

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS  
FOR  
BARTON CREEK RESERVE**

September 8, 2017

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**Table of Contents**

<b>ARTICLE I.....</b>	<b>1</b>
<b>DECLARATION.....</b>	<b>1</b>
1.01    DECLARATION.....	1
1.02    COVENANTS RUNNING WITH THE LAND.....	2
<b>ARTICLE II.....</b>	<b>2</b>
<b>DEFINITIONS.....</b>	<b>2</b>
2.01    DEFINITIONS.....	2
2.02    GENDER AND NUMBER.....	6
<b>ARTICLE III.....</b>	<b>6</b>
<b>LOTS AND COMMON ELEMENTS.....</b>	<b>6</b>
3.01    LOTS.....	6
3.02    SEPARATE TAXATION OF LOTS.....	7
3.03    COMMON ELEMENTS.....	7
<b>ARTICLE IV.....</b>	<b>7</b>
<b>THE ASSOCIATION.....</b>	<b>7</b>
4.01    FORMATION OF THE ASSOCIATION.....	7
4.02    PURPOSES AND POWERS.....	7
4.03    ASSOCIATION DOCUMENTS.....	9
4.04    BOOKS AND RECORDS.....	9
<b>ARTICLE V.....</b>	<b>9</b>
<b>EXECUTIVE BOARD.....</b>	<b>9</b>
5.01    NUMBER AND ELECTION OF DIRECTORS.....	9
5.02    POWERS OF THE EXECUTIVE BOARD.....	9
5.03    DECLARANT CONTROL PERIOD.....	10
5.04    REMOVAL OF DIRECTORS.....	10
5.05    REPLACEMENT OF DIRECTORS.....	11
<b>ARTICLE VI.....</b>	<b>11</b>
<b>VOTING.....</b>	<b>11</b>
6.01    VOTING.....	11

<b>ARTICLE VII .....</b>	<b>12</b>
<b>ASSESSMENTS, COMMON EXPENSES, BUDGETS AND LIENS.....</b>	<b>12</b>
7.01 OBLIGATIONS FOR ASSESSMENTS.....	12
7.02 SHARE OF COMMON EXPENSES. ....	12
7.03 BUDGETS.....	13
7.04 GENERAL ASSESSMENTS. ....	14
7.05 SPECIAL ASSESSMENTS. ....	14
7.06 DEFAULT ASSESSMENTS. ....	15
7.07 ASSIGNMENT OF ASSESSMENTS.....	15
7.08 ASSESSMENT LIEN.....	15
7.09 WAIVER OF HOMESTEAD EXEMPTIONS. ....	16
7.10 ESTOPPEL CERTIFICATE; NOTICES TO MORTGAGEES. ....	16
7.11 RESERVE FUND. ....	17
<b>ARTICLE VIII .....</b>	<b>17</b>
<b>MAINTENANCE OF COMMON ELEMENTS AND LOTS .....</b>	<b>17</b>
8.01 MAINTENANCE OF COMMON ELEMENTS. ....	17
8.02 MAINTENANCE OF BUCK AND RAIL FENCE. ....	17
8.03 FOREST MANAGEMENT. ....	18
8.04 MAINTENANCE OF LOTS.....	18
8.05 MAINTENANCE OF PUBLIC IMPROVEMENTS. ....	19
8.06 MAINTENANCE OF DETENTION POND.....	20
8.07 MECHANIC’S LIENS AND INDEMNIFICATION.....	20
8.08 ASSOCIATION. ....	21
<b>ARTICLE IX.....</b>	<b>21</b>
<b>UTILITY AND OTHER SERVICES.....</b>	<b>21</b>
9.01 WATER, SEWER, GAS, ELECTRIC, TELEPHONE AND CABLE TELEVISION SERVICES.....	21
<b>ARTICLE X .....</b>	<b>21</b>
<b>DESIGN REVIEW .....</b>	<b>21</b>
10.01 DESIGN REVIEW BOARD.....	21
10.02 DESIGN CRITERIA.....	22
<b>ARTICLE XI.....</b>	<b>22</b>
<b>COVENANTS, CONDITIONS AND RESTRICTIONS .....</b>	<b>22</b>
11.01 APPLICABILITY OF COVENANTS, CONDITIONS AND RESTRICTIONS. ....	22
11.02 ASSOCIATION DOCUMENTS. ....	22
11.03 NOTICE OF CONVEYANCE OR ENCUMBRANCE. ....	23
11.04 USE OF LOTS. ....	23
11.05 LEASES.....	23
11.06 USE OF COMMON ELEMENTS.....	24
11.07 NUISANCES, HAZARDOUS ACTIVITIES AND UNSIGHTLINESS. ....	25
11.08 SIGNS. ....	25
11.09 COMPLIANCE WITH LAWS. ....	26
11.10 COMPLIANCE WITH INSURANCE. ....	26
11.11 RESTRICTION ON SUBDIVISION, REZONING AND TIMESHARING.....	26
11.12 VEHICLES AND PARKING. ....	26
11.13 TRASH, GARBAGE AND OTHER WASTE MATERIALS.....	27

11.14	PETS.....	27
11.15	WILDLIFE PROTECTION MEASURES.....	28
11.16	FENCING.....	28
11.17	GARAGE OR YARD SALES.....	28
11.18	TEMPORARY OCCUPANCY AND TEMPORARY BUILDINGS.....	29
11.19	UTILITIES.....	29
11.20	MAINTENANCE OF IMPROVEMENTS.....	29
11.21	DRAINAGE.....	29
11.22	DECLARANT’S EXEMPTION.....	29
<b>ARTICLE XII.....</b>		<b>30</b>
<b>EASEMENTS AND RESERVATIONS.....</b>		<b>30</b>
12.01	DECLARANT’S EASEMENTS AND RESERVATIONS.....	30
12.02	ASSOCIATION’S EASEMENTS.....	30
12.03	RECORDED EASEMENTS AND LICENSES.....	31
<b>ARTICLE XIII.....</b>		<b>31</b>
<b>INSURANCE.....</b>		<b>31</b>
13.01	INSURANCE REQUIRED TO BE OBTAINED BY THE ASSOCIATION.....	31
13.02	ADJUSTMENTS.....	31
<b>ARTICLE XIV.....</b>		<b>31</b>
<b>CASUALTY.....</b>		<b>31</b>
14.01	CASUALTY TO COMMON ELEMENTS.....	31
14.02	CASUALTY TO A LOT.....	31
<b>ARTICLE XV.....</b>		<b>31</b>
<b>CONDEMNATION.....</b>		<b>31</b>
15.01	CONDEMNATION OF ALL LOTS.....	31
15.01	CONDEMNATION OF FEWER THAN ALL LOTS.....	32
15.03	CONDEMNATION OF COMMON ELEMENTS.....	32
<b>ARTICLE XVI.....</b>		<b>32</b>
<b>SPECIAL DECLARANT RIGHTS.....</b>		<b>32</b>
16.01	IMPROVEMENTS.....	32
16.02	DEVELOPMENT RIGHTS.....	32
16.03	SALES OFFICES AND MODEL HOMES.....	33
16.04	MERGER.....	33
16.05	EXERCISING SPECIAL DECLARANT RIGHTS.....	33
16.06	INTERFERENCE WITH SPECIAL DECLARANT RIGHTS.....	34
16.07	RIGHTS TRANSFERABLE.....	34
<b>ARTICLE XVII.....</b>		<b>34</b>
<b>MORTGAGEE PROTECTIONS.....</b>		<b>34</b>
17.01	BENEFIT OF MORTGAGEES.....	34
17.02	NOTICE OF ACTIONS.....	34
17.03	CONSENT REQUIRED.....	34
17.04	NOTICE OF OBJECTION.....	35
17.05	FIRST MORTGAGEES’ RIGHTS.....	35

17.06	LIMITATIONS OF FIRST MORTGAGEE’S RIGHTS.....	35
17.07	DECLARANT RIGHTS. ....	36
<b>ARTICLE XVIII .....</b>		<b>36</b>
<b>ENFORCEMENT AND REMEDIES.....</b>		<b>36</b>
18.01	ENFORCEMENT.....	36
18.02	ATTORNEYS’ FEES. ....	37
18.03	INTEREST.....	37
18.04	NON-WAIVER. ....	37
<b>ARTICLE XIX .....</b>		<b>37</b>
<b>TERM AND AMENDMENTS.....</b>		<b>37</b>
19.01	TERM.....	37
19.02	TERMINATION. ....	38
19.03	AMENDMENTS.....	38
<b>ARTICLE XX.....</b>		<b>ERROR! BOOKMARK NOT DEFINED.</b>
<b>MISCELLANEOUS .....</b>		<b>39</b>
21.01	INTERPRETATION OF THE DECLARATION.....	39
21.02	SEVERABILITY.....	39
21.03	DISCLAIMER OF REPRESENTATIONS. ....	39
21.04	REFERENCE TO DECLARATION AND DEEDS. ....	39
21.05	SUCCESSORS AND ASSIGNS OF DECLARANT.....	40
21.06	CAPTIONS AND TITLES. ....	40
21.07	EXHIBITS. ....	40
21.08	GOVERNING LAW. ....	40
21.09	NOTICES. ....	40
21.10	ASSIGNABILITY. ....	41
21.11	WAIVERS.....	41
<b>ERROR! BOOKMARK NOT DEFINED.</b>		

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE BARTON CREEK RESERVE**

This Declaration of Covenants, Conditions and Restrictions for Barton Creek Reserve (the "Declaration") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2017, by R.A. Putnam and Associates, LLC, a Minnesota Limited Liability Company (together with its successors and assigns, "Declarant").

Recitals

A. Declarant owns the real property located in the Summit County, Colorado, that is more particularly described as follows:

TR 6-78 Sec 26 Qtr 1 Mining Claim(s) cont 28.353 acres ADAMS PLACER MS# 13491 PROTECTOR PLACER MS# 13491, Summit County, Colorado; with a common address of 5600 Barton Road, County Road 3, Summit County, Colorado.

B. Declarant desires to create a planned community on a portion of such property pursuant to the Colorado Common Interest Ownership Act, Colorado Revised Statutes 38-33.3-101 through 38-33.3-319, as the same may be amended from time to time.

C. Declarant deems it necessary and desirable to subject a portion of such property to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration.

Declaration

In consideration of the foregoing, Declarant hereby declares as follows:

ARTICLE I  
DECLARATION

1.01 Declaration.

Declarant hereby creates a planned community named "The Barton Creek Reserve" on the Property (as such term is defined below) and declares that Lots 1 through 25, and Parcel A (Open Space Tract), The Barton Creek Reserve, Summit County, Colorado, according to the Map, as defined herein, (the "Property") shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, assessments, charges, liens and other provisions of this Declaration.

1.02 Covenants Running with the Land.

All covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration are covenants running with the land, or equitable servitudes, as the case may be. The obligations, burdens and benefits created by this Declaration shall bind and inure to the benefit of Declarant, the Owners (as such term is defined below), the Association (as such term is defined below), and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

ARTICLE II  
DEFINITIONS

2.01 Definitions.

As used in this Declaration, the following terms have the meanings given to them in this Section 2.01.

(a) “Act” means the Colorado Common Interest Ownership Act, Colorado Revised Statutes §38-33.3-101 through §38-33.3-319, as the same may be amended from time to time.

(b) Intentionally left blank.

(c) “Articles” means the articles of incorporation of the Association filed with the Colorado Secretary of State, as the same may be amended from time to time.

(d) “Assessment” means a General Assessment, a Special Assessment or a Default Assessment levied and assessed pursuant to Article VII below.

(e) “Assessment Lien” has the meaning given to that term in Section 7.08 below.

(f) “Association” means The Barton Creek Reserve Homeowners’ Association, a Colorado nonprofit corporation, and its successors and assigns.

(g) “Association Documents” means this Declaration, the Articles, the Bylaws and the Rules, Regulations and Policies, as the same may be amended from time to time, specifically including the Design Review Board Governance Documents and the Design Review Guidelines.

(h) “Board of Directors” means the Association’s Executive Board, as those terms are used interchangeably.

(i) “Building” shall refer to all structures containing one (1) or more single family dwellings now or hereafter constructed on the Property.

(j) “Bylaws” means the bylaws of the Association, as the same may be amended from time to time.

(k) “Common Elements” means any real estate, other than a Lot, that:

(i) is owned or leased by the Association, either individually or as a tenant-in-common, or

(ii) that the Association does not own or lease but (A) in which the Association has rights of use or possession pursuant to this Declaration or a lease, license, easement or other agreement, and (B) that are used or possessed by the Association for the benefit of all Owners.

(iii) Common elements shall also encompass all personal property, including improvements implemented for the property in its entirety such as entry ways, monuments, signage, landscaping, turn outs, or other such improvements and infrastructure, whether located on real property owned by the association or established by means of an easement to the Association, Declarant or any other relevant party for such improvements or infrastructure.

(l) “Common Expenses” means:

(i) any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, without limitation, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Elements; (B) providing facilities, services and other benefits to Owners; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the Assessments, charges and liens imposed pursuant hereto; (E) regulating and managing the Community; (F) operating the Association; and (G) otherwise meeting the obligations of the Association; and

(ii) reserves for any such costs, expenses and liabilities.

(m) “Community” means The Barton Creek Reserve, the planned community created on the Property by this Declaration, consisting of the Lots and the Common Elements, if any.

(n) “Declarant” means R.A. Putnam and Associated, LLC, a Minnesota Limited Liability Company, and its successors and assigns.

(o) “Declarant Control Period” has the meaning given to that term in Section 5.03 below.

(p) “Declaration” means this Declaration of Covenants, Conditions and Restrictions for The Barton Creek Reserve, as the same may be amended from time to time.

(q) “Default Assessment” has the meaning given to that term in Section 7.06 below.

(r) “Design Review Board” means the design review board appointed by the Association pursuant to the Association Documents.

(s) “Design Standards” means the Design Guidelines for Barton Creek Reserve as adopted by the Association, as may be amended from time to time.

(t) “Director” means a duly elected or appointed member of the Executive Board.

(u) “Executive Board” means the Association’s Board of Directors, as those terms may be used interchangeably.

(v) “Family” when capitalized, means one or more persons all of which are related by blood, marriage, or adoption, living and cooking together as a single housekeeping unit, exclusive of household servants.

(w) “First Mortgage” means a Mortgage which is not subordinate to any other lien or encumbrance, except liens for taxes or other liens which are given priority by statute.

(x) “First Mortgagee” means a Mortgagee under a First Mortgage.

(y) “Forest Management Plan” means the Forest Management Plan attached hereto as Exhibit B.

(z) “General Assessment” has the meaning given to that term in Section 7.04 below.

(aa) “Guest” means any family member, employee, agent, tenant, independent contractor, lessee or invitee of an Owner.

(bb) “Home Occupation” means either an Accessory Use Home Occupation or a Low Impact Home Occupation as defined and described in Section 3810 of the Summit County Development Code, as amended.

(cc) “Improvements” shall mean and refer to all improvements now or hereafter constructed on the Property, including, without limitation, Buildings, garages, sheds, decks, fences, walls, alleys, parking areas, driveways, lights, signage, signage lighting, landscaped areas and other related improvements.

(dd) “Interest in Common Elements” means the undivided interest in the Common Elements held in its entirety by the Association in accordance with the terms and conditions of this Declaration.

(ee) Intentionally left blank.

(ff) “Lot” means:

(i) any parcel of real property within the Community that is designated as a Lot on the Map, and

(ii) any parcel of real property that Declarant later adds to the Community pursuant to Article XVI below, and designates as a Lot on the Map. As used in this Declaration, a “Lot” is intended to be a “unit,” as that term is used in the Act.

(gg) “Majority,” whether or not capitalized, means any percentage greater than 50 percent.

(hh) “Map” means the Final Plat of The Barton Creek Reserve, in one filing or multiple phased filings, as recorded in the Summit County Records, as the same may be amended or supplemented from time to time.

(ii) “Mortgage” means any mortgage, deed of trust or other document pledging any Lot or interest therein as security for payment of a debt or obligation.

(jj) “Mortgagee” means any Person named as a mortgagee or beneficiary in any Mortgage and any successor to the interest of any such Person under a Mortgage.

(kk) “Occupant” means a person occupying either on a long or short term basis, any Lot or any improvements or portion thereof, constructed upon any Lot.

(ll) “Officer” means a duly elected or appointed officer of the Association.

(mm) intentionally left blank.

(nn) “Owner” means the record holder of legal title to the fee simple interest in any Lot or portion thereof. If there is more than one record holder of legal title to a Lot, each record holder shall be an Owner. The term “Owner” includes Declarant to the extent that Declarant is the record holder of legal title to the fee simple interest in a Lot.

(oo) “Parcel” shall mean and refer to each separate parcel of property designated on a Map or plat with the word Parcel and a letter and number, and each separate parcel of property created by the resubdivision of any Parcel for the purposes of future development and re-subdivision into other Parcels for future development or Lots.

(pp) “Person” means any natural person, corporation, partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other entity capable of owning real property under the laws of the State of Colorado.

(qq) “Property” and “Project” mean:

(i) the real property located in the County of Summit, Colorado, that is more particularly described as Lots 1 through 25, and Parcel A (Open Space Tract), The Barton Creek Reserve, Summit County, Colorado; and

(ii) any real property that is later made subject to this Declaration in accordance with the terms and conditions contained herein.

(rr) “Purchaser” means a Person, other than Declarant or a Successor Declarant, who acquires legal title to the fee simple interest in any Lot or portion thereof.

(ss) Intentionally left Blank.

(tt) “Rules and Regulations” means any instrument adopted by the Association for the regulation and management of the Community, as the same may be amended from time to time.

(uu) “Security Interest” has the meaning given to that term in the Act.

(vv) “Share of Common Expenses” means the share of Common Expenses allocated to each Lot in accordance with the terms and conditions of this Declaration.

(ww) “Special Assessments” has the meaning given to that term in Section 7.05 below.

(xx) “Special Declarant Rights” means all “special declarant rights” (as such term is defined in the Act) that Declarant reserves for itself in this Declaration.

(yy) “Successor Declarant” means any Person who succeeds to any Special Declarant Right.

(zz) “Summit County Records” means the real property records maintained by the Office of the Clerk and Recorder for Summit County, Colorado.

## 2.02 Gender and Number.

Wherever the context of this Declaration so requires: (a) words used in the masculine gender shall include the feminine and neutral genders; (b) words used in the neutral gender shall include the masculine and feminine genders; (c) words used in the feminine gender shall include the masculine and neutral genders; (d) words used in the singular shall include the plural; and (e) words used in the plural shall include the singular.

## ARTICLE III LOTS AND COMMON ELEMENTS

### 3.01 Lots.

(a) Declarant hereby creates 25 Lots within the Community, the boundaries and identifying numbers of which are shown on the Map.

(b) Declarant reserves the right to redevelop any property under Declarant control during the period of Declarant's rights, if deemed necessary and appropriate, subject to all rules and regulations of the Summit County Land Use and Development Code ("Code").

3.02 Separate Taxation of Lots.

Pursuant to the Act, each Lot constitutes a separate parcel of real estate and will be separately assessed and taxed to the owner of said Lot.

3.03 Common Elements.

(a) Initially, the Common Elements consist of all rights to all roads, easements, parcels of land, or any other real or personal property designated for ownership and use by the Association.

(b) All Interest in Common Elements existing as of the date of this Declaration or as subsequently acquired shall be allocated in their entirety, and solely, to the Association.

ARTICLE IV  
THE ASSOCIATION

4.01 Formation of the Association.

On or before the date on which Declarant conveys the first Lot to a Purchaser, Declarant shall form the Association.

4.02 Purposes and Powers.

(a) The Association's purposes are:

(i) to manage, operate, insure, construct, improve, repair, replace and maintain the Common Elements, if any;

(ii) to provide certain facilities, services and other benefits to the Owners;

(iii) to administer and enforce the covenants, conditions, restrictions, reservations and easements created hereby;

(iv) to levy, collect and enforce the Assessments, charges and liens imposed pursuant hereto;

(v) to enter into agreements with other Persons, including, without limitation, easements, licenses, leases and other agreements with neighboring properties or the Summit County Government, which contemplate the sharing of expenses among the Association and such other Persons for improvements, facilities and services that serve the Association and such other Persons;

(vi) to improve, repair, replace and maintain any and all public streets, roads, bridges and culverts constructed within the Project, including, but not limited to Barton Road and/or any internal subdivision roads; to contract with other entities to provide for such improvement, repair, replacement and maintenance; and/or to propose, petition for or enter into a local improvement district or a special improvement district in accordance with Colorado law, for such purposes; and

(vii) to propose for the adoption of any and all common roads for acceptance for maintenance by the Summit County Government or any other jurisdiction or provider;

(viii) to undertake and perform all obligations of the Association as set forth in this Declaration.

(ix) to take any action that it deems necessary or appropriate to protect the interests and general welfare of Owners; and

(x) to regulate and manage the Community.

(b) Unless expressly prohibited by law or any of the Association Documents, the Association may:

(i) take any and all actions that it deems necessary or advisable to fulfill its purposes;

(ii) exercise any powers conferred on it by the Act or any Association Document; and

(iii) exercise all powers that may be exercised in Colorado by nonprofit corporations.

(c) Without in any way limiting the generality of paragraph 4.02(b) above, the Association may, but is not obligated to:

(i) acquire Common Elements and sell, lease, grant easements over, across and through and enter into agreements relating to Common Elements that it owns;

(ii) borrow monies and grant security interests in the Common Elements that it owns and in the assets of the Association as collateral therefore;

(iii) make capital improvements, repairs and replacements to the Common Elements; and

(iv) hire and terminate managing agents and other employees, agents and independent contractors.

#### 4.03 Association Documents.

(a) This Declaration creates the Community and sets forth certain covenants, conditions, restrictions, reservations, easements, assessments, charges and liens applicable to the Property. The Articles create the Association. The Bylaws provide for the regulation and management of the Association and the Rules and Regulations provide for the regulation and management of the Community. The Design Review Board Governance Document and the Design Review Standards regulate the planning, design and development of the properties within the Community.

(b) If there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles, the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration shall control. If there is any conflict or inconsistency between the terms and conditions of Articles and the terms and conditions of the Bylaws of the Rules and Regulations, the terms and conditions of the Articles shall control. If there is any conflict or inconsistency between the terms and conditions to the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws shall control.

#### 4.04 Books and Records.

Upon request, and in accordance with the Act, the Association shall allow Owners, Mortgagees and their respective agents to inspect current copies of the Association Documents and the books, records, budgets and financial statements of the Association during normal business hours and under other reasonable circumstances. The Association may charge a reasonable fee for copying such materials. The Association shall maintain compliance with all accounting requirements as set forth in the Act, as such requirements are subject to modification from time to time, and any updated requirements shall apply by reference to this Declaration.

### ARTICLE V EXECUTIVE BOARD

#### 5.01 Number and Election of Directors.

The makeup of the Executive Board, and the terms of each member of the Executive Board shall be as set forth in the Bylaws.

#### 5.02 Powers of the Executive Board.

(a) Except as provided in this Declaration, the Articles and Bylaws, the Executive Board may act on behalf of the Association in all instances.

(b) The Executive Board may not act on behalf of the Association to:

- (i) amend this Declaration;
- (ii) terminate the Association, this Declaration or the Community;

(iii) elect Directors to the Executive Board, other than to fill a vacancy for the unexpired portion of any Director's term, subject to Declarant's rights under Section 5.03 below; or

(iv) determine the qualifications, powers and duties, or terms of office, of Directors.

#### 5.03 Declarant Control Period.

(a) Subject to the terms and conditions of paragraphs 5.03(b) and (c) below, but notwithstanding anything else to the contrary contained in this Declaration or in any other Association Document, Declarant shall have the exclusive right to appoint and remove all Directors and Officers during the Declarant Control Period. The phrase "Declarant Control Period" means the period commencing on the date on which Declarant forms the Association and ending on the earliest to occur of:

(i) the date that is sixty days after conveyance to Purchasers of 75 percent of the maximum number of Lots that may be created by Declarant under this Declaration;

(ii) the date that is two years after the last conveyance of a Lot by Declarant or a Successor Declarant in the ordinary course of business; or

(iii) the date that is two years after any right to add new Lots was last exercised.

(b) Declarant may voluntarily surrender its right to appoint and remove Officers and Directors prior to the expiration of the Declarant Control Period, but, in that event, Declarant may be required, for the remainder of the Declarant Control Period, that specific actions of the Association or the Executive Board, as described in a recorded instrument executed by Declarant, be approved by the Declarant before they become effective.

(c) Notwithstanding anything to the contrary contained in paragraph 5.03(a) above, not later than sixty days after the conveyance of 25 percent of the Lots that may be created under this Declaration to Purchasers, one Director appointed by Declarant shall be replaced with one Director elected by Owners other than Declarant.

(d) During the thirty-day period immediately preceding the date on which the Declarant Control Period expires, the Owners shall elect an Executive Board of at least three Directors, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant. Such Directors shall take office upon election.

#### 5.04 Removal of Directors.

Notwithstanding any provision of this Declaration or any other Association Document to the contrary:

(a) Directors appointed by Declarant may be removed, with or without cause, solely by Declarant.

(b) Each Director, other than a Director appointed by Declarant, may be removed, with or without cause, by a 67 percent or greater vote of all votes represented and entitled to vote at any meeting at which a quorum is present.

5.05 Replacement of Directors.

(a) Vacancies on the Executive Board created by the removal, resignation or death of a Director appointed by Declarant shall be filled by a Director appointed by Declarant.

(b) Except with respect to a Director appointed by Declarant, a vacancy on the Executive Board created by the removal, resignation or death of a Director shall be filled by a Director elected by the Owners.

(c) Any Director elected or appointed pursuant to this Section 5.05 shall hold office for the remainder of the unexpired term of the Directors replaced.

ARTICLE VI  
VOTING

6.01 Voting.

(a) Each Lot shall be entitled to one vote, regardless of the number of Owners of the Lot. Fractional voting shall not be allowed. If the Owners of a Lot cannot agree among themselves as to how to cast their vote on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a certain Lot, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners of the Lot, unless objection thereto is made by an Owner of the Lot to the Person presiding over the meeting at the time the vote is cast. If more than one vote is cast for any particular Lot, none of such votes shall be counted and all of such votes shall be deemed null and void.

(b) The vote percentages allocated to the initial 25 Lots within the Community are set forth on Exhibit A attached hereto and made a part hereof.

(c) In any election of Directors to the Executive Board, every Lot shall have the number of votes equal to the number of Directors to be elected. Cumulative voting shall not be allowed in the election of Directors of the Executive Board or for any other purpose.

(d) The Association shall have no voting for any Lot owned by the Association.

ARTICLE VII  
ASSESSMENTS, COMMON EXPENSES, BUDGETS AND LIENS

7.01 Obligations for Assessments.

(a) Each Owner, by accepting a deed to a Lot (whether or not it shall be expressly stated in such deed), shall be deemed to have covenanted and agreed to pay the Association all: (i) General Assessments; (ii) Special Assessments; (iii) Default Assessments; and (iv) other charges, that the Association is required or permitted to levy or impose on such Owner or such Owner's Lot pursuant to this Declaration or any other Association Document.

(b) Notwithstanding the definition of the term "Owner":

(i) a Person who acquires a Lot in a foreclosure sale shall be personally liable for all Assessments and other charges that the Association is required or permitted to levy or impose on that Lot or on the Owner of that Lot, as to any such charges either due upon or commencing upon the date of the foreclosure sale; and

(ii) a Person who acquires a Lot by deed-in-lieu of foreclosure shall be personally liable for all Assessments and other charges that the Association is required or permitted to levy or impose on that Lot or on the Owner of that Lot, as to any such charges either due upon or commencing upon the date on which the Owner of the Lot executes the deed-in-lieu of foreclosure.

(c) No Owner shall be exempt from liability for any such Assessment or other charges by waiving the use or enjoyment of any Common Element or by abandoning a Lot against which such Assessments or other charges are made.

(d) Each Owner shall be personally liable for all Assessments and other charges levied on such Owner or such Owner's Lot during the period of such Owner's ownership of the Lot. If there is more than one Owner of a Lot, each Owner shall be jointly and severally liable with the other Owners of the Lot for all assessments and other charges levied on the Lot or any Owner of the Lot.

(e) Each Assessment or other charge, together with interest and penalties thereon and all costs and expenses incurred by the Association to collect such Assessment or other amount, including all fees and disbursements of attorneys, accountants, appraisers, receivers and other professionals engaged by the Association in connection therewith, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any assessment Lien securing the same.

7.02 Share of Common Expenses.

(a) Except as otherwise set forth in this Declaration, the Association's Common Expenses shall be allocated among the Lots as set forth in this Section 7.02. The Share of Common Expenses allocated to a Lot shall be expressed as a percentage and calculated in accordance with the following formula:

$$\text{Share of Common Elements} = \frac{1}{\text{(the number of created Lots within the Community at any point in time)}} \times 100$$

(b) The Share of Common Expenses attributable to the 25 Lots created within the Community are set forth on Exhibit A attached hereto and made a part hereof.

(c) If any Lots are added to or withdrawn from the Community, the shares of Common Expenses for all Lots within the Community after such addition or withdrawal shall be recalculated in accordance with the formula set forth in paragraph 7.02(a) above.

(d) Until the Association levies an Assessment, Declarant shall pay all Common Expenses.

### 7.03 Budgets.

(a) Prior to the first levy of a General Assessment, and thereafter on or before September 1 of each calendar year, or such other date determined by the Executive Board, the Executive Board shall adopt a proposed annual budget for the Association for the following calendar year that sets forth:

(i) the Executive Board's estimates of Common Expenses for the next calendar year;

(ii) the amount of funds for such Common Expenses that the Executive Board proposes to raise through General Assessments; and

(iii) the amount of funds for such Common Expenses that the Executive Board proposes to raise through Special Assessments.

(b) Within thirty days after adopting a proposed annual budget, the Executive Board shall deliver a summary of the proposed annual budget to the Owners and set a date for a meeting of the Owners to consider ratification of the proposed annual budget. The date of such meeting shall not be less than fourteen days nor more than sixty days after the delivery of the summary of the proposed annual budget to the Owners. Unless at that meeting a majority of the votes allocated to all Lots, whether or not a quorum is present, rejects the proposed annual budget, the proposed annual budget shall be deemed ratified. If the proposed annual budget is rejected, the annual budget last ratified by the Owners shall be deemed renewed for the next calendar year and shall remain in full force and effect until such time as the Owners ratify a subsequent annual budget proposed by the Executive Board.

(c) If the Executive Board deems it necessary or advisable to amend an annual budget that has been ratified by the Owners under paragraph 7.03(b) above, the Executive Board may adopt a proposed amendment to the annual budget, deliver a summary of the proposed amendment to all Owners and set a date for a meeting of the Owners to consider ratification of the proposed amendment. The date of such meeting shall not be less than fourteen days nor more than sixty days after the delivery of the summary of the proposed amendment. Unless at

that meeting a majority of the votes allocated to all Lots, whether or not a quorum is present, rejects the proposed amendment, the proposed amendment shall be deemed ratified.

7.04 General Assessments.

(a) After the Owners ratify an annual budget pursuant to paragraph 7.03(b) above, the Association shall levy an assessment for Common Expenses (a “General Assessment”) on each Lot. The amount of the General Assessment levied against a Lot shall equal the product obtained by multiplying:

(i) the amount set forth in the amount budget ratified by the Owners as the amount of Common Expenses to be raised by General Assessments, by

(ii) that Lot’s Share of Common Expenses.

(b) The Owners shall pay the General Assessments levied against their respective Lots in such periodic installments as may be required by the Association.

(c) If the Owners ratify an amendment to the General Assessment portion of an annual budget pursuant to paragraph 7.03(b) above, the amount of the General Assessment levied against each Lot shall be adjusted accordingly, as shall the amount of each Owner’s periodic installments.

(d) If the Owners fail to ratify an annual budget for any calendar year prior to January 1 of that calendar year, the Owners shall continue to pay periodic installments of the General Assessments to the Association at the rate payable during the prior calendar year until such time as the Owners ratify a new annual budget for the then current calendar year. Once the Owners ratify a new annual budget, the Association shall levy against each Lot the General Assessment for the then current calendar year and each Owner’s periodic installments shall be adjusted as necessary to pay the new General Assessment in equal periodic installments over the remainder of such calendar year, giving the Owners credit, in such manner as the Executive Board deems necessary or appropriate, for any installments that the Owners have previously paid to the Association during such calendar year.

(e) The failure of the Association to levy a General Assessment for any calendar year shall not be deemed a waiver, modification or release of an Owner’s liability for the Share of Common Expenses allocated to such Owner’s Lot.

7.05 Special Assessments.

(a) The Assessments that the Association may levy pursuant to this Section 7.05 are referred to in this Declaration as “Special Assessments.”

(b) Notwithstanding anything to the contrary contained in Section 7.04 above, if any Common Expense or portion thereof benefits fewer than all of the Lots, the Association may levy an Assessment for such Common Expenses against the Lots benefitted thereby,

equally, in proportion to the Shares of Common Expenses attributable to those Lots or in any other equitable proportions as the Association reasonably deems appropriate.

(c) Each Special Assessment levied against any Lot shall be shown on an annual budget, or an amendment to an annual budget, ratified by the Owner's pursuant to Section 7.03 above and shall be paid as and when required by the Association.

7.06 Default Assessments.

(a) Notwithstanding anything to the contrary contained herein, if any Common Expense is caused by: (i) the negligence or misconduct of an Owner or any Owner's Guest; or (ii) a violation of any covenant or condition of an Association Document by an Owner or an Owner's Guest, the Association may levy an Assessment for such Common Expense against such Owner's Lot. Any such Assessment levied by the Association and each fine, penalty, fee or other charge imposed upon an Owner for the Owner's violation of any covenant or condition of any Association Document are each referred to herein as a "Default Assessment."

(b) Default Assessments need not be shown on an annual budget, or on an amendment to an annual budget, ratified by the Owners pursuant to Section 7.03 above.

(c) With respect to any Default Assessment, or portion thereof, levied other than as a late charge, the Owner of the Lot against which the Association seeks to levy the Default Assessment shall be provided notice and an opportunity to be heard. Owners of Lots against which Default Assessments have been levied shall pay such Default Assessments as and when required by the Association.

7.07 Assignment of Assessments.

The Association shall have an unrestricted right to assign its right to receive Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved by a majority of the votes allocated to Lots present at a meeting at which a quorum is present.

7.08 Assessment Lien.

(a) The Association shall have a lien on each Lot for any Assessment levied against that Lot and any fines, late charges, penalties, interest and attorney's fees, disbursements and costs of collection imposed against its Owner under any Association Document (the "Assessment Lien"). The Assessment Lien shall secure all of the foregoing obligations of an Owner from the time such obligations become due. If an Assessment is payable in installments, the Assessment Lien shall secure each installment from the time it becomes due, including the due date set by any valid Association acceleration of installment obligations.

(b) An Assessment Lien is prior to all other liens and encumbrances on a Lot, except:

- (i) liens and encumbrances recorded prior to the recordation of this Declaration;
- (ii) liens for real estate taxes and other governmental assessments or charges against the Lot; and
- (iii) a First Mortgage which was recorded before the date on which the Assessment sought to be enforced became delinquent.

(c) Notwithstanding the terms and conditions of subparagraph 7.08(b)(iii) above, an Assessment Lien is also prior to a First Mortgage recorded before the date on which the Assessment sought to be enforced became delinquent to the extent permitted by the Act.

(d) The recording of this Declaration constitutes record notice and perfection of an Assessment Lien on each Lot. No further recordation of any claim of any Assessment Lien is required.

(e) An Assessment Lien is extinguished unless proceedings to enforce the Assessment Lien are instituted within six years after the full amount of the Assessment secured thereby becomes due.

(f) This Section 7.08 does not prohibit actions or suits to recover sums secured by an Assessment Lien or to prohibit the Association from taking a deed in lieu of foreclosure.

(g) In any action by the Association to collect Assessments or to foreclose an Assessment Lien for unpaid Assessments, the court may appoint a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. A court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's Assessments.

(h) An Assessment Lien may be foreclosed in like manner as a mortgage on real estate. Periodic Assessments shall be liable during the period of foreclosure of an Assessment Lien.

#### 7.09 Waiver of Homestead Exemptions.

By acceptance of the deed or other instrument of conveyance of a Lot, an Owner irrevocably waives the homestead exemption provided by Colorado Revised Statutes §38-41-201, et. seq., as amended, as the same may apply to the Assessment Lien.

#### 7.10 Estoppel Certificate; Notices to Mortgagees.

(a) The Association shall furnish to an Owner or such Owner's designee or to the holder of a Security Interest or its designee a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Lot in accordance with the requirements of the Act.

(b) If a First Mortgagee delivers to the Association a written request for notice of unpaid Assessments levied against a Lot subject to a First Mortgage held by the First Mortgagee, the Association shall report to the First Mortgagee any unpaid Assessments levied against such Lot that remain unpaid for more than sixty days after the same shall have become due. The First Mortgagee may pay any such unpaid Assessment, together with any and all costs and expenses incurred with respect to the Assessment Lien securing such unpaid Assessment, and upon such payment, the First Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as a lien of the First Mortgage held by such First Mortgagee.

7.11 Reserve Fund.

(a) The Association shall have the right to maintain a reserve fund for Common Expenses. The reserve fund will be funded as provided for herein. At the closing of the sale of a Lot by a Declarant to a Purchaser, the Purchaser shall pay to the Association an amount equal to the Association's estimate of three months of Common Expenses for the fiscal year in which the sale of the Lot occurs, allocated proportionately for that subject lots share of expenses. Thereafter, the Association may increase the reserve fund, and/or replace funds withdrawn from the reserve fund, with funds collected through Assessments.

(b) Payments by Purchasers to the Association at closings under paragraph 7.11(a) above shall not be credited against, or relieve Purchasers from, their obligation to pay regular Assessments levied against Lots by the Association.

(c) Upon the sale of a Lot from one Owner to another, the Association shall not be obligated to return to the transferor any funds held in reserve.

ARTICLE VIII  
MAINTENANCE OF COMMON ELEMENTS AND LOTS

8.01 Maintenance of Common Elements.

Except as otherwise provided in this Declaration, the Association shall maintain the Common Elements, including Parcel A if so obliged or arranged by the Summit County Government, unless Summit County assumes such maintenance itself, and all improvements and landscaping located thereon in good order and repair and shall otherwise manage and operate the Common Elements as it deems necessary or appropriate. Such maintenance shall include all work described in the Forest Management Plan as set forth in Section 8.04 below.

8.02 Maintenance of Open Space Buck and Rail Fence.

Declarant or Summit County Government may cause a buck and rail fence to be constructed within Parcel A (Open Space Tract) in order to provide protection for the wetlands and/or located within said Parcel A. If erected, and not assumed for maintenance by the Summit County Government, such buck and rail fence shall be a Common Element and shall be maintained in good order and repair, repaired, and, if necessary, replaced by the Association as a Common Element.

### 8.03 Maintenance of Right of Way Buck and Rail Fence.

Declarant may cause a buck and rail fence to be constructed within the easement for the same as provided herein along any or all of the rights of ways and roads established in or adjacent to the community, as a decorative element and a functional alignment element for the roads. If erected, such buck and rail fence shall be a Common Element and shall be maintained in good order and repair, repaired, and, if necessary, replaced by the Association as a Common Element.

### 8.04 Forest Management.

Declarant has caused a Forest Management Plan to be developed and implemented for the Property, which Plan consists of removal of dead and beetle infested trees and treatment to protect healthy trees on the Property. The Forest Management Plan is attached hereto as Exhibit B and thereby incorporated herein. It shall be an ongoing obligation of the Association to continue to implement the Forest Management Plan, by its own activities or ensuring the compliance with the same by individual lot owners once the respective lots on the Property are conveyed, by appropriate tree removal and treatment on an annual basis in order to insure the maintenance and re-establishment of a healthy and diverse forest on the Property, including all Lots, in the future. The cost of the continued implementation of the Forest Management Plan, as described herein, shall be a Common Expense of the Association; maintenance of individual Lots shall be a cost borne by the respective individual owners of such Lots, in accordance with section 8.04 below.

### 8.05 Maintenance of Lots.

(a) Each Owner, at such Owner's sole cost and expenses, shall maintain such Owner's Lot and the improvements and landscaping thereon, or constituting a part thereof, in good order and repair. The Association may include; as part of its Rules and Regulations, specific standards for such maintenance and for the appearance of such improvements and landscaping.

(b) Each Owner shall ensure that such Owner's Lot is fully landscaped in accordance with plans approved by the Design Review Board (i) within forty-five days following such Owner's receipt of a certificate of occupancy for its home if it receives its certificate of occupancy prior to July 1 of a calendar year, or (ii) by July 1 of the following calendar year, if it receives its certificate of occupancy after July 1 of the prior calendar year.

(c) If, in the reasonable judgment of the Association or Declarant, an Owner fails to maintain the Owner's Lot, the landscaping located thereon or the improvements located thereon in good order and repair, and such failure remains uncured for more than thirty days after the delivery of written notice thereof to such Owner, the Association or Declarant may enter upon such Lot and perform such maintenance or repair as the Association or Declaration deems necessary or advisable and charge all costs and expenses incurred by the Association in connection therewith to such Owner. The Owner shall pay the same within thirty days after its receipt of an invoice therefore. Any such charges levied by the Association shall be deemed a Default Assessment.

8.06 Maintenance of Public Improvements.

The Association shall maintain the streets, roads, Pathways and other improvements constructed within the rights-of-ways for those portions of any internal public or private road which are located within the Property. The obligation of the Association, with regard to such maintenance, shall include the following:

(a) The Association shall provide year round regular road and Pathway maintenance services in accordance with Summit County's standards with providing such services for other comparable roads within Summit County, Colorado, including, but not limited to the following:

- (i) Snowplowing and snow removal;
- (ii) Road sanding services, including the providing of materials for sanding;
- (iii) Cutting back the snowpack along rights-of-ways;
- (iv) Year round pot hole patching;
- (v) Road ditch and culvert cleaning;
- (vi) Road shoulder shaping;
- (vii) Road sweeping;
- (viii) Sign repair;
- (ix) Guardrail repair;
- (x) Striping;
- (xi) Weed control;
- (xii) Surface repair;
- (xiii) Bridge repair;
- (xiv) Resurfacing of asphalt roadways and pathways as needed; and
- (xv) Notwithstanding the foregoing responsibilities, the use of sand, magnesium chloride, or any other chemicals or pollutants is prohibited for any road maintenance activities within 50 feet of any stream or creek.
- (xvi) Further notwithstanding the foregoing, unless otherwise indicated the costs and responsibility for maintaining any common driveways servicing individual Lots shall not be the obligation of the Association, but rather the individual Lot owners utilizing and

benefitting from such driveway. Such Lot owners shall enter into a mutual maintenance agreement with respect to such maintenance obligations upon purchase of the relevant Lot(s). Nevertheless, the Association may agree to assume maintenance for such shared driveways, in whole or in part, for a fee to be paid by the benefitted Lot owners, if deemed appropriate by the Association.

(b) The Association shall provide the services described herein in a timely, good and workmanlike manner and in compliance with all applicable laws and regulations. When performing the services described herein, the Association's employees, contractors and agents will exercise due care and conduct themselves in a reasonable manner. All equipment used by the Association or its employees, contractors and agents to perform the services described herein, including, but not limited to, snowplows, trucks or other vehicles, will be appropriate for the services provided and shall be maintained and provided in a regular and reasonable manner.

(c) Notwithstanding the foregoing, the Association and the Declarant maintain and preserve all rights to petition the Summit County Government for acceptance of road maintenance, at any time and in any frequency, for part or all of the roads within the Property subject to the maintenance obligations as set forth herein.

#### 8.07 Maintenance of Detention Pond.

In conjunction with the approval by Summit County of the Final Plat of The Barton Creek Reserve Filing No. 1, Declarant is required to construct, within those areas of the Plat for The Barton Creek Reserve, generally or on any filing therefore, as shown and depicted upon the Map as "Detention Pond Easements", those drainage detention ponds and ancillary improvements, all in accordance with plans and specifications approved by Summit County, with approximately 4 such ponds contemplated therein. Once constructed and completed by Declarant, and after such construction has been approved by Summit County, it shall be the obligation of the Association to maintain, repair, and replace such detention ponds and all improvements ancillary thereto in accordance with the original design, construction, and landscape plans and specifications approved by Summit County, with the cost of all such maintenance, repair, and replacement to be a Common Expense of the Association.

#### 8.08 Mechanic's Liens and Indemnification.

No labor performed or materials furnished and incorporated into a Lot with the consent or at the request of an Owner or an agent, contractor or subcontractor of an Owner shall be the basis either for filing a lien against the Lot of any other Owner not expressly requesting or consenting to the same, or against Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners and any Mortgagee from and against all liability arising from any claim or lien against the Lot of any other Owner or against the Common Elements for construction performed or for labor, materials, services or supplies incorporated in the Owner's Lot at the Owner's request.

8.09 Open Space Tract Maintenance and Responsibilities.

Parcel A (Open Space tract) is designated as a public open space parcel to ensure the preservation of the important ecological and environmental attributes associated with this area. Accordingly, this Parcel A (Barton Creek Reserve Open Space) is subject to the terms and conditions of the dedication of said tract to the Summit County Government, and the management, maintenance and administration of the same effectuated by the Summit County Government. No uses on Parcel A inconsistent with said dedication shall be allowed.

8.10 Agreement with Summit County for Maintenance Responsibilities.

The maintenance responsibilities under sections 8.01, 8.02, 8.03, 8.05, 8.06, and 8.07 are subject to the Agreement for the Preservation of Association Maintenance Responsibilities with the Summit County Government, as recorded in the Summit County Records concurrently with the recording of this Declaration and the Map, and shall not be modified except as provided for therein.

ARTICLE IX  
UTILITY AND OTHER SERVICES

9.01 Water, OWTS, Gas, Electric, Telephone and Cable Television Services.

Declarant has installed water, electric, gas, telephone and cable television service connections at or adjacent to the property lines of each Lot. The Owner of a Lot shall be responsible for obtaining water, electric, gas, telephone and cable television services for its Lot, directly from the utility or service company providing the same, and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith, including, without limitation, use fees, tap, connection and hook-up fees, and all costs incurred for the construction and installation of service lines, lift stations, meter and facilities serving the improvements on its Lots. All Owners must connect the Improvements they construct on their lots to the central water and onsite wastewater treatment systems (“OWTS”) as installed, designed, or located by Declarant. Private OWTS systems are required to be permitted, installed and approved in accordance with the regulations of the Summit County Environmental Health Department for such systems, and all Colorado laws and regulations regarding the same.

ARTICLE X  
DESIGN REVIEW

10.01 Design Review Board.

(a) The Board is expressly authorized hereunder, and pursuant to the Act, to create, establish, and oversee a Design Review Board for the Community. The Board is also authorized to adopt a Design Review Board Governance and Procedure Document to guide the operations and oversight of the Design Review Board. Said Board may consist of up to 5 individuals, and shall adopt and implement a set of Design Guidelines for the Community addressing the design standards for all development and improvements within the Community. The Design Review Board shall also have the right to grant variances to any such Guidelines, in

its discretion, as allowed by the Association Documents. The Association, through its Board, expressly intends to assume all authority to act in this regard to the fullest extent allowed by the Act and other applicable law.

The Design Review Board shall review, study and approve, approve with the conditions or reject any and all improvements proposed to be constructed or installed on any Lot or any Common Element by any Person all in accordance with the Design Standards and the Association Documents.

(b) No site planning, significant development activity, or new building, structure or other improvement shall be constructed on any Lot or any Common Element; and no construction, alteration, installation or other work affecting the exterior surface of any existing building, structure or other improvement shall be made, except as reviewed and approved by the Design Review Board, and in strict accordance with the terms and conditions of the Association Documents and the Design Standards.

(c) Notwithstanding anything to the contrary contained herein, improvements, alterations, modifications, installations, furniture and fixtures that:

(i) are completely within a building, structure or improvement; and

(ii) do not change the exterior appearance of a building, structure or improvement and are not visible from the outside of a building, structure or improvement, may be undertaken without consent of the Design Review Board, but are subject to all other covenants, conditions and restrictions contained in this Declaration.

#### 10.02 Design Criteria.

In addition to compliance with the Design Standards and the Association Documents, all improvements constructed upon any Lot or any Common Element shall comply with the applicable provisions of the Summit County Land Use and Development Code, the Summit County Building Code, and other applicable rules and regulations, including, but not limited to, provisions thereof pertaining to architectural design, landscaping and exterior lighting.

### ARTICLE XI COVENANTS, CONDITIONS AND RESTRICTIONS

#### 11.01 Applicability of Covenants, Conditions and Restrictions.

Except as otherwise provided herein, the covenants, conditions and restrictions set forth in this Article shall apply to all Lots and Common Elements.

#### 11.02 Association Documents.

Each Owner shall comply with, and shall require its Guests to comply with, all provisions of the Association Documents that apply to the Owner or the Owner's Lot.

11.03 Notice of Conveyance or Encumbrance.

(a) Promptly after a conveyance of a fee simple interest in a Lot or interest therein or otherwise upon request by the Association, the grantee shall furnish a copy of the conveyance deed to the Association.

(b) Promptly after an encumbrance of a fee simple interest in a Lot or portion thereof or otherwise upon request by the Association, the Owner shall furnish the Association with a copy of the Mortgage creating the encumbrance.

11.04 Use of Lots.

(a) Except as otherwise expressly permitted by this Declaration, an Owner may use its Lot only for the construction of one single family dwelling, together with one caretaker or accessory apartment unit, only if first provided for and approved in accordance with this Declaration, and the Summit County Land Use and Development Code, to be occupied as a permanent or vacation residence for itself and its Guests. Any caretaker or accessory apartment unit constructed upon a Lot in accordance herewith shall not be short term rented or used as Guest quarters.

(b) No Owner shall conduct or permit to be conducted any business, profession, occupation or trade from its Lot, including, without limitation, the operation of a so-called "bed and breakfast" or "chalet." The foregoing notwithstanding, subject to rules, regulations and restrictions pertaining to same, as may be adopted by the Board of Directors, Owners may, in accordance with Section 3810 of the Summit County Development Code, as amended, conduct Accessory Use Home Occupations and Low Impact Home Occupations, as defined in said Section 3810, except that (i) no home childcare shall be allowed; and (ii) no motor vehicle equal to or greater than twenty three (23) feet in length, or 10,000 pounds gross vehicle weight shall be permitted to enter, leave, or be stored on a property where a Home Occupation is conducted, except as allowed by Section 11.12 of this Declaration. Any Owner conducting a Home Occupation upon the Property shall, at all times, advise the Board of such activity, ensure that such activity is not an unreasonable burden or imposition upon adjacent Lot Owners, and be in and remain in full compliance with Section 3810 of the Summit County Development Code.

(c) Notwithstanding the restrictions set forth in paragraphs 11.04(a) and (b) above, the Declarant may use any Lot owned or leased by it as a management office, sales office, model home or a combination of the same.

11.05 Leases.

Each Owner shall have the right to lease such Owner's Lot subject to the terms and conditions set forth in this Section 11.05.

(a) For long term rentals, the following restrictions shall apply:

(i) No Owner may lease less than its entire Lot;

(ii) any such lease must be to one Family or to no more than four unrelated people;

(iii) any such lease shall be in writing, with a copy delivered to the Association, and shall provide that the lease is subject to the terms of this Declaration and the other Association Documents;

(iv) any such lease shall state that the failure of the lessee to comply with the terms of this Declaration or any other Association Document shall constitute a default for which such lessee shall be liable to the Association as if such lessee were an Owner; and

(v) in the event of the failure of the lessee to comply with the terms of this Declaration or any other Association Document, the Owner shall be responsible and liable to the Association as if the Owner was the party that failed to comply with the terms of the Declaration or other Association Document, and at the request of the Association, the Owner shall, at the Owner's sole cost and expense, terminate the Lease and commence eviction proceedings to evict the lessee from the Owner's Lot.

(b) For short term rentals, the following restrictions shall apply:

(i) any such rental must limit the overnight occupancy of the dwelling to no more than 12 individuals, including children;

(ii) any such rental shall provide that the number of vehicles parked at the dwelling overnight shall not exceed the number of vehicles which can be parked upon the Lot without extending into any public right of way;

(iii) in the event of the failure of the lessee to comply with the terms of this Declaration or any other Association Document, the Owner shall be responsible and liable to the Association as if the Owner was the party that failed to comply with the terms of the Declaration or other Association Document, and at the request of the Association, the Owner shall, at the Owner's sole cost and expense, terminate the Lease and commence eviction proceedings to evict the lessee from the Owner's Lot.

(c) For purposes of this Section 11.06, long term rental shall mean a lease of a Lot for a term longer than sixty days, or for consecutive terms of less than sixty days if such terms, when aggregated, exceed sixty days. Short term rental shall mean a lease of a Lot for a term of sixty days or less.

#### 11.06 Use of Common Elements.

All Owners and their Guests may use the Common Elements, if any, for the purposes for which such Common Elements are intended. Notwithstanding the preceding sentence, neither an Owner nor a Guest may use any Common Element in any manner that unreasonably interferes with the rights of other Owners in and to the Common Elements.

11.07 Nuisances, Hazardous Activities and Unsightliness.

(a) No Person shall conduct any activity on the Property which creates a nuisance. Without limiting the generality of the foregoing:

(i) no lights shall be emitted that are unreasonably bright or cause unreasonable glare;

(ii) no sound shall be emitted that is unreasonably loud or annoying;  
and

(iii) no odor shall be emitted that is unreasonably offensive.

(b) No Person shall conduct any activity on the Property which is or might be objectively deemed hazardous to any Person or property. Without limited the generality of the foregoing:

(i) no open fires shall be allowed to exist, unless contained in a customary barbecue grill, or in a barbecue or fire pit approved by the Design Review Board;

(ii) no firearms may be discharged; and

(iii) no hunting may be conducted.

(c) No unsightliness shall be permitted at the Property. Without limiting the generality of the foregoing:

(i) all exterior mechanical equipment lines, wires, pipes and other facilities shall either be buried or enclosed within a structure approved by the Design Review Board; and

(ii) all garbage shall be stored in accordance with the terms and conditions of Section 11.14 below.

(d) The Association shall have the power to grant variances from the terms and conditions of this Section 11.08 from time to time as it deems necessary. Normal construction activities shall not be considered to violate the terms and conditions of this Section 11.07.

11.08 Signs.

(a) No signs whatsoever, including, but not limited to, “for sale” or “for rent” signs, shall be erected or maintained on the Common Elements, except signs required by legal proceedings and such other signs as may be permitted by the Rules and Regulations including, but not limited to, monument entry signage installed and maintained by the Association, as may be approved by the Design Review Board. Signage elated to the sales or rental of any such Lot

shall be situate within the boundaries of said Lot, and shall not be excessive in terms of size or number.

(b) The restriction set forth in paragraph 11.09(a) above shall not apply to Declarant's construction or sales signage.

11.09 Compliance with Laws.

Nothing shall be done or kept at the Property in violation of any law, ordinance, rule, regulation or other requirement of any governmental or quasi-governmental authority.

11.10 Compliance with Insurance.

Except as may be approved in writing by the Association, nothing shall be done or kept at the Property that may result in the cancellation of any insurance maintained by the Association or may result in an increase in the rates of any such insurance.

11.11 Restriction on Subdivision, Rezoning and Timesharing.

(a) No Lot may be further subdivided, unless the subdivision has been approved by Declarant and 67 percent of the votes allocated to all Lots, as well as the Summit County Government and any other applicable governing jurisdictions.

(b) No application for rezoning any portion of the Property, and no applications for variances or use permits, shall be filed with any governmental or quasigovernmental authority, unless the proposed rezoning has been approved by Declarant and 67 percent of the votes allocated to all Lots and the uses that would be permitted under the rezoning comply with this Declaration and the other Association Documents.

(c) No Owner shall offer or sell any interest in any Lot under a "timesharing" or "interval ownership" plan or similar plan.

(d) The covenants, conditions and restrictions set forth in paragraphs 11.12(a) through (c) above shall not apply to Declarant's development of the Property or Declarant's exercise of any Special Declarant Right.

11.12 Vehicles and Parking.

(a) Except as allowed by the Rules and Regulations, no motor vehicle classed by manufacturer rating as exceeding three-quarter ton and no mobile home, trailer, detached camper or camper shell, boat, boat trailer or other similar equipment or vehicle may be kept or parked at the Property. The foregoing notwithstanding, Owners may temporarily park such vehicles on a Lot for purposes of loading and unloading provided that such vehicle is so parked for no more than 48 hours.

(b) No motor vehicle shall be constructed, repaired or serviced at the Property.

(c) There shall be no overnight parking of any vehicle on any street or road, or on the shoulder of any street or road located at, on or adjacent to the Property.

(d) There shall be no overnight parking of any vehicle within any portion of a Lot which is shown and depicted on the Map as a “Snow-Stack Easement.”

(e) An Owner must park any motor vehicle that displays commercial signage in the Owners’ garage. Motor vehicles that display commercial signage may not be parked in driveways.

11.13 Trash, Garbage and Other Waste Materials.

(a) Owners shall store all trash, garbage and other waste materials in accordance with the terms and conditions of this Section 11.13.

(b) All trash, garbage or other waste material shall be stored as otherwise designated by the Rules and Regulations within containers which meet the specifications recommended, adopted or promulgated by the North American Bear Society, the Colorado Department of Wildlife or the U.S. National Park Service for bear-proof trash containers.

(c) No Owner shall bury any trash, garbage or other waste material within the Community.

(d) No Owner shall create or maintain a compost pile within the Community, unless expressly allowed otherwise pursuant to the Rules and Regulations of the Association.

(e) All Owners shall, following receipt of a certificate of occupancy for the dwelling constructed on their Lot, contract with a commercial trash removal company for at least once weekly pick up of trash from their Lot.

11.14 Pets.

(a) No Owner may keep any livestock or wild animal within the Community. An Owner may keep up to two domestic pets, such as dogs and cats, (and offspring not more than three months old) on its Lot, but only in accordance with the terms and conditions of this Section 11.14, which terms and conditions may be supplemented by Rules and Regulations adopted by the Association.

(b) All dogs must be kept within an Owner’s home or in an established and approved dog run and shall not be permitted on other portions of any Lot or the Property unless the dog is under the control of a responsible individual.

(c) No Owner shall allow its dogs to run freely. When the dog of an Owner or the Owner’s Guest leaves the Owner’s home, the dog must be under the control of a responsible individual.

(d) Dogs and other pets must be fed within the Owner's home. Dogs and other pets may not be fed outside an Owners' home.

(e) The Association shall enforce the covenants, conditions and restrictions set forth in this Section 11.15. The covenants, conditions and restrictions set forth in this Section 11.15 may also be enforced by Summit County, Colorado, and the Colorado Department of Wildlife. If an Owner or its Guests violate any of the covenants, conditions and restrictions set forth in this Section 11.15, the Association may remove the pet from the Community and/or fine the Owner in an amount set forth in the Rules and Regulations, in addition to pursuing any and all other rights and remedies the Association has under this Declaration.

#### 11.15 Wildlife Protection Measures.

- (a) All Owner's shall obtain and review the following publications:
- (i) Living with Wildlife in Bear Country prepared by the Colorado Department of Wildlife;
  - (ii) Living with Wildlife in Mountain Lion Country prepared by the Colorado Department of Wildlife;

and following the applicable recommendations set forth therein.

(b) At least annually, at a meeting of the Owners, the Association shall discuss the wildlife protection measures described in this Declaration, recommendations of the Colorado Department of Wildlife ("DOW") pertaining to living and co-existing with wildlife species common found within the Project and the Summit County Upper Blue Basin and publications available from the DOW relating thereto, and such actions that will be taken by the Association to protect wildlife and wildlife habitat existing within the Project.

(c) With the exception of bird feeders, no Owner nor its Guests may feed, bait, salt or otherwise attempt to attract wildlife or onto a Lot or Parcel.

(d) Owners and their Guests shall not chase, harass, approach, or attempt to come into contact with wildlife living within or passing through the Project, nor shall any Owner or Guest allow their pets to do so.

#### 11.16 Fencing.

All fencing constructed with the Project shall be wildlife friendly fencing so as to allow for the unobstructed passage of wildlife.

#### 11.17 Garage or Yard Sales.

No estate, garage or yard sales may be conducted within the Community, without prior written notice to the Association no less than 7 days in advance.

11.18 Temporary Occupancy and Temporary Buildings.

No trailer, incomplete building, tent, shack, garage, barn or temporary buildings or structures of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling on any Lots shall be removed immediately after the completion of construction.

11.19 Utilities.

All electric, gas, water, television, radio, telephone and other utility installations and connections from the boundary of a Lot to improvements located on such Lot shall be placed underground. All cooling and heating apparatus shall be concealed or placed on the ground immediately adjacent to a dwelling. No exterior roof-mounted or side-mounted evaporative cooling or air conditioning units shall be installed in any dwelling.

11.20 Maintenance of Improvements.

No buildings or other improvements on any Lot shall be permitted to fall into disrepair and each building or other improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished. If any building or other improvement is damaged or destroyed, then, subject to the approvals required from the Design Review Board, such building or other improvement shall be immediately repaired or rebuilt or shall be demolished. If any such building or improvement is demolished, the Owner of the Lot on which such building or improvement was located shall promptly landscape the portion of the Lot on which such building or improvement was located in accordance with plans approved by the Design Review Board.

11.21 Drainage.

No Owner may take any action that unreasonably interferes with the historical surface drainage across the Owner's Lot, without approval or all development applications and permits as required by the Association Documents and the Summit County Government, and any other applicable regulatory jurisdiction or entity. Any improvement or earthwork that creates an obstruction to surface flow, resulting in a back-up of water onto an adjacent Lot or property is strictly prohibited.

11.22 Declarant's Exemption.

Nothing contained in this Declaration or in any other Association Document shall be construed to prevent:

(a) Declarant's exercise and enjoyment of any Special Declarant Right or any other rights of Declarant under this Declaration or any other Association Document; or

(b) the conduct by Declarant or its employees or agents of any activity, including, without limitation, the erection or maintenance of temporary structures, trailers,

improvements or signs, necessary or convenient to the development, construction, marketing or sale of property within or adjacent to the Community.

ARTICLE XII  
EASEMENTS AND RESERVATIONS

12.01 Declarant's Easements and Reservations.

(a) Declarant hereby reserves for itself, its successors and assigns a general easement over, across, through and under the Property to:

- (i) discharge Declarant's obligations under this Declaration;
- (ii) exercise any of Declarant's rights under this Declaration; and
- (iii) make improvements to the Property, or any other real estate owned by Declarant.

(b) Declarant hereby reserves for itself, its successors and assigns, the right to establish from time to time utility, access, drainage and other easements, permits or licenses over, across, through and under the Property for the benefit of Owners, Declarant or other Persons,

(c) In addition, until such time as Declarant adds any additional property to the Community, and after such time as Declarant withdraws any portion of the Property from the Community, Declarant shall have the right to grant whatever easements are reasonably necessary across the Property for access to and utility services for such additional property or the portion of the Property withdrawn from the Community, as the case may be.

12.02 Association's Easements.

(a) The Association shall have and is hereby granted a general easement over, across, through and under each Lot to:

- (i) exercise any right held by the Association under this Declaration or any other Association Document; and
- (ii) perform any obligation imposed upon the Association by this Declaration or any other Association Document.

(b) Notwithstanding the foregoing, the Association shall not enter any Lot without reasonable prior notice to the Owner thereof, except in cases of emergency.

12.03 General Association Easement along roads and rights of way. Notwithstanding anything herein to the contrary, the Association shall have an express easement along the 10 feet within any lot line adjacent to a road or right of way in or adjacent to the Community for the erection, maintenance, repair and replacement of a buck and rail fence as a decorative and/or functional element. The Association shall, as provided for herein, assume all maintenance responsibilities related to said fence, and shall indemnify and hold harmless any affected lot owner from any liability associated with said fence.

12.04 Recorded Easements and Licenses. The Property shall be subject to all easements and licenses as shown on any recorded plat affecting the Property and to any other easements or licenses of record or of use as of the date of recordation of this Declaration. In addition, the Property is subject to all easements created or permitted by this Declaration and the Map.

### ARTICLE XIII INSURANCE

#### 13.01 Insurance Required to be Obtained by the Association.

The Association shall obtain and maintain all insurance required to be obtained and maintained by the Association under the Act and any additional insurance that the Executive Board deems necessary.

#### 13.02 Adjustments.

Any loss covered by insurance maintained by the Association shall be adjusted with the Association in accordance with the terms and conditions of the Act. The insurance proceeds for any such loss shall be paid in accordance with the terms and conditions of the Act.

### ARTICLE XIV CASUALTY

#### 14.01 Casualty to Common Elements.

The Association shall respond to any damage to, or destruction of, any Common Elements owned by the Association in accordance with the terms and conditions of the Act.

#### 14.02 Casualty to a Lot.

Each Owner of a Lot shall repair or replace any damage to or destruction to the Owner's Lot, as soon as is reasonably practical after such damage or destruction occurs.

### ARTICLE XV CONDEMNATION

#### 15.01 Condemnation of all Lots.

If the entire Community is taken by condemnation or similar proceeding, the Community shall terminate as of the date of the taking and any condemnation award payable in connection

therewith shall be paid to the Association and then disbursed by the Association in accordance with the terms and conditions of the Act.

15.01 Condemnation of Fewer than all Lots.

If one or more Lots, but less than the entire Community, is taken by condemnation or similar proceeding:

(a) any condemnation award payable in connection therewith shall be paid;  
and

(b) the Shares of Common Expenses allocated to those Lots shall be reallocated, in accordance with the terms and conditions of the Act.

15.03 Condemnation of Common Elements.

(a) If any Common Element owned by the Association is taken by condemnation or similar proceeding, any condemnation award payable in connection therewith shall be paid to the Association and used by the Association:

(i) first, to repair any damage to Common Elements resulting from the condemnation or similar taking; and

(ii) second, for any other Common Expenses.

ARTICLE XVI  
SPECIAL DECLARANT RIGHTS

16.01 Improvements.

Declarant hereby reserves for itself, its successors and assigns the right, but is not obligated, under this declaration or otherwise, to construct:

(a) any improvements shown on the Map, as the same may be amended from time to time;

(b) subject to the conditions set forth in paragraph 12.01(b) above, any other buildings, structures or improvements that Declarant desires to construct on the Property, any additional property or any other real estate owned by Declarant, whether or not the same ever become part of the Community.

16.02 Development Rights.

(a) Declarant hereby reserves for itself, its successors and assigns:

(i) the right to amend this Declaration to add additional real estate to the Community as permitted pursuant to the Act;

(ii) the right to amend this Declaration to add additional property to the Community;

(iii) the right to combine any Lots or Parcels owned by Declarant;

(iv) the right to convert any Lot or Parcel owned by Declarant into Common Elements;

(v) the right to withdraw from the Community any real estate owned by Declarant and located within the Property prior to the conveyance of a Lot or Parcel located within the Property to a Purchaser and, after the addition of any other real property to the Community, the right to withdraw any real estate owned by Declarant and located within such portion at any time prior to the conveyance of a Lot or Parcel located in such portion to a Purchaser, and

(b) In exercising any development right reserved hereunder, Declarant shall execute and record an amendment to this Declaration in accordance with the requirements of the Act.

#### 16.03 Sales Offices and Model Homes.

Declarant hereby reserves for itself, its successors and assigns the right to construct, use and maintain sales offices, management offices and model homes on any Lots owned or leased by Declarant. Declarant also reserves for itself, its successors and assigns the right to construct and maintain signs advertising the Community on any Lots owned by it and on all Common Elements.

#### 16.04 Merger.

Declarant hereby reserves for itself and its successors and assigns the right to merge or consolidate the Community with any other planned community.

#### 16.05 Exercising Special Declarant Rights.

Declarant may exercise its Special Declarant Rights at any time prior to the later to occur of the date on which the Declarant Control Period expires or the date that is fifty years after the date on which this Declaration is recorded in the Summit County Records. Declarant may exercise its Special Declarant Rights in any order, and no assurance is given as to the order in which Declarant will exercise its Special Declarant Rights, If Declarant exercises any Special Declarant Right with respect to any portion of the Property or any additional property, Declarant may, but is not obligated to, exercise that Special Declarant Right with respect to any other portion of the Property or any additional property. Notwithstanding anything to the contrary contained in this Declaration, Declarant may exercise any Special Declarant right described in this Article XVI and any other right reserved to Declarant in this Declaration, without the consent of the Association or of any of the Owners.

16.06 Interference with Special Declarant Rights.

Neither the Association nor any Owner may take any action or adopt any Rule or Regulation that interferes with or diminishes any Special Declarant Right, without Declarant's prior written consent. Any action taken in violation of this Section 16.06 shall be null and void and have no force or effect.

16.07 Rights Transferable.

Declarant may transfer any Special Declarant Right reserved to it under this Article XVI or under any other provision of this Declaration in accordance with the terms and conditions of the Act.

ARTICLE XVII  
MORTGAGEE PROTECTIONS

17.01 Benefit of Mortgagees.

This Article establishes certain standards and covenants which are for the benefit of Mortgagees. This Article is supplemental to, and not in substitution of, any other provisions of this Declaration, but in the case of any conflict, this Article shall control.

17.02 Notice of Actions.

If requested in writing to do so, the Association shall give prompt written notice of the following to each First Mortgagee making such request:

- (a) any condemnation loss of any casualty loss which affects a material portion of the Common Elements or any Lot in which an interest is held by the First Mortgagee;
- (b) any delinquency in the payment of Assessments which remains uncured for sixty days by an Owner whose Lot is encumbered by a First Mortgage held by such First Mortgagee;
- (c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) any proposed action which would require the consent of First Mortgagees as set forth in this Article; and
- (e) any judgment rendered against the Association.

17.03 Consent Required.

Notwithstanding anything to the contrary contained in this Declaration, the Association may not take any of the following actions without first providing proper notice to all First Mortgagees in accordance with Section 217 of the Act, as modified from time to time:

(a) by act or omission seek to abandon or terminate the Community, except after condemnation or substantial casualty;

(b) except as provided herein for condemnation, casualty, and the exercise of Special Declarant Rights, change the Shares of Common Expenses or votes in the Association of any Lot;

(c) subdivide, partition, or relocate the boundaries of any Lot, except as permitted with respect the Special Declarant Rights;

(d) abandon, subdivide, partition, encumber, sell, or transfer the Common Elements, if any, (the granting of easements for public utilities or for other purposes provided for in this Declaration shall not be deemed transfers);

(e) use hazard insurance proceeds for losses to any portion of the Common Elements for other than repair, replacement, or reconstruction of the Common Elements, except as provided by the Act; or

(f) merge the Community with any other common interest community, except as permitted with respect to Special Declarant Rights.

#### 17.04 Notice of Objection.

Unless a First Mortgagee provides the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of First Mortgagees within thirty days following the receipt of notice of such proposed amendment or action, the First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

#### 17.05 First Mortgagees' Rights.

(a) First Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements or improvements thereon, and may pay overdue premiums on hazard insurance policies, for the Common Elements. First Mortgagees making such payment shall be owed immediate reimbursement from the Association.

(b) A First Mortgagee shall be entitled to cure any delinquency of the Owner of a Lot encumbered by its First Mortgage in the payment of Assessments. In that event, the First Mortgagee shall be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

#### 17.06 Limitations of First Mortgagee's Rights.

No requirement for approval or consent by a First Mortgagee provided in this Article shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Owners or the Executive Board;

(b) prevent the Association or the Executive Board from commencing intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of Article XIV above.

17.07 Declarant Rights.

No provision or requirement of this Article XVII shall apply to any Special Declarant Rights or other rights reserved to Declarant in this Declaration.

ARTICLE XVIII  
ENFORCEMENT AND REMEDIES

18.01 Enforcement.

(a) Each provision of this Declaration with respect to the Association or the Common Elements shall be enforceable by Declarant or by any Owner by a proceeding at law or in equity, including the obtaining of injunctive relief.

(b) Each provision of this Declaration with respect to an Owner or a Lot shall be enforceable by Declarant or the Association by:

(i) a proceeding for injunctive relief;

(ii) a suit or action to recover damages; or

(iii) in the discretion of the Association, upon advance written notice of the same from the Association, for so long as any Owner fails to comply with any such provision, exclusion of such Owner and its Guests from the use of any Common Elements and from participation in any Association affairs.

(c) In addition to the rights and remedies described in paragraph 18.01(b) above, if any Owner fails to perform or observe any covenant or condition on such Owner's part to be performed or observed under this Declaration or any other Association Document, the Association shall have the following rights and remedies:

(i) The Association may, but is not obligated to, cure such failure to comply at the Owner's sole cost and expense. If the Association cures any such failure to comply, the Owner shall pay the Association the amount of all costs incurred by the Association in connection therewith within thirty days after the Owner receives a written invoice therefore from the Association.

(ii) The Association may, after notice and an opportunity to be heard, fine the Owner, as a Default Assessment, an amount determined by the Executive Board in its

reasonable discretion for each violation. The Owner shall pay any such fine to the Association within thirty days after the Owner receives written invoice therefore from the Association.

(iii) With respect to an Owner's failure to pay an installment of any Assessment, the Association may accelerate the due date for the payment of the full amount of the Assessment.

(iv) The Association shall have all other rights and remedies available to it under this Declaration and the Act, at law or in equity.

(d) All rights and remedies of the Association and Declarant shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

#### 18.02 Attorneys' Fees.

In the event of any dispute under or with respect to this Declaration or any other Association Document, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses in connection therewith, including, without limitation, the fees and disbursements of any attorney, accountants, engineers, appraiser or other professionals engaged by the prevailing party.

#### 18.03 Interest.

If any Owner fails to pay the Association any Assessment or other amount due to the Association as and when the same becomes due, the Owner shall pay to the Association interest on such unpaid amount at the rate established by the Executive Board from the due date of such unpaid amount until the date paid.

#### 18.04 Non-waiver.

Failure by Declarant, the Association, or any Owner to enforce any covenant, condition, restriction, reservation, easement, assessment, charge, lien or other provision of this Declaration or in any other Association Document or any Association Document shall in no way be deemed to be a waiver of the right to do so thereafter.

### ARTICLE XIX TERM AND AMENDMENTS

#### 19.01 Term.

The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration shall run with and bind the Property until the Declaration is terminated pursuant to Section 19.02 below.

## 19.02 Termination.

(a) Subject to the rights of Mortgagees, under Article XVII above, the Owners may terminate the Community and this Declaration, by the vote of 75 percent of the votes allocated to all Lots. If the necessary votes are obtained, the agreement of the Owners to terminate the Community and this Declaration shall be evidenced by a termination agreement or ratification thereof, executed by the required number of Owners in accordance with the Act. Upon recordation of the termination agreement in the Summit County Records, the Community shall be terminated, this Declaration shall have no further force or effect, and the Association shall be dissolved.

(b) Notwithstanding the foregoing, the Owners may not terminate the Community during the Declarant Control Period without Declarant's prior written consent, which consent Declaration may withhold in its sole discretion.

(c) Notwithstanding the foregoing, a termination of this Declaration or the Condominium shall not release the Property from the easements, covenants, conditions and restrictions set forth in Articles XI and XIX hereof and such easements, covenants, conditions and restrictions shall survive the termination of this Declaration, unless Declarant and the Resort Owner consent to the release thereof in writing.

## 19.03 Amendments.

(a) Except for provisions of this Declaration regarding the rights and obligations of Declarant, which may not be amended without Declarant's prior written consent, as appropriate, and subject to the right of Mortgages under Article XVII above, Owners may amend any provision of this Declaration at any time by a vote of at least 67 percent of the votes allocated to all Lots. If the necessary votes and consent are obtained, the Association shall cause to be recorded in the Summit County Records an amendment to the Declaration in accordance with the terms and conditions of the Act. Notwithstanding the foregoing, the Owners may not amend this Declaration during the Declarant Control Period without Declarant's prior written consent, which consent Declarant may withhold in its sole discretion.

(b) Notwithstanding the terms and conditions of paragraph 19.03(a) above, the Declarant, for a period of five (5) years from the date of recording of this Declaration, may, without the approval of the Owners, amend:

(i) this Declaration or the Map, to correct a clerical, typographical or technical error;

(ii) this Declaration to comply with the requirements, standards or guidelines of recognized secondary mortgage markets, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Federal National Mortgage Association, or the Act;

(iii) this Declaration or the Map, as otherwise provided by this Declaration or the Act.

(c) Notwithstanding the terms and conditions of paragraphs 19.03(a) and 19.03(b) above, Sections 8.01, 8.02, 8.03 and 8.04 of this Declaration shall not be amended except in accordance with the provisions of the Agreement for the Preservation of Association Maintenance Responsibilities (The Barton Creek Reserve) recorded concurrently with the recording of this Declaration.

(d) Notwithstanding the foregoing, the terms and conditions of Articles XII and XX may not be amended without the prior written consent of Declarant.

## ARTICLE XX MISCELLANEOUS

### 20.01 Interpretation of the Declaration.

Except for judicial construction, the Association, by its Executive Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary but a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all persons and property benefitted or about by the covenants and the provisions hereof.

### 20.02 Severability.

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity and enforceability of any other provision hereof.

### 20.03 Disclaimer of Representations.

Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no warranties or representations whatsoever that he plan presently envisioned for the complete development of the Community can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subject to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that if such land is once used for a particular use, that such use will continue in effect.

### 20.04 Reference to Declaration and Deeds.

Deeds to and instruments affecting any Lot or any other part of the Community may contain the provisions set forth herein by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein shall be binding upon the grantee-owner or other person claiming through any deed or other instrument and his or her heirs, executors, administrators, successors and assigns.

20.05 Successors and Assigns of Declarant.

Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder on the condition that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

20.06 Captions and Titles.

All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provision hereof or to be used in determining the intent or context thereof.

20.07 Exhibits.

All exhibits attached to this Declaration are a part of, and are incorporated into, this Declaration.

20.08 Governing Law.

This Declaration shall be governed by and construed in accordance with the laws of the State of Colorado.

20.09 Notices.

All Owners of each Lot shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or the representative of the Owners of a Lot shall furnish such registered address to the secretary of the Association within ten days after transfer of title to the Lot to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners of the Lot or by such persons as are authorized to represent the interests of all Owners of the Lot. If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed their registered address of the Owner(s), and any notice shall be deemed duly give if delivered to the Lot. All notices and demands intended to be served upon the Association shall be sent to the following address, or such other address as the Association may designate from time to time in its governing documents:

The Barton Creek Reserve Homeowners' Association, Inc.  
Attention: Secretary  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_, Colorado \_\_\_\_\_



**EXHIBIT A**

**THE BARTON CREEK RESERVE**

Voting Interests Allocated to Each Lot in the Community  
and  
Share of Common Expenses

Interest & Share

Lot 1	4%
Lot 2	4%
Lot 3	4%
Lot 4	4%
Lot 5	4%
Lot 6	4%
Lot 7	4%
Lot 8	4%
Lot 9	4%
Lot 10	4%
Lot 11	4%
Lot 12	4%
Lot 13	4%
Lot 14	4%
Lot 15	4%
Lot 16	4%
Lot 17	4%
Lot 18	4%
Lot 19	4%

Lot 20	4%
Lot 21	4%
Lot 22	4%
Lot 23	4%
Lot 24	4%
Lot 25	4%

-----  
100%

**EXHIBIT B**  
**THE BARTON CREEK RESERVE**

Forest Management Plan

# Forest Management Plan for the Barton Ridge Subdivision

## Purpose

This report provides direction and recommendations for fuel modification, reduction and defensible space to the property owner and future lot owners at Barton Ridge Subdivision. The recommendations are based upon an assessment of existing forest conditions and wildfire related risks to establish appropriate fuel modifications and future maintenance to reduce the intensity of a wildfire approaching the neighborhood. This report summarizes forest assessment and provides recommendations for the defensible space installation and maintenance program for this property. The assessment takes into consideration existing/future vegetation, fuel arrangement, topography, climate, seasonal weather and predicted likelihood of ignition.

## Geographic Description

Barton Ridge Subdivision is a 28.35 acre parcel geographically located within the Peak 7 Neighborhood in Summit County, CO. The south boundary of the property is adjacent to USFS land containing the South Barton Creek drainage, with Barton Road/SR3 and developed lots generally surrounding the remaining borders of the parcel. The property has a southeastern aspect with slopes ranging from approximately 5% to 30+%. Topography ranges from a low of 9,740 on the southeastern boundary to 9,920 feet at the western boundary.



## **Site Vegetation**

The Barton Ridge site consists of a mixed conifer stand with a lodgepole pine and spruce/fir cover type. There are three delineated wetlands on the property, consisting of willow species, alder and herbaceous wetland vegetation. The lodgepole pine is primarily located at the north side of the property, with more spruce and fir occupying the area in the vicinity of the wetlands at the western and southern parts of the site.

The lodgepole pine trees range from 35 to 50 feet in height and diameters range from 6-12 inches. Significant patches of trees killed by mountain pine beetle were present in the stand. The spruce and fir stand is a multi-story stand with young Englemann spruce and sub alpine fir seedlings and saplings in the understory. Spruce and fir pole sized trees fill in the mid story and larger diameter trees of both species occupy the overstory, with most of these in a healthy, growth stage of their lives.

## **Fuels**

Fuel arrangements are generally considered in both the vertical and horizontal planes. Fuels in the horizontal plane occur as surface or tree crown fuels. Logs, pine needles, chips, branches grass, forbs and weeds make up the surface fuels while tree canopies constitute crown fuels. Fuels in the vertical plane are commonly called ladder fuels. Fire will climb the fuels like a ladder allowing surface fuels to ignite crown fuels. Standing dead lodgepole pine provide both crown and ladder fuel.

Fuel arrangement, type and volume can be manipulated to alter fire intensity. The first step in Forest Management at Barton Ridge was removal of standing dead timber throughout the site. Dead trees were cut, stumps were flush cut or removed, and logs were hauled from the site. Furthermore, larger ground fuels, debris and logs were either chipped or also removed from the site. This initial plan has been implemented by Darrel Haggard of Alpine Fire Mitigation in the summer of 2015.

## **Defensible Space**

The next step in forest management against wildfire is for each homeowner to develop a defensible space plan for their home as it develops on each homesite. The goal of defensible space is to reduce the chance of a structure fire spreading to neighboring homes or the surrounding forest, and creating a safer environment for firefighters to combat a fire if ignited. The Colorado State Forest Service defines defensible space as the area around a home or other structure where fuels and vegetation are treated, cleared or reduced to slow the spread of wildfire.

**Zone 1** is the area nearest the home, extending up to 30 feet from the structure. This zone requires maximum hazard reduction and includes the Home Ignition Zone. The fuel reduction strategy in Zone 1 is to remove most of the flammable vegetation. A few low growing shrubs and fire resistant plantings can remain in Zone 1.

### **Recommendations include:**

1. Remove flammable vegetation within 15' of the home. Beyond 15', thin trees to a 10'-12' crown spacing, with preferences for mature spruce/fir to remain.
2. Mow any grass to 6" maximum height within 30 feet of the house.
2. Install a 30" or larger rock drip edge around the base of the house and under decks.
3. Install exterior stone or other non-flammable siding on bottom 4-5 feet of walls. It is also required that a low combustibility Class A roof material be installed on each residence.
4. Install irrigation for new landscaping that consists primarily of deciduous plant material.

5. Stack firewood at least 15' away uphill of the home, and not under a deck.
5. Coordination with and approval from the Red White and Blue Fire District is a requirement for issuance of a Certificate of Occupancy for each new residence.
6. The attached brochure from the Colorado State Forest service will be provided to every homeowner with these CCRs.

**Zone 2** is a transitional area of fuels reduction between Zones 1 and 3, generally extending 100 feet from the home, until restricted by property lines. The fuel modification strategy in Zone 2 is to break up the continuity in the vertical and horizontal planes.

**Recommendations include:**

1. Break up fuel continuity in both vertical and horizontal planes by thinning and pruning away dead material and disposing of slash and debris.
2. Remove trees to leave 10 foot crown spacing between individuals and groups of trees.
3. Remove ladder fuels through pruning and removing small trees in understory that could elevate flames from surface to crown. Remove branches to an 8-10 foot height.

**Zone 3** is the area farthest from the home. It extends from the edge of Zone 2 to the property boundaries. Typically this zone applies to lots larger than will exist in Barton Ridge. The strategy in Zone 3 is to continue reducing ladder surface, ladder and aerial fuels but less aggressively than in Zone 2. Improving forest health and reducing fuels is the primary objective in Zone 3.

**Recommendations include:**

1. Thin tree spacings to feather into native forest.
2. Prune and limb trees from below to feather into native forest.

