurance. Such obligation shall be an Individual Special Assessment secured by the lien provided for in Article 6.

2.5 Owner's Obligations to Rebuild. If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair, or reconstruct such residence in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken with three (3) months after the damage occurs, and shall be completed within twelve (12) months after the damage occurs, unless prevented by causes beyond the control of the Owner or Owners. If construction shall not begin within three months, the structure shall be presumed to be a public nuisance which shall be so decreed by Garfield County District Court upon petition by the Association. Such decree shall allow razing of the structure, the costs of which shall be borne by the Lot Owner as an Individual Special Assessment to the Lot Owner.

2.6 Residential Use and Building. Lot 1, lots 21 through 35, and lots 49 through 80 may be used for single-family residential purposes and usual appurtenant structures and none other. Lots 2 through 20 and 36 through 48 may be used for either single-family residential or duplex purposes and

usual appurtenant structures and none other. No business or commercial building may be erected on any Lot and no business or commercial enterprise or other non-residential use may be conducted on any part thereof except as permitted under this Declaration. No temporary buildings, structures or trailers may be erected, placed or maintained on any Lot except as expressly permitted by, and in compliance with the Design Guidelines. Nothing herein shall be deemed to restrict a Lot Owner's right to a Home Occupation. Nothing herein contained shall be deemed to limit the Declarant's rights to amend the Plat, as described in Article 4.

2.6.1 Duplexes will be allowed only if they are in compliance with the Design Guidelines and at least one-half of each duplex is owner occupied.

2.7 Violation of Law or Insurance. No Owner or Member shall permit anything to be done or kept in his Lot or in or upon any Common Elements which will result in the cancellation of insurance thereon or which would be in violation of any law.

2.8 Signs. No sign of any kind shall be displayed to the public view from any Lot or any Common Elements without the approval of the Association or the Design Review Committee, except: (a) such signs as may be used by Declarant in connection with the development and sale of Lots in the Subdivision; (b) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law, (c) such signs as may be required for traffic control and regulation of Common Elements; or, (d) one "for sale" sign which shall not exceed two feet by three feet.

2.9 Animals. No animals, including horses or other domestic farm animals, fowl or poisonous reptiles of any kind may be kept, bred or maintained in any Lot or in or upon any Common Element, except a reasonable number of commonly accepted household pets in accordance with the Association Rules. No animals shall be kept, bred or raised within the Subdivision for commercial purposes. In no event shall any domestic pet be allowed to run free away from its owner's Lot without a leash, or so as to create a nuisance.

2.9.1 Lot Owners shall be entitled to keep a reasonable number of household pets on their property pursuant to the following restrictions and limitations:

(a) Dogs shall be kept under the control of the Owner at all times and shall not be permitted to run free or to cause a nuisance in the Subdivision.

(b) Dogs shall not be allowed to bark continuously, which shall be defined as barking for a continuous 15-minute period.

(c) All Lot Owners shall keep animals reasonably clean, and all Lots shall be free of refuse, and animal waste.

(d) The Association shall assess and enforce penalties against Owners violating the restrictions applying to animals, in such amounts as the Board may set from time to time. Until the Board acts to set other penalties, they shall be as follows: One Hundred Dollars (\$100) for the first violation committed by an Owner's dog; Two Hundred Dollars (\$200) for the second violation; Three Hundred Dollars (\$300) for the third violation; and for each succeeding violation the fine increases in One Hundred Dollar (\$100) increments. Should any dog chase or molest deer, elk, poultry, or any domestic animals or persons, or destroy or disturb property of another, the Association shall be authorized to prohibit the property Owner or resident from continuing to maintain the

offending animal on his property. All above penalties shall be Individual Special Assessments.

(e) The Association shall have the right to impose such penalties in addition to any fines which may be imposed under the ordinances of the Town with respect to dogs.

(f) The determination of reasonable number of household pets will be based primarily on the owner's ability to control and care for the pets. The Board will determine the number of pets that are allowed for owners that violate any provision in Section 2.9 or Section 2.9.1.

2.10 Nuisances. No Owner or Member shall permit or suffer anything to be done or kept about or within his Lot, or on or about the Subdivision, which will obstruct or interfere with the rights of other Owners, Members, occupants or Persons authorized to the use and enjoyment of the Common Elements, or annoy them by unreasonable noises or otherwise, nor will he commit or permit any nuisance or commit or suffer any illegal act to be committed therein. Each Member, shall comply with the Association Rules, the requirements of all health authorities and other governmental authorities having jurisdiction over the Subdivision.

2.11 Boats, RV's and Motor Vehicles. Except as specifically permitted by the Association Rules, (a) no boats, trailers, buses, motor homes, campers, snowmobiles, all-terrain vehicles, or other vehicles shall be parked or stored in or upon a Lot except within an enclosed garage or fully screened area as permitted by the Design Guidelines; and (b) no vehicle shall be repaired or rebuilt in any Lot except within a garage and then only if such vehicle is owned by the Lot Owner. The Association may remove, or cause to be removed, any unauthorized vehicle at the expense of the owner thereof in any manner consistent with law.

2.12 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot, which in any manner will allow light to be directed or reflected upon Common Elements, or any part thereof, streets, or any other Lot, or any neighboring property. Security lighting is subject to this provision and must be shielded and directed downward.

2.13 Antennas. No radio, television or other antennas of any kind or nature, or device for the reception or transmission of radio, microwave or other similar signals, shall be placed or maintained upon any Lot except as may be permitted by the Association Rules or in accordance with the Design Guidelines. A fully shielded 18 inch satellite dish is acceptable.

2.14 Garbage. No rubbish, garbage or trash, or other waste material shall be kept, or permitted on any Lot so as to be visible from another Lot or the Common Elements. No incinerators shall be kept or maintained in any Lot. No refuse pile, garbage or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on a Lot. Trash removal shall be accomplished through contract entered into by the Association and billed as part of the Common Assessment.

2.15 Safe Condition. Without limiting any other provision in this Section, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners or Members of their respective Lots or the Common Elements.

2.16 Fires. Other than commercially manufactured barbecues or properly constructed barbecue pits or grills, and firepits in compliance with the Association Rules and the Design Guidelines,

or as otherwise expressly permitted in the Association Rules, no open fires shall be permitted on the Lots nor shall any other similar activity or condition be permitted which would tend to increase the insurance rates for the Common Elements, or for other Owners.

2.17 Clothes Drying Area. No portion of any Lot shall be used as an outdoor drying or hanging area for laundry of any kind unless totally screened from view.

2.18 Swimming Pools. Swimming pools or tubs shall be sited in accordance with the Association Rules and with the Design Guidelines.

2.19 Weed Control. It shall be each Lot Owner's responsibility to control all weeds and thistle on their entire Lot. If weed and thistle control is performed by the Association, an Individual Special Assessment shall be made against the Lot and Lot Owner for the expense thereof.

2.20 No Obstruction of Drainage. No owner shall erect, construct, maintain, permit or allow any fence or other improvement or other obstruction which would interrupt the normal drainage of the land or within any area designated on the Plat, or other recorded document, as a "drainage easement", except that, with the prior consent of the Town and the Design Review Committee, non-permanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities.

2.21 Rental of Lots. An Owner who leases his Lot to any Person shall be responsible for assuring compliance by his lessee with all of the provisions of this Declaration, the Articles, Bylaws, Association Rules and Design Guidelines, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by his lessee thereof.

2.22 Sewage Disposal. Each residence shall contain at least one (1) fully-equipped bathroom. All sewage shall be disposed of by means of the Town sewer system.

2.23 Resubdivision Prohibited. The resubdivision of a Lot by a Lot Owner is prohibited. Boundary line adjustments which do not result in the creation of additional Lots shall not constitute resubdivision but shall require written approval of the Design Review Committee and shall comply with all requirements of the Town.

2.24 Fences and Hedges. The Design Review Committee must approve the type and location of all fencing prior to installation. Only wooden fencing shall be permitted within the Subdivision, with limited exceptions pertaining specifically to gardens, kennels, or other elements where a wooden fence would not serve the purpose desired, be it to keep animals in an enclosed area or to keep wildlife out of an enclosed area. No fences or hedges shall be constructed, grown or maintained on any lot higher than six (6) feet above ground level, but this restriction shall not apply to patio fences attached to dwellings.

2.25 Landscaping and Fencing. All landscaping shall be completed within six months of issuance of either a TCO (temporary certificate of occupancy) or a CO (certificate of occupancy) by the Town building department. Specifically, if a CO or TCO is obtained from January through July then the landscaping must be completed in the same calendar year. If a CO or TCO is obtained from August through December then the landscaping must be completed before July of the following year. If only the front yard is to be landscaped then to satisfy this Article the rear yard must be privately fenced in a manner that is acceptable to the Design Review Committee. All landscaping shall be



properly cared for and maintained.

2.26 Irrigation System. The front yards of all Lots must be serviced by a functional underground irrigation system that is approved by the Design Review Committee. The system must be designed by an approved residential irrigation system designer. The list of approved design firms can be obtained from the Design Review Committee. The irrigation system must be controlled by an automatic irrigation controller. The irrigation system must be maintained in operating order so as to be operable whenever needed.

2.27 Woodburning Stoves and Fireplaces. Each Lot within the Subdivision shall be prohibited from operating or installing an open hearth solid fuel burning device or a woodburning stove or any such appliance which does not comply with requirements of EPA class 3 rated devices. Any Dwellings shall be entitled an unrestricted number of natural gas burning fireplaces or appliances.

2.28 Enforcement. The Association or its authorized agents may enter any Lot in which a violation of this Declaration and these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Any expenses in connection with such correction shall be an Individual Special Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of Article 6 hereof. All remedies described in Article 10 hereof and all other rights and remedies available at law or equity shall be available in the event of any breach of any provision of this Article 2 by any Owner, Member, occupant or other Person.

2.29 Modification. The Association may modify or waive the foregoing restrictions or otherwise restrict and regulate the use and occupancy of the Subdivision and the Lots by reasonable rules and regulations of general application adopted by the Board from time to time which shall be incorporated into the Association Rules.

### ARTICLE 3 MEMBERSHIP IN ASSOCIATION AND VOTING RIGHTS

3.1 Membership in Association. Every Owner of a Lot within the Subdivision shall be a Member of the Association. 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 shall pass automatically with fee simple title to the Lot. The Membership may not be separated from ownership of any Lot. Declarant shall hold a Membership in the Association for each Lot owned by Declarant.

3.2 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 that in no event shall there be more than one vote per Lot. If title to a Lot is owned by more than one Person such persons shall collectively vote their interest as a single vote. If any Owner, his family or any licensee, lessee or invitee violates the Association Rules once adopted by the Board, the Board may suspend the right of such person to vote his membership interest, under such conditions as the Board may specify, for a period not to exceed sixty days for each violation.

3.3 Declarant Control. Notwithstanding the voting rights of Members, Declarant shall be entitled to select, appoint, and remove, in its sole discretion, members of the Board, in accordance with the Act. The Declarant Control Period will terminate not later than 60 days after conveyance of seventy-five percent of the total number of Lots to Owners other than Declarant, or two years after the

last conveyance of a Lot by the Declarant in the ordinary course of business. Not later than sixty days after conveyance of twenty-five percent of the Lots to Owners other than Declarant, at least one member and not less than twenty-five percent of the members of the Board must be elected by Lot Owners other than Declarant. Not later than sixty days after conveyance of fifty percent of the Lots to Lot Owners other than Declarant, not less than thirty-three and one-third percent of the members of the Board must be elected by Lot Owners other than Declarant.

#### ARTICLE 4

##### ASSOCIATION, DECLARANT AND MEMBER DUTIES AND POWERS

4.1 Association Board of Directors. The affairs of the Association shall be managed by the Board. The number, term, and qualifications of the members of the Board shall be established in the Articles of Incorporation and Bylaws. The Board may, by resolution, delegate portions of its authority to officers of the Association, but the Board retains ultimate responsibility for management of the Association's affairs. Action may be taken by the Board or any duly authorized executive committee, officer, agent or employee without a vote of Members, except as otherwise provided herein or in the Act.

4.2 Association Duties and Powers. The Board, acting on behalf of the Association, shall adopt and amend Bylaws and rules and regulations as needed, adopt and amend budgets and collect assessments for common expenses, purchase insurance as provided herein, maintain, repair, replace and operate all Common Elements, including easements, including drainage, utility, access to, from and through open space areas and streets dedicated to the Town, as shown on the Plat, shall appoint a Design Review Committee and shall notify Members of all Board actions affecting the Subdivision, including amendments to the Bylaws or Design Guidelines. Amendments to the Articles of Incorporation or Bylaws may be executed in accordance with the provisions of such instruments or in accordance with the Colorado Nonprofit Corporation Act. In the event that any obligation arises with respect to the Silt Water Conservancy District easement as shown on the Plat, the Association is obligated to fulfill such obligation. The Association has the duty to pay for the augmentation plan from Green Mountain Reservoir to the Town, as provided for in the Green Mountain Water Service Contract and all lease payments for additional shares of Silt Water Conservancy District water. The Board of Directors, acting on behalf of the Association, has the power to take all actions provided for in the Act, including the power to fill all vacancies in its membership for the unexpired portion of the term.

4.3 Member Duties and Powers. The Members have the power to amend the Declaration as hereinafter provided, and to elect members of the Board. Members shall notify the Association of the Members mailing address, and failure to so notify will constitute a waiver of any notice requirements.

4.4 Amendment of Declaration by Declarant. Until the first Lot subject to this Declaration has been conveyed by Declarant by a Recorded deed, any of the provisions, covenants, restrictions and conditions contained in this Declaration may be amended or terminated by Declarant with the Town's approval by the Recordation of a written instrument, executed by the Declarant, setting forth such amendment or termination.

4.5 Amendment of Declaration by Members. Except for the provision for a Declarant Control Period, Declarant Selection Period, the residential use and building restrictions, and the Town's rights as a third party beneficiary (defined in Section 10.6), any other provision, covenant,

condition, restriction contained in this Declaration may be amended or repealed at any time upon approval by at least 75% of the Members of the Association. The approval of any such amendment shall be evidenced by the certification by the Members to the Board of Directors. The amendment shall be effective upon the Recordation of a certificate, by the President of the Association.

4.6 Plat Amendment. The Declarant reserves the right to amend the final plat by revised versions without Member or Association approval during the Declarant Control Period. Declarant is under no obligation to amend the Declaration in conjunction with said Plat Amendment. Except as otherwise provided herein, after the Declarant Control Period, the Plat may be amended by revised versions or revised portions thereof referred to and described as to effect in an amendment to this Declaration adopted as provided for herein. Copies of any such proposed amendment to the Plat shall be made available for the examination of every Member at the offices of the Association during reasonable times. Such amendment to the Plat shall be effective once properly adopted, upon recordation in the appropriate governmental office in conjunction with the Declaration amendment.

4.7 Member Meetings. An annual meeting shall be held by the Members on a date provided in the Bylaws. Not less than ten and no more than fifty days in advance of any meeting, the secretary or other officer specified in the Bylaws shall cause notice to be hand delivered or sent by United States mail to the mailing address of the Member or Members. A quorum will be deemed to be present if two-thirds of the Members eligible to vote are present in person or by proxy. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half of required quorum at the preceding meeting. A majority of the Member votes present at the meeting shall be required for approval of any action.

4.8 Board of Director Meetings. An annual meeting shall be held by the Board immediately following the Member Meetings. All regular and special meetings shall be open to attendance by all Members of the Association. Special meetings may be closed or restricted in attendance only in accordance with the Act. The required quorum and number of votes necessary to approve an action shall be established by the Bylaws.

4.9 Duties and Powers of the President. The procedure for appointment or election of the President and the power of the President to act on behalf of the Association shall be set by the Bylaws. In the event of any dispute between any Members subject to this Declaration, relating to the provisions of this Declaration, the Articles, Bylaws, Rules or Design Guidelines, the determination of the President shall be final and binding on each and all of such Members.

4.10 Special Meetings for Members and Directors. At the request of a Majority of Members or Directors, a special meeting may be called, in addition to the annual meeting, to discuss special or extraordinary issues of concern to the Subdivision. Such meetings shall be subject to the same requirements as annual Member meetings and annual Director meetings.

4.11 Records. The Association, shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Member, the books, records and financial statements of the Association, this Declaration and the Articles, Bylaws, Association Rules and Design Guidelines.

**ARTICLE 5**  
**EASEMENTS**

5.1 Easements. The Declarant hereby reserves all easements described in the Plat, including the sign and its structure on First Mesa Drive, and irrigation water rights from the Silt Water Conservancy District, utility easements, ditch easements, easements for ingress and egress and all other easements described in the Plat not otherwise dedicated to the Town. All such reserved easements shall be transferred as hereinafter provided to the Association as Common Elements, and the said irrigation water rights shall be owned by individual Lot Owners as required by the Silt Water Conservancy District regulations and statutory or regulatory requirements.

5.2 Blanket Easements. The Declarant hereby reserves a blanket easement upon, across, over and under the Subdivision for installing, constructing, replacing, repairing, maintaining and operating, all utilities, including but not limited to water, sewer, gas, telephone, electricity, television cable, security systems, and communication lines and systems, and in addition thereto for the use of emergency vehicles of all types. By virtue of the easement, it shall be expressly permissible for the providing utility company to install (including without limitation underground installation) and maintain the necessary facilities, wires, circuits, conduits, cables and related appurtenances, facilities and equipment in the Subdivision. Notwithstanding anything to the contrary contained in this Article, no easements shall be created nor shall any sewers, electrical lines, water lines or other facilities for utilities be installed or relocated except as initially created and approved by the Declarant or thereafter created or approved by the Association. This provision shall in no way affect any other recorded easements on the Subdivision nor any other obligation imposed upon Declarant by the Subdivision Improvements Agreement.

5.3 Use of the Common Elements. Each Owner shall have the non-exclusive right to use the Common Elements in common with all other Owners as required for the purposes of access and ingress and egress to (and use, occupancy and enjoyment of) any Lot owned by such Owner. Such right to use the Common Elements for purposes of access and ingress and egress shall, subject to the Association Rules, extend to each Owner, Member, occupant and the agents, servants, tenants, family members and invitees of each Owner or Member. Such right to use the Common Elements shall be perpetual and appurtenant to each respective Lot, subject to and governed by the provisions of this Declaration, the Articles, Bylaws and Association Rules, the performance of Declarant's obligations under the Subdivision Improvements Agreement and the Declarant control period and such reasonable limitations and restrictions as may from time to time be contained therein.

5.4 Transfer of Common Elements. Upon completion of Declarant's obligations under the Subdivision Improvements Agreement, or at the expiration of the Declarant Control Period, whichever occurs last, the Declarant shall deliver to the Association the appropriate instruments to effect the transfer of all of the Common Elements, consistent with the requirements of the Act.

**ARTICLE 6**  
**BUDGET AND ASSESSMENTS**

6.1 Annual Budget. The Board shall cause to be prepared a Budget for each calendar year, reflecting the Common Expenses, including reasonable provisions for contingencies, replacements, and capital improvements. Within thirty days after the adoption of any Budget, 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 nor more than sixty days after mailing or other delivery of the Budget. Unless at that meeting a majority of the Owners entitled to vote 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 that the Association does not have an address for any Member, such posting shall be deemed delivered to any such Member. 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.

6.2 Common Assessments. For each calendar year, the Association may levy a fixed proportion of the Common Assessments against Owners of the Lots to reflect the amount of estimated Common Expenses. Each Owner shall be obligated to pay the portion of the Common Assessments levied against and allocated to such Owner and the Lot of such Owner. Such proportion of the Common Assessments shall be computed by multiplying the amount to be raised to cover Common Expenses by the number of Lots owned by a Member and dividing the product by the total number of Lots in the Subdivision as of the first day of the calendar year. Each Assessment levied shall be a separate, distinct, and personal debt and obligation of the Owner or Member against whom the same is assessed. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. Such assessment may not be passed to a successor in title, unless expressly assumed by the successor, and such assumption is approved by the Association.

6.3 Special Assessments. If the estimated Common Assessments proves inadequate to meet the costs of Common Expenses, including nonpayment of any Owner's Common Expense share or Special Assessment charge, the President shall then determine the amount of such inadequacy and, with the consent of the Board, issue a supplemental estimate and levy a Special Assessment to be paid by each Member in the same proportion as Common Assessments are paid.

6.4 Surplus Common Assessments. In the event that the Common Assessments proves excessive in light of the actual Common Expenses, the Association may, at the discretion of the Board, retain such excess as additional working capital or reserves, reduce the amount of the Common Assessments for the following year, or abate the collection of Common Assessments for such period as it deems appropriate.

6.5 Commencement of Common Assessments. Common Assessments shall commence and be due and payable as to each Lot within the Subdivision on the first day of the month following the conveyance of the first Lot within the Subdivision. The Board of Directors shall fix the amount of the Common Assessment against each Lot at least thirty days in advance of each Common Assessment period. Written notice of the annual Common Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

6.6 Assessment Reserves. Each owner, upon purchase of any Lot within the Subdivision, shall be required to deposit at closing, an amount equal to the annual Common Assessment, prorated in accordance with the months remaining in the budgetary year.

6.7 Late Charges and Interest. Any Assessment not paid within thirty days after the due date shall bear interest from the due date at the rate of eighteen percent per annum. A delinquent member shall also be liable for attorney's fees and all other related costs incurred as a result of such delinquency, including all court, collection and arbitration costs.

6.8 Lien to Enforce Assessments. Pursuant to and in accordance with the Act, the Association shall have a statutory lien on a Lot for any Assessment levied against the Lot, or fines imposed against its Owner, from the time the assessment or the fine becomes due. All fees, charges, late charges, attorneys' fees, fines and interest outstanding from such Owner shall be included in such lien. Unless paid or otherwise satisfied, the lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado or in any other manner provided under Colorado law.

6.9 Lawsuit to Enforce Assessments. The Association may bring an action at law against the Owner personally obligated to pay the Assessment. 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.

6.10 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.

6.11 Special Rights of First Mortgages. Any First Mortgagee, meaning a Mortgagee with a first priority over other Mortgages and encumbrances, of a Mortgage encumbering any Lot in the Subdivision, upon filing a written request with the Association, shall be entitled to written notice from the Association of any default by the Mortgagor of such Lot in the performance obligations under this Declaration, the Articles of Incorporation, the Bylaws, or the Rules which default is not cured within sixty days after the Association learns of such default, examine the books and records of the Association during normal business hours, receive a copy of financial statements of the Association including any annual financial statement within ninety days following the end of any fiscal year of the Association, receive written notice of all meetings of Members, designate a representative to attend any meeting of Members, receive thirty days written notice prior to the effective date of any proposed material amendment to this Declaration, the Articles of Incorporation, or the Bylaws.

6.12 Priority of First Mortgage Over Assessments. Unless otherwise provided for by the Act, each First Mortgagee of a Mortgage encumbering a Lot who obtains title to the Lot by any of the remedies provided in such Mortgage, by judicial foreclosure, or by deed or assignment in lieu of foreclosure shall take title to the Lot free and clear of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such holder acquires title to such Lot. Nothing herein relieves such First Mortgagee from responsibility for subsequent Assessments or charges against such Lot after such time the holder acquires title to such Lot.

6.13 Priority of Lien. The Lien for Assessments shall be prior to any declaration of Homestead rights Recorded after the time that the Lot becomes a part of the Subdivision and shall have priority attached to such lien under the Act and under Colorado law.

**ARTICLE 7**  
**INSURANCE**

7.1 **Obligation to Purchase.** No later than the time of the first conveyance to an Owner other than the Declarant, the Association shall, to the extent reasonably available, obtain and keep in full force and effect the following insurance coverage.

7.1a Property Insurance for the Common Elements as provided for in the Act.

7.1b Commercial General Liability Insurance to cover all claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements, as provided for in the Act.

7.1c Any additional coverage deemed necessary by the Association or required by the Act or other laws.

**ARTICLE 8**  
**ARCHITECTURAL AND LANDSCAPE CONTROL**

8.1 **Approval of Improvements Required.** No improvement shall be constructed without the Design Review Committee approval, except where approval is not reasonably required to carry out the purposes of this Declaration as determined by the Design Review Committee. Improvement to property shall mean the construction, erection, installation, or expansion of any building, structure, or utility facilities and fences, or destruction or removal of any building, structure, tree, vegetation or other improvement, or the grading, excavation, filling or similar disturbance to the surface of the land, or any change of any previously approved improvement to a Lot, including any change of exterior appearance, color or texture.

8.2 **Design Review Committee.** The Design Review Committee shall consist of not less than one and not more than three persons, all of whom shall be appointed by the Declarant during the Declarant Selection Period, as defined hereinafter. The Selection Period shall mean the period of time commencing as of the date of Recordation of this Declaration and continuing until all of the Lots in the Subdivision have been conveyed to Persons other than Declarant and certificates of occupancy have been issued for the residences constructed thereon, or when, in Declarant's discretion, Declarant relinquishes such right voluntarily. Thereafter the Board shall have the power to appoint the Design Review Committee.

8.3 **Design Guidelines.** The Design Review Committee shall establish reasonable procedural rules, regulations, architectural standards and design guidelines, which the Design Review Committee may, from time to time in its discretion, amend, repeal or augment. The Design Guidelines may include, among other things, the following restrictions and limitations:

8.3.1 Procedure for submittal of all construction plans to Design Review Committee.

8.3.2 Time limitations for the completion, within specified periods after approval and commencement of construction of the improvements for which approval is required pursuant to the Design Guidelines.

8.3.3 Designation of a "building envelope" where needed within the discretion of the Design Review Committee, thereby establishing the location and maximum developable area of the Lot. Accessory buildings may be excluded from the building envelope if approved by the Design Review Committee. No structure shall be sited on a Lot without the Design Review Committee approval. The Design Review Committee shall, within its discretion, approve the building's location as near to the location selected by the Owner as it deems appropriate.

8.3.4 Approval of plans and specifications prior to the commencement of all construction. No building shall be erected by means of other than new construction, it being the purpose of this covenant to ensure that old buildings will not be moved from previous locations and placed upon a lot. All structures shall be constructed of either brick, stone, lumber, stucco, or a combination thereof. The use of cinderblock shall not be allowed unless it is faced with another material herein approved. Duplex structures must be designed so that the two residences have different appearances, no mirror image duplexes will be allowed (duplexes are only permitted on certain lots). All driveways and parking areas shall have concrete paved surfaces. No structure shall be placed or erected upon any lot which is, ever has been, or could be made the subject of a specific ownership tax as now defined in Title 42 of the Colorado Revised Statutes, nor shall structures constructed in the fashion and manner as mobile homes be allowed. Modular homes may be approved by the Design Review Committee assuming they meet the following minimum requirements:

8.3.4.1 The intent of this Section is to ensure that any modular structure that is proposed be in harmony with the configuration of improvements on other Lots. The Design Review Committee may impose additional design requirements upon a modular structure to ensure its harmony with other improvements.

8.3.4.2 The completed structure must be at least 26 feet in width for at least 60 percent of the structure's length.

8.3.4.3 The completed structure must have an attached garage that is sided and roofed identically to the rest of the structure.

8.3.4.4 All modular homes are subject to Town requirements and specifications for manufactured housing.

8.3.5 Conformity of completed improvements to plans and specifications approved by the Design Review Committee; provided, however, as to purchasers and encumbrances in good faith and for value, unless notice of noncompletion or nonconformance identifying the violating Lot and specifying the reason for the notice, executed by the Design Review Committee, shall be recorded with the County Recorder, and given to the Owner of such Lot within one (1) year of the expiration of the time limitation described in Section 8.3.2 above, or, if later, within one (1) year following completion of the improvement, or unless legal proceedings shall have been instituted to enforce compliance or completion within said one (1) year period, the completed improvements shall be deemed to be in compliance with plans and specifications approved by the Design Review Committee and in compliance with the architectural standards of the Association and this Declaration, but only with respect to purchasers and encumbrancers in good faith and for value.

8.3.6 The Design Review Committee shall list the varieties of plants that shall be permitted to be planted on any lot. A list of such plants shall be kept on file at all times by the Association. The Association may, from time to time, amend the list of permitted plants to add or



delete certain varieties.

8.3.7 The Design Review Committee or the Association may make rules prohibiting the use of all chemical pesticides and herbicides during certain periods of the year, which rules may include a provision for Individual Special Assessments to be made in the event of violation of this Section and Section 8.3.6.

8.3.8 Such other limitations and restrictions as the Board or Design Review Committee in its reasonable discretion shall adopt, including, without limitation, the regulation of all exterior lighting, landscaping (including without limitation absolute prohibition of certain types of landscaping, trees and plants), construction, reconstruction, exterior addition, change or alteration to or maintenance of any building, structure, foundation system, wall or fence, including, without limitation, the nature, style, shape, height, materials, exterior color, surface texture, location of any such improvement, and prohibition of construction during certain periods of the year.

8.3.9 Imposition of Individual Special Assessments for violations of these or any other restrictions that the Design Review Committee creates.

#### 8.4 General Provisions.

8.4.1 The Design Review Committee may assess reasonable fees in connection with its review of plans and specifications. In the event that an application requires extraordinary legal, engineering, or other fees, the Committee will notify the applicant of the cost of such fees, and the Committee will not be required to take further action until such extraordinary costs are paid by the applicant. Any costs incurred by the Committee in processing an individual application shall be considered an Individual Special Assessment.

8.4.2 The Design Review Committee may delegate its plan review responsibilities, except final review and approval as may be required by the Design Guidelines, to one or more of its members or architectural consultants retained by the Design Committee. Upon such delegation, the approval or disapproval of plans and specifications by such members or consultants shall be equivalent to approval or disapproval by the entire Design Review Committee.

8.4.3 The address of the Design Review Committee shall be the address established for giving notice to the Association, unless otherwise specified in the Design Guidelines. Such address shall be the place for the submittal of plans and specifications and the place where the current Design Guidelines shall be kept.

8.4.4 The establishment of the Design Review committee and the procedures herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain or repair their Lots as may otherwise be specified in this Declaration, the Bylaws or Association Rules.

8.4.5 The Design Review Committee shall approve or disapprove any plans and specifications submitted to it in accordance with the Design Guidelines within a period of thirty (30) days.

8.5 Approval and Conformity of Plans. No building, fence, wall or other structure or improvement of whatever type shall be commenced, erected or maintained upon any Lot, nor shall

there be any addition to or change to the exterior of any residence or other structure, improvement, or facility upon a Lot or the landscaping, grading or drainage thereof, including, without limitation, the painting (other than painting with the original or subsequently approved color of paint) of exterior walls, patio covers and fences, except in compliance with plans and specifications therefor which have been submitted to and approved by the Design Review Committee. Approval of the Design Review Committee of Plans and specifications shall not constitute approval of engineering design or for compliance with zoning and building ordinances. By approving such plans and specifications neither the Design Review Committee, the members thereof, the Association, any Member, the President, the Board, nor the Declarant make any warranty that said plans or specifications comply with applicable governmental ordinances and building codes, nor may be held liable in the event that the specifications do not comply.

8.6 Inspection and Recording of Approval: Any member or authorized consultant of the Design Review committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time enter, without being deemed guilty of trespass, upon any Lot after reasonable notice as provided herein to the Owner in order to inspect improvements constructed or being constructed on such Lot to ascertain that such improvements have been or are being built in compliance with the Design Guidelines and this Declaration. The Design Review Committee shall cause such an inspection to be undertaken within thirty (30) days of a request therefor from any Owner as to his Lot, and if such inspection reveals that the improvements located on such Lot have been completed in compliance with the Design Guidelines and this Article, the Design Review Committee shall provide to such Owner a notice of such approval in recordable form that, when recorded, shall be conclusive evidence of compliance with the provisions of this Article and the Design Guidelines as to the improvements described in such recorded notice.

8.7 Reconstruction of Common Elements. The reconstruction by the Association or Declarant after destruction by casualty or otherwise of any Common Elements that is accomplished in substantial compliance for such Common Elements shall not require compliance with the provisions of this Article or the Design Guidelines.

8.8 Additional Powers of the Board. The Board may promulgate as a part of the Design Guidelines such additional architectural and landscape standards, rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration.

## **ARTICLE 9** **EMINENT DOMAIN**

If at any time all or any part of the Common Elements shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

9.1 Proceeds. All compensation damages or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Association.

### 9.2 Complete Taking.

9.2.1 In the event that all of the Common Elements are taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall be apportioned among the Owners equally and payment of said apportioned amounts shall be made

payable to the Owner and the first Mortgagee on his Lot jointly,

9.2.2 The Association shall determine as soon as practicable the share of the Condemnation Award to which each Owner is entitled.

9.3 Partial Taking. In the event that less than the entire Common Elements is taken or condemned or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condemnation Award shall first be applied by the Association to the rebuilding and replacement of those improvements on the Common Element damages or taken by the condemning public authority, unless seventy-five (75%) percent of the Owners and the first Mortgagees of each Lot agree otherwise. Any surplus of the award or other portion thereof not used for rebuilding and replacement shall be used by the Association for the future maintenance of the Common Elements.

9.4 Mortgagee Notification. The Association shall give any first Mortgagee of a Lot timely written notice of any condemnation proceedings or threat thereof and destruction.

## ARTICLE 10 REMEDIES

10.1 General Remedies. In the event of any default or violation by any Owner, Member, occupant or other Person under the provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, the Association, or its successors or assigns, or its agents, the Declarant, or any Lot Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or which may be available at law or equity, and may prosecute any action or other proceedings against such defaulting Owner, Member, occupant or other Persons for an injunction, or for enforcement or foreclosure of the lien herein provided and the appointment of a receiver for the Lot, or for damages, or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Lot and to rent the Lot and apply the rents received to payment of unpaid Assessments and interest accrued thereto, and to sell the same, or for any combination of remedies or for any other relief, all without notice and without regard to the value of the Lot or the solvency of such Owner or Member. In the event of a sale, any purchaser shall take the interest in the property sold subject to this Declaration. The Association shall also have the right to make rules providing for penalties to be assessed to a Member for violation of any provision herein. All expenses of the Association or the Declarant, or any other Person granted rights of enforcement hereunder, incurred through any enforcement procedure, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon until paid at the default rate of interest specified above, shall be charged to and assessed against such defaulting Owner or Member or other Person and shall be an Individual Special Assessment against such Owner, Member or other Person and the Association shall have a lien as provided in Article 6.

10.2 No Personal Liability. A First Mortgagee shall not in any case or manner be personally liable for the payment of any Assessment or charge, nor the observance or performance of any covenant, restriction, or Rule of the Association, or any provision of the Articles or Bylaws, or any management agreement, except for those matters that are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Article 10.

10.3 Enforcement After Foreclosure Sale. An action to abate the breach of this Declaration may be brought against the purchasers who have acquired title through foreclosure of a Mortgage and

the subsequent foreclosure of trustee's sale (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time said purchaser acquired an interest in such Lot.

10.4 Exercise of Owner's Rights. During the pendency of any proceedings to foreclose a First Mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to power of sale conferred under a deed of trust and pursuant to the law, the First Mortgagee, or a receiver appointed in any such action, may, but need not, exercise any or all of the rights and privileges of the Owner in default including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner.

10.5 Effect on Mortgage. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of re-entry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage upon any Lot but, except as herein specifically provided, any violation of the provisions of this Declaration shall be binding upon and require correction of the violation by any lessee or Lot Owner whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise, within 90 days of acquisition by such Owner.

10.6 Town as Third Party Beneficiary. The Town shall be a third party beneficiary to this Declaration and may, at its option and in its sole discretion, enforce any provision in this Declaration, as amended, which affects Town residents or property within the Town limits. Notwithstanding the foregoing, the Town shall not be obligated to enforce or police the Subdivision's residents' compliance with Section 2.6.1.

#### ARTICLE 11 GENERAL PROVISIONS

11.1 General Notice. Notice of any matters effecting the Association or its Members, except as already described herein, shall be required to be hand delivered to Members or sent by United States mail to the Member mailing address.

11.2 Rule Against Perpetuities. The Rule against perpetuities shall not apply to defeat this Declaration, the Bylaws, or Rules.

11.3 Separate Assessment. The Lots shall be separately assessed and taxed for general ad valorem tax purposes as required by C.R.S. 38-33.3-105(2).

11.4 Conflict. The Declaration shall prevail in the event of a conflict between the Bylaws and the Declaration, except to the extent the Declarations conflict with the Act.

11.5 Limitation on Liability. The Association, Board of Directors, the Design Review Committee, 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.

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

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized Manager as of the date first set forth above.

EVSD, LLC

By: Prince Creek Construction Inc., Manager

By: David H. Hicks  
David Hicks, President

STATE OF COLORADO )  
COUNTY OF GARFIELD ) ss.

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of September, 1997 by David Hicks, President of Prince Creek Construction, Inc., Manager of EVSD, LLC, the Declarant.

Witness my hand and official seal  
My commission expires 7-17-2000



Charles Springsteel  
Notary Public

FIRST AMENDMENT TO THE DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR EAGLE'S VIEW SUBDIVISION

THIS FIRST AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision is hereby made this 2<sup>nd</sup> day of April, 1998 by EVSD, LLC, a Colorado limited liability company, (hereinafter "Declarant") and the Board of Directors (hereinafter the "Board") of the Eagle's View Subdivision Homeowner's Association, Inc. a Colorado Non-Profit Corporation (hereinafter the "Association") with the express consent of One Hundred Percent (100%) of the Owners as of this date; said consent being evidenced by their execution hereof.

RECITALS

1. There are presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 513711 in Book 1034 at Page 409 thereof (the "Declaration").
2. Section 2.6 of the Declaration provides in pertinent part that Lots 2 through 20 and 36 through 48 may be used for either single-family or duplex residential purposes (hereinafter "Duplex Lots").
3. Section 2.23 of the Declaration provides in pertinent part that resubdivision of a Lot by a Lot Owner is prohibited.
4. Declarant desires to establish for itself and Duplex Lot Owners the right to resubdivide said Duplex Lots to allow creation of a mixed-use community of ownership including duplexes and single family units, and to permit the recording of an amendment to the Plat defining such resubdivided Duplex Lots.
5. Declarant did not reserve in the Declaration a "Development Right" to resubdivide the Duplex Lots as provided in the Colorado Common Interest Ownership Act at C.R.S.

MASON & MORSE *NEW: Nemo Emerson*  
0304 HIGHWAY 133  
CARBONDALE, CO 81623

38-33.3-103(14)(c), and 38-33.3-205(1)(h). Therefore, this First Amendment to the Declaration to permit resubdivision of Duplex Lots and thus increase the number of Units or the Allocated Interests of a Unit (as such terms are defined in C.R.S. 38-33.3-101 et seq.) requires unanimous consent of the Lot Owners pursuant to C.R.S. 38-33.3-217(4).

6. Declarant further desires to amend Article 2 of the Declaration to proscribe or restrict certain uses of the Lots and other areas within Eagle's View Subdivision.

NOW THEREFORE, the Board, with the requisite consent of One Hundred Percent (100%) of the Association's voting rights, and with the consent of Declarant does hereby amend the Declaration in the following respects:

1. Article 2, Restrictions on Use and Occupancy, is hereby amended by the addition of the following Section 2.30 thereto:

"2.30 Storage of Construction materials and Modular Home Components. No building or construction materials of any kind to be used in construction of improvements on a Lot shall be stored or permitted on any area of the Subdivision, including publicly dedicated areas, other than on the Lot or Lots upon which such materials are to be used in such construction. Further, any modular home as described in Article 8 hereof which is delivered to the Subdivision for installation on a Lot shall be installed upon its foundation within a period of 48 hours after its delivery within the Subdivision and no such modular home or components thereof shall be stored on or at any location within the Subdivision other than on the Lot where it is to be permanently installed and constructed. In the event of a violation of this provision, either the Association or the Declarant may immediately remove or cause to be removed from the Subdivision any such materials or modular homes or components thereof at the expense of the Owner of the Lot upon which such materials or modular home components are intended to be used or located."

2. Article 2, Restrictions on Use and Occupancy, is hereby further amended by deletion of Section 2.23 thereof in its entirety and substitution in its place and stead, the following:

"2.23 Resubdivision Prohibited The resubdivision of a Lot by a Lot Owner is prohibited for all Lots except the Duplex Lots as described in Section 2.6 of the Declaration and such Duplex Lots may be resubdivided only pursuant to the following requirements and conditions:

a. The Owner of a Duplex Lot may apply to the Board to resubdivide a Duplex Lot into no more than two (2) Lots to thereby create two single-family residences, subject to the provisions hereof, the Declaration, and other provisions of applicable ordinances of the Town.

b. In order to resubdivide a Duplex Lot, the Owner of such Duplex Lot, as the applicant, must submit an application to the Board which application shall include:

i) Evidence that the applicant of the proposed resubdivision shall have complied with all building codes, fire codes, zoning and other applicable ordinances or resolutions of the Town and evidence that the proposed resubdivision does not violate the terms of any document evidencing a security interest encumbering the Lot.

ii) The proposed form of amendment to the Plat to show the Lots which are created by the resubdivision and their dimensions. The Lots to be created shall be identified by the original Lot number followed by an "A" and "B" designation (e.g. Lot No. 2 resubdivided into Lot 2-A and Lot 2-B).

iii) The Owner shall be responsible for all fees, costs and expenses for any proposed resubdivision and shall tender to the Board a deposit against attorney fees and costs which the Association may incur in reviewing and effectuating the application, in an amount reasonably estimated by the Board; and

iv) Such other information as may be reasonably requested by the Board.

c. All applications for resubdivision must be reviewed and approved by the Design Review Committee established in the Declaration.

d. No resubdivision of Duplex Lots shall be effected without the necessary amendment to the Declaration and Plat, executed and recorded pursuant to C.R.S. 38-33.3-217(3) and (5).

e. Any and all improvement or modifications to existing utilities necessary to accommodate resubdivision into two single-family Lots of any Duplex Lot shall be the Duplex Lot Owner's responsibility and the costs therefore shall be the sole obligation of the Duplex Lot Owner. No modification of existing utility infrastructure shall be



made without the written consent of both the Town and the Board.

f. In the event a resubdivision of any Duplex Lot is effectuated as provided herein, the Owners of the newly created interests shall be call "Sub-Lot Owners" and shall have the following modified rights and obligations of Lot Owners and Members:

i) Every Sub-Lot Owner shall be a Member and have a one-half (1/2) membership in the Association. All other consistent provisions of Section 3.1 of the Declaration shall remain in effect.

ii) Every Sub-Lot Owner shall have a one-half (1/2) Member vote as a voting right. All other consistent provisions of Section 3.2 shall remain in effect.

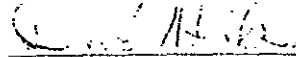
iii) Every Sub-Lot Owner shall be obligated to pay one-half (1/2) of the Common Assessment levied against a Lot. All other consistent provisions of Section 6.2 shall remain in effect.

g. Boundary line adjustments between owners of two contiguous Lots which do not result in the creation of additional Lots shall not constitute resubdivision but shall require written approval of the Design Review Committee and shall comply with all requirements of the Town.

3. Except as hereby amended and modified, all other covenants, conditions and restrictions and terms and provisions of the Declaration shall be and remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision have been consented to, adopted and approved by all Owners and the Declarant as evidenced by their respective executions hereof, and executed by the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc. on the day and year first above set forth.

BOARD OF DIRECTORS



David Hicks



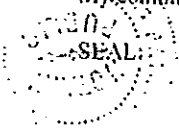
Connie Hicks

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of April, 1998  
by David Hicks as a Member of the Board of Directors of Eagle's View Subdivision Homeowners  
Association, Inc.

Witness my hand and official seal

My commission expires: 11/2/11



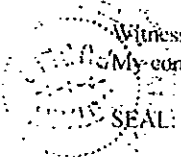
David Hicks  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of April, 1998  
by Connie Hicks as a Member of the Board of Directors of Eagle's View Subdivision Homeowners  
Association, Inc.

Witness my hand and official seal

My commission expires: 11/2/11



David Hicks  
Notary Public

The undersigned Secretary of the Eagle's View Subdivision Homeowners Association, Inc.  
does hereby certify that the above and foregoing First Amendment to the Declaration of Covenants,  
Conditions and Restrictions for Eagle's View Subdivision were duly adopted by the Board of  
Directors and consented to by One Hundred Percent (100%) of the present Owners of Lots as  
required by the Colorado Common Interest Ownership Act on this 22<sup>nd</sup> day of April, 1998.

Connie Hicks  
Connie Hicks, Secretary

6

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: Grace B Baker  
Lot Owner  
Signature

Lot No. 56

STATE OF COLORADO )  
COUNTY OF Gar ) ss.

The foregoing instrument was acknowledged before me this 10 day of April, 1998  
by Grace B Baker as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal

My commission expires: My Commission Expires 6/17/2000

SEAL:

Claudia Plattner  
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

Jay W Hughes and

By: Janice C. Getscher  
Lot Owner

Lot No. 77

Janice C. Getscher Jay W Hughes  
Signature

STATE OF COLORADO )  
COUNTY OF GARFIELD ) ss.

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of April, 1998  
by Jay W. Hughes + Janice C. Getscher as Lot Owners in Eagle's View Subdivision.

Witness my hand and official seal

My commission expires: 8/22/98

SEAL:

Antonina Palmetto  
Notary Public



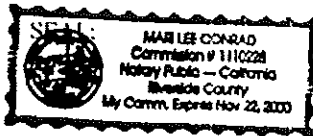
The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: The Shalleys Lot No. 76-0-51  
Robert E. Shallecross  
Signature

CALIFORNIA  
STATE OF ~~COLORADO~~  
RIVERSIDE CO.  
COUNTY OF ~~GARFIELD~~

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of April, 1998  
by Robert E. Shallecross as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal  
My commission expires: 11-22-2000



Mari Lee Conrad  
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: \_\_\_\_\_ Lot No. \_\_\_\_\_  
Lot Owner

Signature

STATE OF COLORADO  
COUNTY OF GARFIELD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of April, 1998  
by \_\_\_\_\_ as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal  
My commission expires: \_\_\_\_\_

SEAL:

\_\_\_\_\_  
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: Mary Louise Haggart

Lot Owner

Lot No. 78

Signature

STATE OF COLORADO )

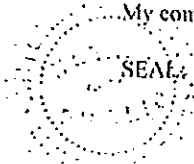
) ss.

COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 23 day of April, 1998,  
by Mary Louise Haggart as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal

My commission expires: 8/31/98



Antonia Palmato  
Notary Public

The undersigned Lot Owner consents to, adopts and approves the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

By: \_\_\_\_\_

Lot Owner

Lot No. \_\_\_\_\_

Signature

STATE OF COLORADO )

) ss.

COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of April, 1998  
by \_\_\_\_\_ as a Lot Owner in Eagle's View Subdivision.

Witness my hand and official seal

My commission expires: \_\_\_\_\_

SEAL:

\_\_\_\_\_  
Notary Public

SECOND AMENDMENT TO THE DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR EAGLE'S VIEW SUBDIVISION

THIS SECOND AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision is hereby made this 8<sup>th</sup> day of June, 1998 by EVSD, LLC, a Colorado limited liability company, (hereinafter "Declarant") and the Board of Directors (hereinafter the "Board") of the Eagle's View Subdivision Homeowner's Association, Inc., a Colorado Non-Profit Corporation (hereinafter the "Association") with the express approval of Lot Owners and Members having more than Seventy-Five Percent (75%) of the Members voting rights as of this date; said approval being evidenced by their execution hereof.

RECITALS

1. There is presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 513711 in Book 1034 at Page 409 thereof (the "Declaration").

2. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 524182 in Book 1064 at Page 567 thereof (the "First Amendment to the Declaration").

3. Declarant now desires to amend Section 2.6 of Article 2, Section 4.5 of Article 4 and Section 8.3.4 of Article 8 of the Declaration in the manner set forth herein.

NOW THEREFORE, the Board, with the requisite consent of Seventy-Five Percent (75%) of the Association's Lot Owners and Members voting rights, and with the consent of Declarant does hereby further amend the Declaration in the following respects:

1. Article 2, Restrictions on Use and Occupancy, is hereby amended by the addition to Section 2.6 thereof of the following Sub-section 2.6.2:

"2.6.2 No type of residential dwelling commonly and variously

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MASON & MORSE  
0304 Highway 133  
Carbondale, CO 81623

135  
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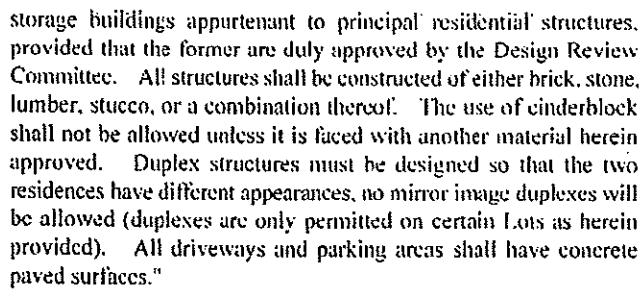
referred to as "modular homes", "mobile homes", "manufactured housing", "factory built homes or housing", "HUD homes", or "UBC homes", including, without limitation, those types of homes or housing defined and described in Section 17.08.215 and 17.08.216 of Title 17 of the Silt Municipal Code and amendments thereto set forth in Ordinance 22, Series 1997, will be permitted to be placed, constructed, located or installed on any Lot. This building restriction shall not apply to any Lot, record title to which is owned by any person other than Declarant as of the date of recordation of the Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision."

2. Article 4, Association, Declarant, and Member Duties and Powers is hereby amended by deletion of Section 4.5 thereof in its entirety and substitution in its place and stead, the following:

"4.5 Amendment of Declaration by Members. Except for the provisions for a Declarant Control Period, Declarant Selection Period, the uses to which any Lot is restricted, and the Town's rights as a third-party beneficiary (defined in Section 10.6), any other provision, covenant, condition or restriction contained in the Declaration or Amendments thereto may be amended or repealed at any time upon approval by Members and Lot Owners having at least 75% of the Members voting rights of the Association. The approval of any such amendment shall be evidenced by the execution thereof by the Board of Directors and certification by the Secretary of the Association of the affirmative vote and approval of the aforesaid requisite percentage of the Members and Lot Owners of the Association with such approval evidenced and certified by such Members' execution of said amended Declaration and shall be effective upon the Recording of the amended Declaration, by the President of the Association."

2. Article 8, Architectural and Landscape Control is hereby amended by deletion of Section 8.3.4 thereof in its entirety and substitution in its place and stead of the following:

"8.3.4 Approval of plans and specifications prior to the commencement of any construction. No building shall be erected by means of other than new construction, it being the purpose of this building restriction to ensure that old buildings will not be moved from previous locations and placed upon a Lot nor that pre-constructed buildings of any kind shall be located upon any Lot, all as more particularly defined, provided and restricted by Sub-section 2.6.2 above. The foregoing building restriction shall not apply to



IN WITNESS WHEREOF, this Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision has been consented to, adopted and approved by those Members and Lot Owners having Seventy-Five Percent (75%) of the Members voting rights of the Association and the Declarant as evidenced by their respective executions hereof, with certification of the requisite percentage of Members and Lot Owners evidenced by the execution hereof by the Secretary of the Association, and executed by the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc. on the day and year first above set forth.

David Hicks

[illegible]

Witness my hand and official seal  
My commission expires: 10-5-2001

Nancy B. Emerson  
Notary Public

The undersigned Secretary of the Eagle's View Subdivision Homeowners Association, Inc. does hereby certify that the above and foregoing Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision was duly adopted by the Board of Directors and that the records of the Association indicate that EVSD, LLC is the Owner of more than 75% of the Lots in Eagle's View Subdivision with corresponding Member voting rights on the day and year first above set forth.

Connie Hicks  
Connie Hicks, Secretary

The undersigned Declarant consents to, adopts and approves the Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

EVSD, LLC  
By: Prince Creek Construction, Inc. Manager  
By: David Hicks  
David Hicks, President

STATE OF COLORADO )  
) ss.  
COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 8th day of June, 1998 by David Hicks as President of Prince Creek Construction, Inc., Manager of EVSD, LLC, the Declarant.

Witness my hand and official seal  
My commission expires: 10-5-2001

SEAL:

Nancy B. Emerson  
Notary Public

The undersigned Owner of more than Seventy-Five Percent (75%) of the Lots and Member voting rights of the Association consents to, adopts and approves the Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision.

EVSD, LLC

By Prince Creek Construction, Inc., Manager

By: David Hicks  
David Hicks, President

STATE OF COLORADO )

) ss.

COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of June, 1998 by David Hicks as President of Prince Creek Construction, Inc., as Manager of EVSD, LLC.

Witness my hand and official seal

My commission expires: 10 5 2001

SEAL:

Nancy B. Emerson  
Notary Public

THIRD AMENDMENT TO THE DECLARATION  
OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR EAGLE'S VIEW SUBDIVISION

THIS THIRD AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision is hereby made this 16<sup>th</sup> day of December, 1998 by EVSD, LLC, a Colorado limited liability company, (hereinafter "Declarant") and the Board of Directors (hereinafter the "Board") of the Eagle's View Subdivision Homeowner's Association, Inc., a Colorado Non-Profit Corporation (hereinafter the "Association") with the express approval of Lot Owners and Members having more than Seventy-Five Percent (75%) of the Members voting rights in the Association as of this date; said approval being evidenced by their execution hereof.

RECITALS

A. There is presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 513711 in Book 1034 at Page 409 thereof (the "Declaration").

B. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a First Amendment to the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 524182 in Book 1064 at Page 567 thereof (the "First Amendment to the Declaration").

C. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 531380 in Book 1086 at page 94 thereof (the "Second Amendment to the Declaration").

D. Declarant now desires to amend Sub-section 2.6.1 of Article 2. of the Declaration in the manner set forth herein.

NOW THEREFORE, the Board, with the requisite consent of Seventy-Five Percent (75%) of the Association's Lot Owners and Members voting rights, and with the consent of Declarant does hereby further amend the Declaration in the following respects:

MASON & MORSE REAL ESTATE  
0304 HIGHWAY 133  
CARBONDALE, CO 81623

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1. Article 2, Restrictions on Use and Occupancy, is hereby amended by the deletion of Sub-section 2.6.1 thereof in its entirety and by the substitution in its place and stead of the following:

"2.6.1 Duplexes will be allowed only if they are in compliance with the Design Guidelines."

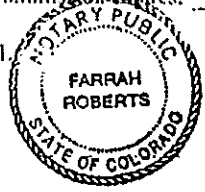
2. Except as hereby amended and modified, all other covenants, conditions, restrictions, terms and provisions of the Declaration and the aforesaid said amendments thereto shall be and remain in full force and effect.

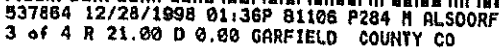
IN WITNESS WHEREOF, this Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision has been consented to, adopted and approved by those Members and Lot Owners having Seventy-Five Percent (75%) of the Members voting rights of the Association and the Declarant as evidenced by their respective executions hereof, with certification of the requisite percentage of Members and Lot Owners evidenced by the execution hereof by the Secretary of the Association, and executed by the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc. on the day and year first above set forth.

BOARD OF DIRECTORS  
David Hicks  
David Hicks  
Connie Hicks  
Connie Hicks

STATE OF COLORADO )  
                                  ) ss.  
COUNTY OF GARFIELD )

The foregoing instrument was acknowledged before me this 12th day of December, 1998 by David Hicks and Connie Hicks as all of the Members of the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc.

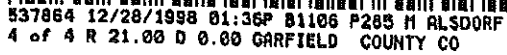
Witness my hand and official seal  
My commission expires: 3/23/02  
SEAL  Farrah Roberts  
Notary Public



Connie Hicks  
Connie Hicks, Secretary

By: David Hicks  
David Hicks, President

2 Frankford  
Notary Public



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**FOURTH AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR EAGLE'S VIEW SUBDIVISION HOMEOWNERS ASSOCIATION, INC.**

THIS FOURTH AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision is hereby made this 19<sup>TH</sup> day of AUGUST, 2002 by Eagle's View Subdivision Homeowners Association, Inc., a Colorado Non-Profit Corporation and the Board of Directors (hereinafter the "Board") of the Eagle's View Subdivision Homeowners Association, Inc., (hereinafter the "Association") with the express approval of Lot Owners and Members having Seventy-Five Percent (75%) of the Members voting rights in the Association as of this date; said approval being evidenced by their execution hereof.

**RECITALS**

A. There is presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision, as Reception No. 513711 in Book 1034 at Page 419 thereof (the "Declaration").

B. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision, as Reception No. 524182 in Book 1064 at Page 567 thereof (the "First Amendment to the Declaration").

C. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 531380 in Book 1086 at page 94 thereof (the "Second Amendment to the Declaration").

D. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision as Reception No. 537864 in Book 1106 at page 282 thereof (the "Third Amendment to the Declaration").

E. The Association now desires to amend Sub-section 4.5 of Article 4 of the Declaration in the manner set forth herein.

NOW THEREFORE, the Board with the requisite consent of Seventy-Five Percent (75%) of the Association's Lot Owners and Members voting rights does hereby further amend the Declaration in the following respects:

**4.5 Amendment of Declaration by Members.** Except for the provision for a Declarant Control Period, Declarant Selection Period, the residential use and building restrictions, and the Town's rights as a third party beneficiary (defined in Section 10.6), any other provision, covenant, condition, restriction contained in this Declaration may be amended or repealed at any time upon approval by at least 51 % of the Members of the Association. The approval of any such amendment shall be evidenced by the certification by the Members to the Board of Directors. the amendment shall be effective upon the Recordation of a certificate, by the President of the Association.

Recorder Note: This Document appears to be a copy 7/3/2002 074

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610035 09/03/2002 04:08P B1383 P225 M ALSDORF  
2 of 3 R 16.00 D 0.00 GARFIELD COUNTY CO

Page 2  
of Fourth Amendment to the Declaration of Covenants  
for Eagle's View Subdivision Homeowners Association, Inc.

Except as hereby amended and modified, all other covenants, conditions, restrictions, terms and provisions of the Declaration and the aforesaid said amendments thereto shall be and remain in full force and effect.

IN WITNESS WHEREOF, this Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision has been consented to, adopted and approved by those Members and Lot Owners having Seventy-Five Percent (75%) of the Members voting rights of the Association and as evidenced by their respective executions hereof, with certification of the requisite percentage of Members and Lot Owners evidenced by the execution hereof by the Secretary of the Association, and executed by the Board of Directors of Eagle's View Subdivision Homeowners Association, Inc. on the day and year first above set forth.

BOARD OF DIRECTORS

*M. Dale McCall*

M. Dale McCall, President

*Elaine Patterson*

Elaine Patterson, Vice President

*Ulla Hövelmann*

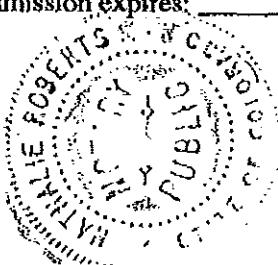
Ulla Hövelmann, Secretary/Treasurer

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GARFIELD )

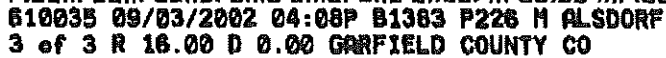
The foregoing instrument was acknowledged before me this 29TH day of AUGUST, 2002 by M. Dale McCall as President and all of the Members of the Board of Directors of Eagle's view Subdivision Homeowners Association, Inc.

Witness my hand and official seal  
MY COMMISSION EXPIRES:  
My commission expires: SEPTEMBER 26, 2002

SEAL



*Nathalie Roberts*  
Notary Public NATHALIE ROBERTS



of Fourth Amendment to the Declaration of Covenants  
for Eagle's View Subdivision Homeowners Association, Inc.

*Ulla Hövelmann*  
Ulla Hövelmann, Secretary/Treasurer

EAGLES VIEW SUBDIVISION HOMEOWNERS ASSN  
PO BOX 241  
SILT, CO 81652

**FIFTH AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR EAGLE'S VIEW SUBDIVISION HOMEOWNERS ASSOCIATION, INC.**

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THIS FIFTH AMENDMENT to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision is hereby made this 19<sup>TH</sup> day of AUGUST, 2002 by Eagle's View Subdivision Homeowners Association, Inc., a Colorado Non-Profit Corporation and the Board of Directors (hereinafter the "Board") of the Eagle's View Subdivision Homeowners Association, Inc., (hereinafter the "Association") with the express approval of Lot Owners and Members having Seventy-Five Percent (75%) of the Members voting rights in the Association as of this date; said approval being evidenced by their execution hereof.

**RECITALS**

A. There is presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision, as Reception No. 513711 in Book 1034 at Page 419 thereof (the "Declaration").

B. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a First Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision, as Reception No. 524182 in Book 1064 at Page 567 thereof (the "First Amendment to the Declaration").

C. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a Second Amendment to the Declaration of Covenants, Conditions, and Restrictions for Eagle's View Subdivision, as Reception No. 531380 in Book 1086 at page 94 thereof (the "Second Amendment to the Declaration").

D. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision as Reception No. 537864 in Book 1106 at page 282 thereof (the "Third Amendment to the Declaration").

E. There is also presently in effect and recorded in the records of the Garfield County Clerk and Recorder, Garfield County, Colorado, a Fourth Amendment to the Declaration of Covenants, Conditions and Restrictions for Eagle's View Subdivision as Reception No. 610035 in Book 1393 at page 284 thereof (the Fourth Amendment to the Declaration").

F. The Association now desires to amend Sub-section 4.7 of Article 4 of the Declaration in the manner set forth herein.

NOW THEREFORE, the Board with the requisite consent of Seventy-Five Percent (75%) of the Association's Lot Owners and Members voting rights does hereby further amend the Declaration in the following respects:

EAGLES VIEW SUBDIVISION HOMEOWNERS ASSN, INC  
P.O. BOX 24  
SILT, CO 81652

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Recorder Note: This Document appears to be a copy 9/3/2002 084

Except as hereby amended and modified, all other covenants, conditions, restrictions, terms and provisions of the Declaration and the aforesaid said amendments thereto shall be and remain in full force and effect.

## BOARD OF DIRECTORS

M. Blake McGuff

Elaine Patterson

Mr. Roselwans.

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GARFIELD )

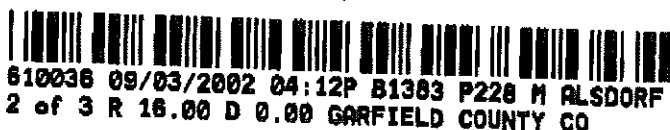
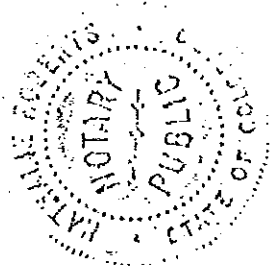
Witness my hand and official seal

**MY COMMISSION EXPIRES:**

My commission expires: SEPTEMBER 26, 2002

EXPIRES:  
2002

  
\_\_\_\_\_  
Notary Public NATHALIE ROBERTS

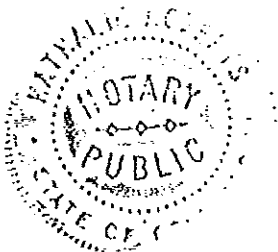


Ulla Hövelmann  
Ulla Hövelmann, Secretary/Treasurer

By: M. Dale McCall  
M. Dale McCall, President

Witness my hand and official seal  
My commission expires: \_\_\_\_\_ MY COMMISSION EXPIRES: SEPTEMBER 26, 2002

SEAL



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3 of 3 R 16.00 D 0.00 GARFIELD COUNTY CO