

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

PINE BLUFFS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this ____ day of _____, 2005, by KW Pine Ridge LLC, a Colorado limited liability company (“Declarant”).

PART ONE: INTRODUCTION TO THE COMMUNITY

KW Pine Ridge LLC, as the developer of Pine Bluffs, has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of Pine Bluffs as a common interest community.

Article I Creation of the Community

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit “A”, intends by Recording this Declaration to create a general plan of development for the planned community known as Pine Bluffs. This Declaration provides a flexible and reasonable procedure for Pine Bluffs’ future expansion and provides for its overall development, administration, Maintenance, and preservation. An integral part of the development plan is the creation of Pine Bluffs Community Association, Inc., an association comprised of all owners of real property in Pine Bluffs, to own, operate, or Maintain various common areas and community improvements, and to administer and enforce this Declaration and other Governing Documents.

This document is prepared pursuant to the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* (“Act”), and the common interest community that is established by this document is a planned community as defined in the Act.

1.2. Binding Effect.

The property described in Exhibit “A”, and any additional property which is made a part of Pine Bluffs in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Pine Bluffs, their heirs, successors, successors-in-title, and assigns.

This Declaration shall have perpetual duration, unless terminated in the manner provided in § 38-33.3-218 of the Act by agreement of Members representing at least 67% of the total votes in the Association. If Colorado law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration automatically shall be extended at the expiration of such period for successive periods of 20 years each, unless terminated by agreement of Members representing at least 67% of the total votes in the Association in the manner in accordance with § 38-33.3-218 of the Act. Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, shall have the right to enforce this Declaration during its duration.

Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The Governing Documents create a general plan of development for Pine Bluffs which may be supplemented by additional covenants, restrictions, and easements applicable to particular Neighborhoods. In the event of a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the provisions of any other articles of incorporation, by-laws, rules, or policies governing any Neighborhood, the Governing Documents shall control. Nothing in this Section shall preclude any Supplemental Declaration or other Recorded covenants applicable to any portion of the Property from containing additional restrictions or provisions which are more expansive or restrictive than the provisions of this Declaration. The Association may, but shall not be required to, enforce any such covenants, restrictions, or other instruments applicable to any Neighborhood.

The diagram on the following page identifies the various Governing Documents and summarizes their functions.

[SPACE INTENTIONALLY LEFT BLANK]

GOVERNING DOCUMENTS

<p>Declaration —————→ (Recorded)</p>	<p>creates obligations which are binding upon the Association and all present and future owners of property in Pine Bluffs.</p>
<p>Articles of Incorporation —————→ (filed with the Colorado Secretary of State)</p>	<p>establish the Association as a non-profit corporation under Colorado law.</p>
<p>By-Laws —————→ (the Board of Directors adopts)</p>	<p>govern the Association’s internal affairs, such as voting rights, elections, meetings, officers, etc.</p>
<p>Supplemental Declaration —————→ (Recorded)</p> <p>—————→</p>	<p>adds property to Pine Bluffs; <i>may</i> impose additional obligations or restrictions on such property and <i>may</i> establish a sub-association.</p>
<p>Plat (Recorded)</p>	<p>Recorded land survey that describes land and proposed land use for Pine Bluffs.</p>
<p>Design Guidelines —————→ (Declarant adopts)</p>	<p>establish architectural standards and guidelines for improvements and modifications to Units, including structures, landscaping, and other items on Units; guidelines may be different for specific Neighborhoods.</p>
<p>Rules and Regulations —————→ (initial set attached as <u>Exhibit “C”</u>)</p>	<p>govern use of property, activities, and conduct within Pine Bluffs.</p>
<p>Board Resolutions —————→ (Board adopts)</p>	<p>establish rules, policies, and procedures for internal governance and Association activities, regulate operation and use of Common Area.</p>

Diagram 1.1 - Governing Documents

All provisions of the Governing Documents shall apply to all Owners and to all occupants of their Units, as well as their respective tenants, guests, and invitees. Any lease of a Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of the Governing Documents.

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provisions.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and to aid in the reader’s comprehension. Such diagrams are for illustrative purposes

only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Article II Concepts and Definitions

The terms used in the Governing Documents generally shall be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

“Act”: The Colorado Common Interest Ownership Act, as it may be amended.

“Affiliate of Declarant”: Means any person who controls, is controlled by, or is under common control with a Declarant. A person controls a Declarant if the person: Is a general partner, officer, director or employee of the Declarant; directly or indirectly, or acting in concert with one or more other persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interests of the Declarant; controls in any manner the election of a majority of the directors of the Declarant; or has contributed more than twenty percent (20%) of the capital of the Declarant. A person is controlled by a Declarant if the Declarant: Is a general partner, officer, director, or employee of the person; directly or indirectly, or acting in concert with one or more other persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interests of the person; controls in any manner the election of a majority of the directors of the person; or has contributed more than twenty percent (20%) of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

“Agencies”: Means and collectively refers to, the Federal National Mortgage Association (FNMA), the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), the Department of Housing and Urban Development (HUD), the Veterans Administration (VA), the Colorado Housing and Finance Authority (CHFA) or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of such entities. “Agency” means one of the Agencies.

“Area of Common Responsibility”: The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts, or agreements.

“Articles of Incorporation” or “Articles”: The Articles of Incorporation for Pine Bluffs Community Association, Inc., a Colorado nonprofit corporation.

“Assessments”: Means all money due to the Association from Owners that are duly assessed by the Board as Base Assessments, Neighborhood Assessments, Special Assessments,

Specific Assessments, Reserve Fees, and all fines levied by the Board together with interest, late charges and reasonable attorneys fees for collection.

“Association”: Pine Bluffs Community Association, Inc., a Colorado nonprofit corporation, its successors or assigns.

“Base Assessment”: Assessments levied on all Units subject to assessment under Article IX to fund Common Expenses, as determined in accordance with Section 9.1.

“Base Assessment Allocation”: Is defined in Section 9.5 and has the same meaning as “Allocated Interest” as defined in the Act.

“Board of Directors” or “Board”: The body responsible for administration of the Association, selected as provided in the By-Laws and serving the same role as the board of directors under Colorado corporate law and as the “executive board” as defined in the Act.

“Builder”: Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers or who purchases one or more parcels of land within Pine Bluffs for further subdivision, development, or resale in the ordinary course of such Person’s business, or who is retained by Declarant to construct improvements as part of a Residential Unit.

“By-Laws”: The By-Laws of Pine Bluffs Community Association, Inc., as adopted by the Board, and as may be amended.

“Commercial Site”: The 19.43 acre site designated as a “Commercial Site” on the Development Plan. Unless the Commercial Site is annexed to Pine Bluffs and unless the owners of the Commercial Site (“Commercial Site Owners”) pay Assessments, neither the Commercial Site Owners nor their tenants, employees, occupants, licensees or invitees may use the Common Area of Pine Bluff, except as otherwise provided in this Declaration.

“Common Area”: All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, and any area designated as a “common element” or “common area” on a Recorded Plat and in the Act, including without limitation the trail corridors; park(s) and open space on the Property (but not including any park or open space dedicated to the Town); the Pine Bluff entry monumentation; and perimeter and street median landscaping. The term shall include the Limited Common Area as defined below.

“Common Expenses”: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Declarant Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total vote of the Association, excluding votes held by Declarant.

“Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing in Pine Bluffs, or the minimum standards established pursuant to the Design Guidelines, Rules and Regulations, and Board resolutions, whichever is the higher standard. Declarant shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within the community change.

“County”: Douglas County, Colorado.

“Declarant”: KW Pine Ridge LLC, a Colorado limited liability company, or any successor or assign who takes title to any portion of the property described in Exhibit “A” or “B” for the purpose of development or sale, and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant. Rights of Declarant may be assigned without transferring Declarant status.

“Declarant Control Period”: The period of time during which Declarant is entitled to appoint a majority of the members of the Board as provided in the By-Laws. The Declarant shall have the right to appoint and remove members of the Board until the first to occur of the following:

- (a) 60 days after 75% of the Maximum Units have certificates of occupancy issued thereon and have been conveyed to Persons other than a declarant (as defined in the Act);
- (b) two years after the last conveyance of a Unit by Declarant in the ordinary course of business;
- (c) two years after Declarant last exercises its unilateral right to subject additional property to this Declaration as provided in Section 10.1; or
- (d) when, in its discretion, Declarant so determines.

Notwithstanding the foregoing, if Declarant voluntarily relinquishes its right to appoint and remove officers and directors of the Association prior to the termination of the Declarant Control Period, Declarant reserves the right to approve or disapprove specified actions of the Association as provided in the By-Laws. In addition, Declarant shall continue to exercise its other Development Rights and Special Declarant Rights during the full Development Period.

Within 60 days after termination of the Declarant Control Period, Declarant shall deliver to the Association all property and other items required by § 38-33.3-303 of the Act.

“Declaration”: This Declaration of Covenants, Conditions, and Restrictions for Pine Bluffs, as it now exists and may be amended or supplemented from time to time.

“Design Guidelines”: The guidelines and standards for architecture, design, construction, landscaping, and exterior items on Units adopted pursuant to Article V, as they may be amended.

“Detention Facilities”: The detention pond and related facilities located or to be located on the Commercial Site which serve both the Commercial Site and Pine Bluffs and which are to be Maintained by the Town.

“Development Period”: The period of time during which Declarant is entitled to exercise Development Rights and Special Declarant Rights. The Development Period shall commence upon the Recording of this Declaration and shall terminate 30 years later, unless reinstated or extended by agreement between Declarant and the Association, subject to such terms as the Board may impose.

“Development Plan”: Pine Bluffs Development Plan Amendment No. 1, as it may be further formulated and amended by Declarant, which includes all of the property described in Exhibit “A” and all or a portion of the property described in Exhibit “B.” Inclusion of property within the Development Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit “B” from the Development Plan bar its later submission to this Declaration as provided in Article X.

“Development Rights”: The rights defined as “development rights” in the Act and reserved by Declarant in subsection 11.2(b).

“Governing Documents”: A collective term referring to this Declaration, any applicable Supplemental Declaration and Plats, the By-Laws, the Articles, the Design Guidelines, the Rules and Regulations and Board resolutions, each as they may be amended.

“Limited Common Area”: A portion of the Common Area primarily benefiting one or more, but less than all, Units or Neighborhoods, as more particularly described in Article XIII and as defined as “limited common element” in the Act.

“Lot”: Any legally subdivided lot within Pine Bluffs on which a single family residence shall be constructed.

“Maintain” or “Maintenance”: Means maintenance, repair, improvement, alteration, renovation, restoration, re-construction and/or replacement.

“Managing Agent”: Means any one or more Persons employed by the Association and engaged to perform any of the duties, powers or functions of the Association.

“Maximum Units”: The maximum number of Residential Units which Declarant reserves the right to create and develop within Pine Bluffs in accordance with the Development Plan, as amended from time to time; provided, nothing in this Declaration shall require Declarant to develop the maximum number of Units. As of the date of Recording this Declaration, the number of Maximum Units is 500.

“Member”: A member in the Association pursuant to Section 7.3.

“Mortgage”: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. “Mortgagee” shall refer to a beneficiary or holder of a Mortgage. A “First Mortgage” shall be a Recorded Mortgage having first priority over all other Mortgages encumbering a Unit. “First Mortgagee” shall refer to a beneficiary or holder of a First Mortgage.

An institutional holder, insurer, or guarantor of a First Mortgage who provides the written notice described in Section 16.1 shall be an “Eligible Holder.”

“Neighborhood Assessments”: Assessments levied against the Units in a particular Neighborhood to fund Neighborhood Expenses, as described in Section 9.2.

“Neighborhood Association”: A condominium association or other owners association, if any, having concurrent jurisdiction (subject to this Declaration) with the Association over any Neighborhood. Nothing in this Declaration shall require the creation of any Neighborhood Associations.

“Neighborhood Declaration”: A condominium or townhome declaration prepared pursuant to the Act for a Neighborhood and which provides for a Neighborhood Association.

“Neighborhood Expenses”: The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

“Owner”: One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) shall be considered the Owner.

“Parcel”: All or any portion of the property described on Exhibit “B” that is subjected to this Declaration in accordance with Article X and the Act by Supplemental Declaration.

“Person”: A natural person, a corporation, a partnership, limited liability company, a trustee, or any other legal entity.

“Pine Bluffs Park”: The 8.75 acre park site depicted on the Development Plan, which is for the use of the Owners, together with the pool, playground, picnic shelter and cabana building located or to be located thereon.

“Plat”: Any Recorded land survey plat or map for all or any portion of Pine Bluffs, including without limitation, the land survey plat Recorded contemporaneously herewith, if any, as amended and supplemented.

“Private Amenities”: Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within Pine Bluffs, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise. The Private Amenities may include, without limitation, dining facilities, swimming and recreation facilities, and all related and supporting facilities and improvements. No Private Amenities are planned as of the date of this Declaration.

“Private Limited Common Areas”: is defined in Section 13.4.

“Property”: The real property described in Exhibit “A,” together with any improvements thereon and such additional Parcel or Parcels as are subjected to this Declaration in accordance with Article X and the Act.

“Record,” “Recording,” or “Recorded”: To file, the filing, or filed of record in the Office of the Clerk and Recorder of the County, or such other place which is designated as the official location for recording deeds and similar documents affecting title to real estate. The date of Recording shall refer to that time at which a document, map, or Plat is Recorded.

“Related Parties” Related Parties shall include (a) any person who resides with an Owner within a Unit; (b) a guest, licensee or invitee of an Owner or of any person who resides with an Owner within a Unit; (c) an occupant or tenant of a Unit and any members of his or her household or cohabitant of any such occupant or tenant, and their guests, licensees or invitees; or (d) a contract purchaser of a Unit.

“Residential Neighborhood” or “Neighborhood”: A group of Units designated in accordance with Section 7.4 as a separate Neighborhood for purposes of sharing Limited Common Areas, receiving benefits or services from the Association which are not provided to all Units, and/or electing Voting Members. A Neighborhood shall contain Units, may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Residential Neighborhood, then the benefited Units shall constitute a sub-Neighborhood against which Neighborhood Assessments may be specifically levied for such benefits or services.

Where the context permits or requires, the term Residential Neighborhood shall also refer to the Neighborhood Association, if any, having concurrent jurisdiction over the property within the Residential Neighborhood. Residential Neighborhood boundaries may be established and modified as provided in Section 7.4.

“Residential Unit” or “Unit”: A portion of the Property, whether improved or unimproved, which may be independently owned and is intended for attached or detached single family or multi-family residential development, use, and occupancy. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single family detached homes on separately platted lots, as well as vacant land intended for development as any of the

foregoing, but shall not include Common Areas, common property of any Neighborhood Association, or property dedicated to the public.

A parcel of vacant land or land on which improvements are under construction within a Residential Neighborhood shall be deemed to contain a single Residential Unit until such time as a Plat subdivides all or a portion of the parcel. After a Plat is Recorded, the portion encompassed by such Plat shall contain the number of Residential Units determined as set forth in the preceding paragraph. Any portion not encompassed by such Plat shall continue to be treated in accordance with this paragraph.

“Pine Bluffs”: The master planned community that includes a one or more common interest communities, recreational amenities, residential uses and may include Private Amenities. The community is to be developed on the real property described in Exhibit “A,” together with such additional property as is subjected to this Declaration in accordance with Article X.

“Rules and Regulations”: The initial rules and regulations set forth in Exhibit “C,” as they may be supplemented, modified, and repealed pursuant to Article IV and the Act.

“Special Assessment”: An assessment levied in accordance with Section 9.3.

“Special Declarant Rights”: The rights of Declarant defined as “special declarant rights” in the Act and as set forth in Article XI.

“Special District”: A special district which may be created as a special purpose unit of local government in accordance with Colorado law to provide certain community services to an area which includes all or any part of Pine Bluffs.

“Specific Assessment”: An assessment levied against a particular Unit or Units in accordance with Section 9.4.

“Supplemental Declaration”: A Recorded instrument which subjects additional property to this Declaration pursuant to Article X and the Act, designates Neighborhoods and Voting Groups pursuant to Article VII, and/or imposes additional restrictions and obligations on the land described in such instrument. Except as may otherwise be specifically set forth, the Recordation of a Supplemental Declaration shall not constitute an amendment to the Declaration.

“Town”: The Town of Parker, Colorado.

“Voting Group”: One or more Voting Members who vote on a common slate for election of directors, as more particularly described in Section 7.4 or, if the context so indicates, the group of Members whose Units are represented thereby.

“Voting Member”: The representative selected by the Members within each Neighborhood to cast the votes attributable to their Units on all matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term “Voting Member” shall also refer to alternate Voting Members acting in the absence of

the Voting Member and any Owners authorized personally to cast the votes for their respective Units.

“Working Capital Fee”: Is defined in Section 9.11.

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

The standards for use, conduct, maintenance, and architecture within the Property are what give the community its identity and make it a place that people want to call “home.” This Declaration establishes procedures for regulation-making as a dynamic process which allows the community standards to evolve as the community changes and grows over time.

Article III Use, Occupancy, and Transfer

3.1. General.

Various restrictions on the use, occupancy, and transfer of Units are set forth in this Article. Each Owner, by acceptance of a deed or other instrument granting an interest in any Unit, acknowledges that the use of such Unit is subject to the restrictions set forth in this Article, as may be amended in accordance with Article XVIII, and the Rules and Regulations, as they may be expanded, modified, or otherwise amended in accordance with the procedures set forth in Article IV and the Act.

3.2. Restrictions on Use.

The Property shall be used only for residential, recreational, and related purposes. Notwithstanding the above, limited home business use ancillary to the primary residential use of a Residential Unit is permitted subject to the Rules and Regulations. In addition, the Property may be used for an information center, models, or a sales office for any real estate broker retained by Declarant or an approved Builder to assist in the sale of real property within Pine Bluffs, offices for any Managing Agent retained by the Association, or business offices for Declarant, approved Builders, or the Association consistent with the Act and the Governing Documents.

3.3. Restrictions on Occupancy.

The number of occupants in each Residential Unit shall be limited to a reasonable number, as determined in the Board’s discretion, based on the Residential Unit’s facilities and size and its proportionate use of the Common Area.

3.4. Changes in Ownership of Units; Notice Requirement.

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days’ prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may

reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including Assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title. The Board may create a form of notice for this purpose, which may be amended from time to time and which shall be used by all Owners for notice under this Section 3.4.

Article IV Conduct

4.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for the Property, a framework of affirmative and negative covenants, easements, and restrictions governing the Property. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology which inevitably will affect the Property, its Owners, and residents. Toward that end, this Article establishes procedures for modifying and expanding the initial Rules and Regulations set forth in Exhibit "C."

4.2. Regulation-Making Authority.

(a) Board Authority. Subject to the terms of this Article, the Act, and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt, repeal, and modify reasonable regulations governing matters of conduct and aesthetics and the activities of Members, residents, guests, and invitees within the Property. The Board shall send notice by mail to all Members concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

(b) Notice; Opportunity To Disapprove. Notice of any resolution of the Board adopting, repealing, or modifying regulations shall be sent to all Members at least 30 days prior to the effective date. Subject to Declarant's right to disapprove the Association's action in accordance with the By-Laws, the resolution shall become effective on the date specified in the notice unless (i) Members petition for a special meeting, in accordance with the By-Laws, to reconsider such resolution, and (ii) the resolution is disapproved at the meeting by Members representing more than 50% of the total votes in the Association.

(c) Conflicts. Nothing in this Article shall authorize the Board to modify, repeal, or expand this Declaration.

(d) Common Area Administrative Rules. The procedures required under this Section 4.2 shall not apply to the enactment and enforcement of administrative rules and regulations governing use of the Common Area unless the Board chooses in its discretion to submit to such procedures. Examples of such administrative rules and regulations shall include, but not be limited to, hours of operation of a recreational facility, controlling conduct in and around such facilities, and the method of allocating or reserving use of a facility (if permitted) by particular

individuals at particular times. The Board shall exercise business judgment and act in accordance with the business judgment rule, as described in the By-Laws, in the enactment, amendment, and enforcement of such administrative rules and regulations.

(e) Limitations. Except as may be contained in this Declaration either initially or by amendment or in the initial Rules and Regulations set forth in Exhibit "C," all Rules and Regulations shall comply with the following provisions:

(i) Similar Treatment. Similarly situated Owners shall be treated similarly; provided, Rules and Regulations may vary by Neighborhood, if the Board deems it appropriate in light of specific circumstances. In addition, a Neighborhood Association may establish rules and regulations for such Neighborhood with greater or additional guidelines, but such rules and regulations may not reduce the requirements of the Rules and Regulations.

(ii) Signs and Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place, and manner of posting such signs (including design criteria) and limit to a reasonable number the signs that may be posted, consistent with the provisions of the Act.

(iii) Household Composition. No rule established pursuant to this Article shall interfere with the freedom of Owners to determine the composition of their households; provided, pursuant to Section 3.3 the number of occupants in a single Unit is subject to restriction.

(iv) Activities Within Dwellings. No rule established pursuant to this Article shall interfere with the activities carried on within the confines of dwellings, except that the Association may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that are illegal, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, that are related to home businesses, or that create an unreasonable source of annoyance.

(v) Alienation. No rule promulgated pursuant to this Section shall prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit. The Association may require that Owners of Residential Units use lease forms approved by the Association, but shall not impose any fee on the lease of any Unit greater than an amount reasonably based on the costs to the Association or Managing Agent of administering that lease. However, all leases of a Unit shall be for a minimum term of sixty (60) days. Notwithstanding the foregoing, a Neighborhood Declaration may establish restrictions on investor ownership or leasing in order to comply with any Agency requirement or guideline.

(vi) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule and which was in compliance with all rules and the other Governing Documents previously in force. This dispensation shall apply only for the duration of such Owner's ownership of the Unit personally, and this right shall not run with title to any Unit.

(vii) Reasonable Rights To Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop the Property or other portions of Pine Bluffs in accordance with the rights reserved to Declarant in this Declaration and the Act.

The limitations in subsections (i) through (vi) of this subsection 4.2(e) shall not apply to amendments to this Declaration adopted in accordance with Article XVIII and the Act.

4.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners and prospective purchasers are given notice that use of their Units and the Common Area is limited by the Rules and Regulations, as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision, that the Rules and Regulations may change from time to time, and that the current Rules and Regulations may not be set forth in a Recorded instrument. All purchasers of Units are on notice that changes may have been adopted by the Association. The Association shall provide a copy of the current Rules and Regulations to any Member or Mortgagee upon request and payment of the reasonable cost of such copy.

Article V **Architecture and Landscaping**

5.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading, and other site work, exterior alterations of existing improvements, painting, or planting or removal of landscaping) shall take place on such Unit, except pursuant to approval in compliance with this Article and the Design Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with a previously approved color scheme or to rebuild in accordance with previously approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her Unit without approval. However, modifications to the interior of a Unit visible from outside the structure shall be subject to approval.

Any improvements constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by Declarant or its designee in its sole discretion.

This Article shall not apply to Declarant's activities, or to activities of the Association during the Declarant Control Period.

5.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any Unit, acknowledges that, as the developer and owner of real estate within and in the vicinity of the Property, Declarant has a substantial interest in ensuring that improvements within the Property enhance Declarant's reputation and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on his or her Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall act solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of the Property or has the right to expand the Property pursuant to Section 10.1, unless earlier terminated in a written instrument executed and Recorded by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder. Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to any other Person or committee. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to: (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

(b) Design Review Committee. Upon expiration or termination of Declarant's rights under this Article, the Association shall assume jurisdiction over architectural matters. In addition, Declarant may, at any time, delegate all or any portion of its rights under this Article to the Association. The Association shall act through a Design Review Committee ("DRC") appointed by the Board. The DRC, when appointed, shall consist of at least three, but not more than seven, Persons who shall serve and may be removed and replaced in the Board's discretion. The members of the DRC need not be representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Association or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Reviewer. For purposes of this Article, the entity having jurisdiction in a particular case [either the Declarant or its designee under subsection (a) or the Association under subsection (b)] shall be referred to as the “Reviewer.”

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require that such fees be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other Persons as deemed necessary to perform the review. Any compensation of such Persons may be included in the Association’s operating budget; otherwise such fees shall be paid by each Owner seeking approval of an application under this Article.

5.3. Guidelines and Procedures.

(a) Design Guidelines. Declarant may prepare Design Guidelines applicable to Units which may contain general provisions applicable to all Units as well as specific provisions which vary among the Units according to location or other factors which vary among the Residential Units. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewer, and compliance with the Design Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Property, or has a right to expand the Property pursuant to Section 10.1, notwithstanding a delegation of reviewing authority, unless Declarant also delegates the power to amend. Upon termination or delegation of Declarant’s right to amend, the DRC may amend the Design Guidelines with the Board’s consent. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Association shall maintain a copy of the Design Guidelines, as they may exist from time to time, and shall make them available for inspection and copying by any Member or Owner upon reasonable notice during the Association’s business hours. In Declarant’s discretion, such Design Guidelines may be Recorded, in which event the Recorded version, as it may be amended, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Design Guidelines, no activity described in Section 5.1 shall commence on any Unit until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed

construction, as applicable. The Design Guidelines and the Reviewer may require the submission of such additional information as deemed necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, the location of improvements within a Unit in relation to surrounding structures or the natural topography, and the harmony of external design with surrounding structures and the surrounding environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability or attractiveness of particular improvements. Subject to Declarant's veto power described below, the Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment. Such determinations shall not be subject to review so long as they are made in good faith, in accordance with the procedures described in this Article, and are not made arbitrarily or capriciously.

The Reviewer shall make a determination on each application after receipt of a completed application and all information it requires. The Reviewer may: (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application. The Reviewer may, but shall not be obligated to, specify the reasons for any objections or offer suggestions for curing any objections.

The Reviewer shall notify the applicant in writing of a final determination within 30 days after its receipt of a completed application and all required information. In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted pursuant to Section 5.5.

Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which an application has been approved within one year after the date of approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for approval before commencing construction of any proposed improvements. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association or Declarant.

The Reviewer may exempt by resolution certain activities from the application and approval requirements of this Article. Such activities may be undertaken without application or approval provided they are done in strict compliance with the requirements of such resolution.

5.4. No Waiver of Future Approvals.

Each Owner acknowledges that the Persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not constitute a binding precedent in any other matter or waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall: (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for Maintaining and enhancing the overall aesthetics of Pine Bluffs; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based solely on aesthetic considerations. In any event, the Reviewer shall not bear any responsibility for: (a) ensuring the structural integrity or soundness of approved construction or modifications; (b) ensuring compliance with building codes and other governmental requirements; (c) ensuring that Units are of comparable quality, value, size, or of similar design, aesthetically pleasing, or otherwise acceptable to neighboring property owners; (d) protecting views from any other Units or the Area of Common Responsibility; or (e) ensuring that no defects exist in approved construction.

Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the actions, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees or agents; or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all such matters, the Declarant or its designee, the Board, the DRC, and any members thereof shall be defended and indemnified by the Association as provided in Section 8.7.

5.7. Certificate of Compliance.

Any Owner may request, as to his or her Unit, that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate or the failure to respond within 30 days shall estop the Association from taking enforcement action with respect to any condition on the Unit as to which the Association had notice as of the date of such certificate.

Article VI Maintenance and Repair

6.1. Maintenance of Units.

Each Owner shall Maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants, unless such Maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

6.2. Maintenance of Neighborhood Property.

Any Neighborhood Association shall Maintain its common property and any other property for which it has Maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Upon request by the Association, a Neighborhood Association shall also be responsible for Maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of its boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article V.

Upon resolution of the Board, Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, Maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of Maintaining any signage, entry features, right-of-way, and greenspace between the Neighborhood and adjacent public roads or private streets within the Neighborhood, or in medians in such adjacent public roads or private street and ponds or wetlands within the Neighborhood, regardless of ownership and regardless of the fact that such Maintenance may be performed by the Association; provided, all Neighborhoods which are similarly situated shall be treated the same.

The Association may assume Maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by

agreement with the Neighborhood Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of Maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association may enter into an agreement with the Commercial Owners or with any Commercial Site owners association that may be created in the future, by which the Association agrees to pay a pro rata share of the cost to Maintain and Repair the Detention Facilities and the landscaping and irrigation around the Detention Facilities, to the extent that the Town or a special district does not perform such Maintenance and Repair, and by which such Commercial Owners or Commercial Site owners association agree to pay a pro rata share of the cost of Maintaining and Repairing landscaping and irrigation in the area between the boundary of the Commercial Site and any public right of way adjacent to the boundary of the Commercial Site, and in the medians of any public right of way adjacent to the boundary of the Commercial Site.

6.3. Maintenance of Area of Common Responsibility.

Except as provided in Section 6.2, the Association shall Maintain the Area of Common Responsibility as provided in Article VIII.

6.4. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning Maintenance responsibility, responsibility for Maintenance shall include responsibility for repair and replacement, as necessary to Maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner pursuant to Section 9.4.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article V, unless a Neighborhood Association is responsible for such repair or reconstruction. Alternatively, the Owner shall clear the damaged portions of the Unit and Maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard, unless a Neighborhood Association is

responsible for such work. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Neighborhood Association responsible for common property within the Neighborhood or Limited Common Area within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and Maintaining the Units in the event the structures are not rebuilt or reconstructed.

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

This Declaration establishes the Association as the mechanism by which each Owner is able to participate in the governance and administration of the Property. While many powers and responsibilities are vested in the Board, some decisions are reserved for the Association's membership - the Owners of Units within the Property.

Article VII The Association and its Members

7.1. Function of Association.

The Association is the entity responsible for management, Maintenance, operation, and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Colorado law. The Association, by and through the Board, shall be authorized to perform certain duties and provide assistance during the Transition Period, as defined and more particularly described in the By-laws.

7.2. Board of Directors.

The Board shall govern the Association as more particularly described in the By-Laws. Except as to matters specifically requiring the approval of Members or the Voting Members as set forth in the Governing Documents, all rights and powers granted to the Association may be exercised by the Board without membership approval.

7.3. Membership.

(a) **Qualification.** Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 7.3(b) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners under this Declaration and the other Governing Documents. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the

individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

(b) Voting. As to all matters with respect to which Members are given the right to vote under the Governing Documents, each Member, including Declarant, shall be entitled to one vote for each Unit he or she owns; provided there shall be only one vote for each Unit. No vote shall be exercised for any property which is exempt from assessment under Section 9.10. Except for Units owned by Declarant and except where Members specifically are permitted the right personally to vote, the vote for each Unit shall be exercised by the Voting Member representing the Neighborhood, as provided in Section 7.4. The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it. If only one person seeks to exercise the vote allocated to a Unit, in person or by proxy, the Secretary is entitled to assume that such person has authority to cast the vote on behalf of all Owners of that Unit.

(c) Transfer of Membership. Membership in the Association is appurtenant to Unit ownership and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except upon a transfer of title to such Unit, and then only to the transferee. Any such prohibited transfer of an Association membership shall be void. Any transfer of title or interest to a Unit shall operate automatically to transfer the appurtenant membership rights in the Association to the new Owner. Prior to any transfer of title to such a Unit, the transferring Owner shall give written notice to the Board of such transfer in accordance with Section 3.4.

7.4. Neighborhoods, Voting Members, and Voting Groups.

(a) Neighborhoods. Any group of Units within the Property may be designated as a Neighborhood for purposes of sharing Limited Common Areas or receiving other benefits or services from the Association which are not provided to all Units within the Property. Exhibit "A" to this Declaration and/or any Supplemental Declaration may designate Neighborhoods and may assign property to a specific new or existing Neighborhood (by name or other identifying designation).

So long as it has the right to subject additional property to this Declaration pursuant to Section 10.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to create Neighborhoods or re-designate Neighborhood boundaries, or combine two or more existing Neighborhoods. Thereafter, the Board may amend this Declaration or any Supplemental Declaration to re-designate Neighborhood boundaries; provided, it may not combine two or more existing Neighborhoods without the consent of Owners of a majority of the Units in the affected Neighborhoods.

Neither Recordation of a Supplemental Declaration, nor amendment of this Declaration or any Supplemental Declaration for the purpose of designating, enlarging, or otherwise revising Neighborhood boundaries shall constitute an amendment to this Declaration as defined in the Act, and no consent or approval of any Person shall be required except as specifically stated in this Section.

The Owners within any Neighborhood may request that the Association provide a higher level of service than that which the Association generally provides to all Neighborhoods, or may request that the Association provide special services for the benefit of Units in such Neighborhood. Such request may be made by petition of the Owners or through the Neighborhood Association, if any. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association may provide the requested services; provided, in any event the Association shall not unreasonably refuse to provide such services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

(b) Voting Members. Each Neighborhood shall elect a Voting Member who shall be responsible for casting all votes attributable to Units owned by Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in the Governing Documents. In addition, each Neighborhood shall elect an alternate Voting Member who shall be responsible for casting such votes in the absence of the Voting Member.

The first election of a Voting Member and alternate Voting Member from each Neighborhood shall occur within one year after the sale of the first Unit in the Neighborhood to a Person other than a Builder. Thereafter, the Board shall call for an election of Voting Members and alternates on an annual basis, either by written ballots cast by mail, computer, or at a meeting of the Members within such Neighborhood, as the Board determines. Upon written petition signed by Members holding at least 10% of the votes attributable to Units within any Neighborhood, the election for such Neighborhood shall be held at a meeting. Candidates for election as Voting Members may be nominated by the Board, a nominating committee which the Board may appoint, or from the floor at any meeting at which such election is to be held. The Board may also establish other procedures for the nomination of Voting Members.

The presence, in person or by proxy, or the filing of ballots by Members representing at least 10% of the total votes attributable to Units in the Neighborhood shall constitute a quorum at any Neighborhood meeting or election. In the event of a failure to obtain a quorum or otherwise elect a Voting Member and alternate, or a vacancy in such positions for any Neighborhood, the Board may appoint a Voting Member or alternate Voting Member to represent such Neighborhood until a successor is elected.

For any Neighborhood election, each Member shall be entitled to one equal vote for each Unit which such Owner owns in the Neighborhood. The candidate who receives the greatest number of votes shall be elected as Voting Member and the candidate receiving the next greatest

number of votes shall be elected as the alternate Voting Member. The Voting Member and the alternate Voting Member shall serve a term of one year and until their successors are elected.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of Units owned by Members in the Neighborhood which the Voting Member represents.

Until such time as the Board first calls for election of a Voting Member for any Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the Governing Documents.

(c) Voting Groups. During the Declarant Control Period, Declarant may appoint at least a majority of the members of the Board. With respect to those directors elected by the Voting Members, Declarant may designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing directors to the Board. Voting Groups may be designated to ensure that groups with dissimilar interests are represented on the Board and to avoid some Voting Members being able to elect the entire Board due to the number of Units in such Neighborhoods. Following termination of the Declarant Control Period, the number of Voting Groups within the community shall not exceed the total number of directors to be elected by the Voting Members pursuant to the By-Laws.

The Voting Members representing the Neighborhoods within each Voting Group shall vote on a separate slate of candidates for election to the Board. Each Voting Group is entitled to elect the number of directors specified in the By-Laws.

Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Declarant Control Period by filing with the Association and Recording a Supplemental Declaration identifying each Voting Group by legal description or other means such that the Units within each Voting Group can easily be determined. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration of the Declarant Control Period.

After expiration of the Declarant Control Period, the Board shall have the right to Record or amend such Supplemental Declaration upon the vote of a majority of the total number of directors and approval of Voting Members representing a majority of the total number of Neighborhoods and a majority of the total votes in the Association. Neither Recordation nor amendment of such Supplemental Declaration shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, all of the Property shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been Recorded, any and all portions of the Property which are not assigned to a specific Voting Group shall constitute a single Voting Group.

Article VIII Association Powers and Responsibilities

8.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 16.9 and 17.3. Declarant shall transfer all Common Area to the Association not later than 30 days after termination of the Declarant Control Period. Assessments shall commence on Units as provided in Article IX even though the Common Area may not have been transferred to the Association.

(b) Declarant and its designees may convey to the Association personal property and fee title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibit "A" or "B." The Association shall accept and Maintain such property at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Property originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

8.2. Maintenance of Area of Common Responsibility.

The Association shall Maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all portions of and structures situated on the Common Area;
- (b) landscaping within public rights-of-way within or abutting the Property;
- (c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract, covenant, or agreement for Maintenance thereof entered into by, or for the benefit of, the Association;
- (d) ponds, watercourses, easements, or wetlands located within the Property which serve as part of the stormwater drainage system for the Property, and improvements and equipment installed therein or used in connection therewith;
- (e) any part of the irrigation system for the Property located within the Property and all improvements and equipment used in connection therewith, including irrigation ditches, head gates, and siphons; and

(f) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Area of Common Responsibility and be Maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may Maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board determines that such Maintenance is necessary or desirable to Maintain the Community-Wide Standard.

Neither Declarant nor the Association guarantees that drainage will flow off the Area of Common Responsibility on the intended drainage course. Neither Declarant nor the Association shall bear any responsibility for ensuring that drainage follows intended drainage patterns off of the Area of Common Responsibility.

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been grossly negligent in the performance of its Maintenance responsibilities.

The Association shall Maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required Maintenance, unless Members representing at least 75% of the votes in the Association and, during the Development Period, Declarant agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with Declarant's prior written approval during the Development Period.

The costs associated with Maintenance of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other Recorded covenants, or any agreements with the owner(s) thereof. Maintenance of Limited Common Areas shall be a Neighborhood Expense assessed to the Neighborhood(s) to which the Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such Maintenance hereunder.

8.3. Insurance; Warranty Claims.

(a) Required Coverages. The Association shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes, except foundations and footings.

The Association shall be deemed trustee of the interests of all Members in all insurance proceeds paid to the Association under any such policies and shall have full power to receive and to deal with such proceeds. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, except as otherwise provided in this Section;

(ii) Commercial general liability insurance on the Area of Common Responsibility. Coverage shall include, without limitation, liability for personal injuries and activities in connection with the ownership, operation, Maintenance, and other use of the Area of Common Responsibility. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. The Board may exercise its business judgment in determining whether additional coverage or higher limits need be obtained.

To the extent reasonably available, the liability insurance shall name, as separately protected insureds, Declarant, any Managing Agent and the Association, the Board, the DRC, and their respective representatives, members, agents, and employees with respect to any liability arising out of the Maintenance or use of the Area of Common Responsibility;

(iii) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its business judgment, determines advisable.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood which insurance shall comply with the requirements of Section 8.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that: (A) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense; and (B) premiums for insurance on Limited Common Areas may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Limited Common Areas are assigned, unless the Board reasonably determines that other treatment of the premiums is more appropriate. The Association shall include such premiums in the Assessments it levies. The Board shall review the limits of all insurance policies of the Association at least once a year and shall adjust the policy limits as the Board deems necessary or appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with replacement costs in the County. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 8.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment pursuant to Section 9.4.

All insurance coverage obtained by the Board shall (if reasonably available):

(i) be written with a company authorized to do business in Colorado which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies insuring Units secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association or interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of an act or omission of any one or more Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(viii) include an endorsement precluding the insurer from denying a claim by an Owner or conditioning recovery under the policy based upon or due to the negligent acts or omissions of the Association or any other Owner.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners (as a class) as additional insureds for claims arising in connection with the ownership, existence, use or management of the Common Area and provide:

(i) a waiver of subrogation as to any claims against the Association's board of directors, officers, employees, and any Managing Agent, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash; and

(iii) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

8.4. Repair and Reconstruction of Association Property.

The Association shall have the authority and the duty to repair or reconstruct Common Area or other property which the Association is obligated to insure ("Insured Property") that is damaged or destroyed unless this Declaration is terminated in accordance with the procedures set forth in the Act, or such repair or reconstruction would be illegal under any state or local ordinance governing health or safety, or Voting Members representing 80% of the total vote of the Association vote not to repair or reconstruct. Any repair or reconstruction shall take place in accordance with the following procedures:

(a) Estimate of Costs. As soon as practicable after an event causing damage to or destruction of any Insured Property, the Association shall obtain estimates that it deems reliable and complete of the costs of repair or reconstruction of that part of the Insured Property damaged or destroyed.

(b) Repair and Reconstruction. Except as otherwise provided in this Section and the Act, as soon as practicable after receiving the estimates, the Board diligently shall pursue to completion the repair or reconstruction of that part of the Insured Property damaged or

destroyed. The Association may take all necessary or appropriate action to effect such repair or reconstruction. Such repair or reconstruction shall be in accordance with the original plans and specifications unless other plans are approved by a vote of Voting Members representing at least 51% of the total vote of the Association and the then current Reviewer as defined in Article V.

(c) Funds for Repair and Reconstruction. The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction of Insured Property. If the proceeds of insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, then the Board, pursuant to Section 9.3, may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in Article IX. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

(d) Disbursement of Funds. The insurance proceeds held by the Association and the amounts received from the assessments provided for in Article IX constitute a fund for the payment for costs of repair or reconstruction after casualty. The first money disbursed in payment for costs of repair or reconstruction shall be made from insurance proceeds. If a balance exists after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners of the Units and their First Mortgagee in proportion to the contributions made by each Owner to the Association; provided, insurance proceeds attributable to Limited Common Area shall be distributed to those Owners to which the Limited Common Area was allocated. The Association may setoff against any insurance proceeds distribution to an Owner, the amount of such Owner's delinquent obligations to the Association, if any.

8.5. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and an opportunity for a hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall, pursuant to the Act, constitute a lien upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any Assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of Article V and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Unit, remove the violation, restore the Unit to substantially the same condition as previously existed, and levy a Specific Assessment against the Owner's Unit; any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article V and the Design Guidelines from continuing or performing any further activities within the Property; and

(viii) levying a Specific Assessment against an Owner in the manner provided in Section 9.4 to collect any costs incurred by the Association in curing any violation, plus a reasonable administrative fee to discourage noncompliance, or to collect any fine that remains unpaid for a period of 10 days or more.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the notice and hearing procedures set forth in the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails to properly perform his or her Maintenance responsibility, the Association may Record a notice of violation or perform such Maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment pursuant to Section 9.4. If a Neighborhood Association fails to perform its Maintenance responsibilities, the Association may perform such Maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood pursuant to Section 9.4. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the

Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable County ordinances within the Property for the benefit of the Association and its Members. In addition, the Town may enforce its ordinances within the Property.

8.6. Implied Rights; Board Authority.

The Association may exercise any right, privilege, or power expressly given to it by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Such rights shall include the right to assign any rights to future income, including the right to receive Common Expense Assessments, as security for a loan or for other purposes deemed necessary or appropriate in the exercise of the Board's business judgment. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Members.

8.7. Indemnification of Officers, Directors, and Others.

Subject to Colorado law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such

obligation to indemnify shall be limited to those actions for which liability is limited under this Section.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

8.8. Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.

Each Owner acknowledges, understands, and covenants to inform its tenants and all occupants of its Unit that neither the Association, its Board and committees, nor Declarant are insurers and that each Person using the Property assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

8.9. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard.

The Association also shall have the power to require that specific action be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring that specific Maintenance or aesthetic changes be effectuated and requiring that a

proposed budget include certain items and that expenditures be made therefor. A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

8.10. Provision of Services.

The Association may provide, or provide for, services and facilities for the Members, their guests, lessees, and invitees, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use and consumption fees for such services and facilities. By way of example, some services and facilities which might be offered include landscape Maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, including access to fiber optics networks, and similar services and facilities. Nothing herein shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board, in its discretion, shall be permitted to modify or cancel existing services provided unless otherwise required by the Governing Documents. No Owner shall be exempt from the obligation to pay for such services, if provided to all Owners as a Common Expense, based upon non-use or any other reason.

8.11. Governmental Interests.

For so long as Declarant owns any property described in Exhibit "A" or "B," the Declarant may designate sites within the Property for fire, police, water, and sewer facilities; public schools and parks; and other public facilities. Some or all of the sites may be made part of a Special District, and the sites may include Common Areas.

8.12. Relations with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services or a higher level of Common Area Maintenance.

8.13. Facilities and Services Open to the Public or Reserved for Owners.

Certain facilities and areas within the Property may be open for use and enjoyment of the public, or may be reserved for Owners. Such facilities and areas may include, by way of example: greenbelts; trails and paths; parks and other neighborhood spots conducive to gathering and interaction; private streets; sidewalks; and medians. Declarant may designate such facilities and areas as open to the public or as reserved for Owners only at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate or change the designation thereof at any time thereafter. If the Pine Bluffs Park or any of its facilities are ever opened to the public, then fees and charges for such use by the public shall be a credit to reduce the Common Expenses.

8.14. Cooperation with Special District.

The Association shall have the power, and is hereby authorized, to contract with and to cooperate with a Special District in order to ensure that their respective responsibilities are discharged. The Association is further authorized to act on behalf of its Members to ensure that the level of services provided by such Special District is consistent with the Community-Wide Standard.

Each Owner, by acceptance of a deed or Recorded contract or sale, is deemed to covenant and consent to the creation of a Special District and to executing a separate document evidencing such consent, if requested to do so by Declarant.

8.15. Relationship with Tax-Exempt Organizations.

The Declarant or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations, the operation of which confers some benefit upon Pine Bluffs, the Property, the Association, the Members, or residents of the community. The Association may contribute money, real or personal property, or services to such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

Article IX Association Finances

9.1. Budgeting and Allocating Common Expenses.

Until the Association first levies Assessments, Declarant shall be responsible for all Common Expenses. Thereafter, Assessments for Common Expenses shall be levied at least annually in accordance with this Article. Common Expenses include, by way of example and not by way of limitation, all costs of the operation and administration of the Association and the operation, Maintenance, improvement and replacement of the Area of Common Responsibility, except: (1) the parks, trail system and open space areas Maintained and operated by the Town; and (2) the Limited Common Area.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. The budget shall include any contributions to be made to a reserve fund for repair and replacement of capital assets, based on a separate reserve budget which takes into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost. The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than

Assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 9.6.

The Association is hereby authorized to levy Base Assessments against all Units subject to Assessment under Section 9.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any Assessment income expected to be generated from any additional Units reasonably anticipated to become subject to Assessment during the fiscal year. Base Assessments shall be allocated among the Units on the basis of each Unit's Base Assessment Allocation.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by paying any deficit between the Common Expenses and Association funds collected pursuant to the current year's budget, or any portion of any such deficit (in addition to any amounts paid by Declarant under Section 9.7(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such deficit payment shall be disclosed as a line item in the income portion of the budget. Payment of such deficit, or portion thereof, in any year shall not obligate Declarant to continue payment of such deficit in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send in any manner permitted by law a summary of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner within 30 days of adoption of the proposed budget and at least 30 days prior to the effective date of such budget. The notice shall set a date for a meeting of the Members to consider the budget, which shall be not less than 14 nor more than 30 days after mailing of the summary. The budget automatically shall become effective unless disapproved at the meeting by Members representing at least 75% of the total votes in the Association.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

9.2 Budgeting and Allocating Neighborhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. Neighborhood Expenses may include without limitation all costs of the operation and Maintenance of Limited Common Area within a Neighborhood and entry monuments to a Neighborhood. Each Neighborhood budget shall include any contributions to be made to a reserve fund for the Neighborhood for repair and replacement of capital assets, based on a

separate reserve budget which takes into account the number and nature of replaceable assets, the expected life of each asset, and each asset's expected repair or replacement cost.

Each Neighborhood budget also shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 7.4(a). The budget also shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than Assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood and Special Assessments against the Units in such Neighborhood.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units in a Residential Neighborhood which are subject to assessment under Section 9.7 to fund Neighborhood Expenses; provided, if so specified in the applicable Supplemental Declaration or Neighborhood Declaration, if any, or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the Assessment intended for exterior Maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units as a Specific Assessment in proportion to the benefit received, or in any other reasonable manner, as determined in the Board's discretion.

The Board shall send to each Owner, at least 30 days prior to the effective date of the budget for the Neighborhood in which the Owner's Unit is located, a summary of such budget, together with notice of the amount of the Neighborhood Assessment to be levied against each Unit in the Neighborhood pursuant to such budget. The notice shall set a date for a meeting of the Owners in the Neighborhood to consider the Neighborhood budget, which shall be not less than 14 nor more than 30 days after mailing of the summary. The Neighborhood budget automatically shall become effective unless disapproved at the meeting by Owners representing at least 75% of the total votes in the Neighborhood.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners in the affected Neighborhood to disapprove the revised budget as set forth above.

Declarant may, but shall not be obligated to, reduce the Neighborhood Assessment for any Neighborhood for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 9.7(b)) which may be either a contribution, "in kind" contribution of services and materials, an advance against future Assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the Neighborhood budget. The payment of such subsidy in any year shall not obligate

Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

9.3. Special Assessments.

In addition to other authorized Assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership and allocated according to each Unit's Base Assessment Allocation, if such Special Assessment is for Common Expenses; or against the Units within any Neighborhood and allocated in accordance with Section 9.3 if such Special Assessment is for Neighborhood Expenses. Any Special Assessment shall require the consent of Declarant during the Declarant Control Period. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

9.4. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit or particular Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services upon request pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 8.10). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association also may levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided that the Board gives prior written notice to the Owners in the Neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

The Association may, but is not required to, levy a Specific Assessment for the costs of insurance in proportion to risk and the cost of utilities in proportion of usage.

9.5. Rate of Assessment; Allocated Interests.

A Residential Unit's Base Assessment Allocation shall be one divided by the total number of Residential Units in the Property. The amount of any Neighborhood Assessment or Special Assessment levied against a Unit shall be determined as set forth in Section 9.2 and 9.3.

Specific Assessments are based on the value or cost of service being provided and may vary from Unit to Unit, as applicable.

9.6. Authority To Assess Owners; Commencement of Assessments; Time of Payment.

Declarant hereby establishes and the Association is hereby authorized to levy Assessments as provided for in this Article and elsewhere in the Governing Documents. As to the Units described in Exhibit A, the obligation to pay Assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is both made subject to this Declaration, and in the case of a Townhome or Condominium Unit, the Town has issued a certificate of occupancy for such Unit; OR (b) the month in which the Board first determines a budget and levies Assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Unit.

As to Units made subject to this Declaration after the date hereof by Supplemental Declaration, the obligation to pay Assessments shall commence on the first day of the month following the date of Recording such Supplemental Declaration in the case of a vacant or improved Lot; or in the case of a Condominium Unit created pursuant to a Neighborhood Declaration, on the later of the first day of the month following Recordation of the Supplemental Declaration adding the Property on which the Condominium Unit is to be constructed or the date on which a certificate of occupancy for such Condominium Unit is issued by the Town; or in the case of Townhomes in a Planned Community created under the Act, on the later of the first day of the month following Recordation of the Supplemental Declaration adding the Property on which the Townhome is to be constructed or the date on which a certificate of occupancy for such Townhome is issued by the Town. To the extent that the Town issues a certificate of occupancy for an entire building in which a Condominium Unit or Townhome is located, then all of such Condominium Units or Townhome Units within such building shall be deemed to be made subject to this Declaration and the obligation to pay Assessments on the later of the Recordation of the Supplemental Declaration adding the Property on which such Condominium Units or Townhomes are to be constructed or the first day of the month following the issuance of such certificate of occupancy for the entire building.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of Assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, Assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any Assessments or other charges levied on his Unit, the Board may require the outstanding balance on all Assessments to be paid in full immediately.

9.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Property, subject to Assessments, covenants and agrees to pay all Assessments authorized in the Governing Documents. All Assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Colorado law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Except as provided in Section 9.10, upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any Assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for Assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(b) Declarant's Obligation; Option To Make In Kind Contributions. Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. Such "in-kind" contributions shall abate or reduce Declarant's Assessments obligations by the commercially reasonable value of such contributions, as determined in the Board's reasonable discretion. If Declarant voluntarily pays any operating shortfall of the Association, Declarant may make such payment as loans or as pre-paid Assessments for credit against future Assessment obligations of Declarant. After termination of the Development Period, Declarant shall pay Assessments on its unsold Units in the same manner as any other Owner.

9.8. Statement of Account.

Upon written request of any Member, Mortgagee, prospective Mortgagee, or prospective purchaser of a Unit, delivered personally or sent by certified mail, first-class postage prepaid, return receipt requested to the Association's registered agent or designee, the Association shall issue a written statement setting forth the amount of any unpaid Assessments with respect to such Unit, the amount of the current periodic assessment and the date on which such Assessment becomes or became due, and any credit for advanced payments or prepaid items. Such statement shall be delivered to the requesting Person personally or by certified mail, first-class postage

prepaid, return receipt requested. The Association may require the payment of a reasonable processing fee for issuance of such statement.

Such statement shall be conclusive upon the Association in favor of Persons who rely thereon in good faith. Provided such request is made in writing, if the request for a statement of account is not processed within 14 days of receipt of the request, all unpaid Assessments that became due before the date of making such request shall be subordinate to the lien of a Mortgagee that acquired its interest after requesting such statement.

9.9. Lien for Assessments.

In accordance with § 38-33.3-316 of the Act, and subject to the limitations of any other applicable provisions of the Act or Colorado law, the Association shall have a statutory lien against each Unit to secure payment of delinquent Assessments, including without limitation interest, late charges (subject to the limitations of Colorado law), and costs of collection (including attorneys' fees). Such lien shall be perfected upon the Recordation of this Declaration.

Such lien shall be superior to all other liens, except: (a) the liens of all real estate taxes, and other governmental assessments (as provided in the Act); (b) the lien or charge of any Recorded First Mortgage made in good faith and for value prior to the date that Assessments being enforced against the Unit became delinquent; provided, the Association's assessment lien shall have priority over such security interests to the extent of the Assessments based on the annual budgets adopted by the Association pursuant to Section 9.1, 9.2 and 9.3 which would have become due during the six months immediately preceding institution of an action to enforce the lien for Assessments; (c) liens and encumbrances Recorded prior to this Declaration; and (d) labor or materialmen's liens, to the extent required by law.

Such lien, when delinquent, may be enforced in the same manner as provided for the foreclosure of Mortgages under the laws of the State of Colorado. All such costs and expenses of any such foreclosure, including reasonable attorney's fees, shall be secured by the lien being foreclosed.

The Association may bid for the Unit, as applicable, at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessments shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share calculated on the basis of each Unit's Base Assessment Allocation of the Assessments that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid Assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent Assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the First Mortgage shall extinguish the lien as to any installments of such Assessments due prior to the Mortgagee's foreclosure, except as otherwise provided in this

Section. Assessments in excess of the super-priority amount provided in this Section shall be deemed Common Expenses collectible from Owners of all Units subject to assessment under Section 9.7, including such acquirer, its successors, and assigns. The subsequent Owner of the foreclosed Unit shall not be personally liable for Assessments on such Unit due prior to such acquisition of title. Such unpaid Assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 9.7, including such acquirer, its successors and assigns.

9.10. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments and Special Assessments:

- (a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;
- (b) Any property dedicated to and accepted by any governmental authority or public utility; and
- (c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, Declarant or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

9.11. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a non-refundable contribution shall be made by or on behalf of such Owner to the working capital of the Association in an amount equal to \$500 (the "Working Capital Fee"). This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such Assessment. The Working Capital Fee shall be paid at closing and disbursed to the Association for use in covering operating expenses, other expenses incurred by the Association pursuant to this Declaration and the By-Laws, and reserves, all as may be directed by the Board. If the Working Capital Fee is not paid at closing and disbursed to the Association, then such Owner shall pay the Working Capital Fee to the Association within 10 days following demand for payment. Upon each subsequent transfer of a Unit, each purchaser shall pay to the Association the Working Capital Fee as provided in this Section. The Board may revise the amount of the Working Capital Fee from time to time.

PART FOUR: COMMUNITY DEVELOPMENT

The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of the Property and to accommodate changes in the Development Plan which inevitably occur as a community of this size grows and matures.

Article X Expansion of the Community

10.1. Expansion by Declarant.

Until all property described in Exhibit “B” has been subjected to this Declaration or the expiration of the Development Period, whichever is earlier, Declarant reserves the right, but not the obligation, to subject unilaterally to the provisions of this Declaration all or any portion of the real property described in Exhibit “B.” Declarant may transfer or assign this right to subject property, provided that such transfer is memorialized in a written, Recorded instrument executed by Declarant. Declarant reserves the right, but not the obligation, to subject additional property not described in Exhibit “B” to the extent allowed by the Act.

Declarant shall subject property by Recording a Supplemental Declaration describing the Parcel being subjected. Any Supplemental Declaration under this Section shall comply with the requirements of C.R.S. §§ 38-33.3-209 and 38-33.3-210 and such other provisions of the Act as may be applicable. Such Supplemental Declaration shall not require the consent of Members but shall require the consent of the owner of such Parcel, if other than Declarant. Any such annexation shall be effective upon the Recording of such Supplemental Declaration unless otherwise provided therein. Each Unit within such portions of the property described in Exhibit “B” which are subjected to this Declaration, if any, shall be allocated equal voting rights and a percentage of liability for Assessments as set forth in Section 9.5.

It is Declarant’s intent to develop the property described in Exhibits “A” and “B” to this Declaration in Parcels containing one or more Units or Lots. During the Development Period, each Parcel of land subjected to this Declaration may be further subdivided by the Recording of additional Plats or maps subdividing such Parcel into two or more Units.

10.2. Expansion by the Association.

After Declarant’s right unilaterally to subject additional property to the Declaration expires, as provided in Section 10.1, the Association may subject real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Voting Members representing 67% of the total votes in the Association, and the consent of Declarant during the Development Period. Property which is not described in Exhibit “B” may be annexed in the same manner, subject to any additional requirements which may be imposed by the Act.

The Association shall subject such property by Recording a Supplemental Declaration describing the Parcel of property being subjected. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, by the owner of the Parcel, and by Declarant, if Declarant’s consent is required. Any such subjection of property shall be effective

upon Recording unless otherwise provided therein. Any Supplemental Declaration under this Section shall comply with the requirements of C.R.S. §§ 38-33.3-209 and 38-33.3-210, and such other provisions of the Act as may be applicable. Any Units the Association makes subject to the Declaration shall be allocated equal voting rights and a percentage of liability for assessments as set forth in Section 9.5.

10.3. Withdrawal of Property.

Declarant reserves the unilateral right during the Development Period to amend this Declaration to withdraw any portion of the Property from the coverage of this Declaration whether originally described in Exhibit "A" or added by Supplemental Declaration; provided, no property shall be withdrawn from the Property or a particular Parcel after a Unit within the Property or Parcel has been conveyed by Declarant to any Person other than an affiliate of Declarant or a Builder. If the property withdrawn contains Units, such a withdrawal shall reduce the total number of Maximum Units, the total number of votes in the Association equal to the number of Units withdrawn and shall, likewise, reduce the total number of Units subject to assessment. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn. If the property is Common Area, the Association shall consent to such withdrawal upon the request of Declarant and shall reconvey to Declarant any rights of the Association. In addition, if the withdrawal requires a re-platting process or other proceeding under applicable subdivision laws or ordinances, then the Association agrees to cooperate with Declarant, at no charge to Declarant, in such re-platting or proceeding, so long as the Declarant pays all costs and expenses of the re-platting or proceeding.

10.4. Additional Covenants and Easements.

During the Development Period, Declarant may unilaterally subject any portion of the property submitted to this Declaration to additional covenants and easements. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the subjection of the property and shall require the written consent of the owner(s) of such property, if other than Declarant. Any such Supplemental Declaration may supplement the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

10.5. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

10.6. Amendment.

This Article shall not be amended without Declarant's prior written consent during the Development Period.

Article XI Development Rights and Protections

11.1. Reasonable Rights To Develop.

Declarant may be undertaking the work of constructing improvements to and upon the Property, including the Units. The completion of such construction and the sale or other disposal of the Units is essential to the establishment and welfare of the Property as a planned community. Therefore, until the expiration of the Development Period, nothing in this Declaration or the other Governing Documents shall be understood or construed to:

(a) prevent Declarant, its contractors, or its subcontractors from doing in the Property or on any Unit whatever is reasonably necessary or advisable in connection with the development, construction, and sale of Units;

(b) prevent Declarant or its representatives from erecting, constructing, and Maintaining on any part of the Property such structures as reasonably may be necessary for the conduct of its business of completing the work, establishing the Property as a residential community and disposing of the Units by sale, lease, or otherwise;

(c) prevent Declarant from conducting on any part of the Property its business of completing the work, of establishing the Property as a planned community, and of disposing of the Units by sale, lease, or otherwise;

(d) prevent Declarant from Maintaining such signs and conducting such activities on any part of the Property owned by Declarant or the Association as Declarant may deem to be reasonably necessary for the sale, lease, or disposition of Units; or

(e) prevent Declarant from placing and utilizing on Units or other property which it owns one or more mobile homes or temporary structures as sales offices or for construction activities.

However, nothing in this Section shall give Declarant the right to damage any Unit or other property not owned by Declarant.

11.2. Special Declarant Rights.

During the Development Period, Declarant reserves the following Special Declarant Rights:

(a) the right to complete any improvements indicated on Plats, described in this Declaration, or the Development Plan;

(b) the right to exercise any of the following Development Rights:

(i) the right to expand the Property as provided in Article X;

- (ii) the right to create additional Units up to the number of Maximum Units;
- (iii) the right to subdivide or combine Units which it owns or convert Units which it owns into Common Areas; and
- (iv) subject to Section 10.3, the right to withdraw from the Property any Unit or any portion of a Unit not yet conveyed by Declarant, subject to such local government approvals as may be required;
- (c) the right to Maintain sales offices, management offices, and advertising signs on the property described in Exhibits “A” and “B,” as set forth in Section 11.3;
- (d) the right of access over the Common Area for the purpose of making improvements within the property described in Exhibits “A” and “B”;
- (e) the right to merge or consolidate the Association with another common interest community of the same form of ownership; and
- (f) the right to appoint and remove any director or officer of the Association during the Declarant Control Period as provided in the By-Laws.

The foregoing rights may be exercised with respect to different portions of the Property or property described in Exhibit “B” at different times. If a Development Right is exercised with respect to any portion of the Property or property described in Exhibit “B”, it need not be exercised with respect to all or any other portion of the Property or property described in Exhibit “B”. No assurances are made as to the final boundaries of the Property, nor with respect to the order in which such Development Rights may be exercised.

11.3. Marketing and Sales Activities.

Until the termination of the Development Period, Declarant and Builders authorized by Declarant may construct, relocate, Maintain, and carry on upon any Unit Declarant or a Builder owns or upon portions of the Common Area, such facilities and activities as may be reasonably required, convenient, or incidental to the construction or sale of Units, in Declarant’s sole opinion. Such facilities and activities may include, without limitation, business offices, signs, model units, and sales offices. There shall be no limit on the number or size of such facilities. Declarant and authorized Builders shall have easements for access to and use of such facilities. Declarant reserves the right to remove any personal property used in connection with its activities on the Common Area upon termination of its rights under this Section.

11.4. Construction of Improvements.

Until the termination of the Development Period, Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the

Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Property acknowledges that the Property is a planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Development Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

11.5. Right To Approve Additional Covenants.

Until the termination of the Development Period, no Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless Declarant subsequently approves by signed and Recorded written consent.

11.6. Right To Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a Recorded instrument which Declarant signs. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case it shall not be necessary to Record any written assignment.

11.7. Additional Restrictions and Assessments on Portions of the Property.

During the Development Period, Declarant reserves the right to impose additional covenants, restrictions, easements, and obligations on, and create a separate homeowners' association and separate assessments (in addition to those created under this Declaration) for, any portion of the Property owned by Declarant prior to its conveyance by Declarant. However, in the event of a conflict between any such additional covenants and restrictions and this Declaration, the more restrictive shall control.

11.8. Right To Designate Sites for Governmental and Public Interests.

Until the termination of the Development Period, Declarant may designate sites within the Property for government, education, or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

11.9. Right To Approve Changes in Community Standards.

Until the termination of the Development Period, no amendment to or modification of any Rules and Regulations or Design Guidelines shall be effective without prior notice to and the written approval of Declarant.

11.10. Use of Technology.

In recognition of the opportunities offered through computers and continuing advancements in the high technology fields, the Association may, as a Common Expense, provide for or offer services which make use of computers and other technological opportunities. For example, to the extent Colorado law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect assessment and other invoices electronically; sponsor a community cable television channel; create and Maintain a community intranet or internet home page offering interactive participation opportunities for users; Maintain an “online” newsletter or bulletin board; and provide funding for any of the above purposes.

(a) Central Telecommunication, Receiving, and Distribution System.

Declarant reserves for itself, its affiliates, successors, and assignees, the exclusive and perpetual right and easement to operate within Pine Bluffs, and to service the buildings and the structures within any Unit, a central telecommunication (including cable television and security monitoring) receiving and distribution system, including conduits, wires, amplifiers, towers, antennae, computers, and other related apparatus and equipment (“Community Systems”) as Declarant, in its discretion, deems appropriate. Such exclusive and perpetual right shall include, without limitation, Declarant’s right to select and contract with companies licensed and/or authorized to provide telecommunications and cable television service in the State of Colorado, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Declarant may require that the Board enter into a bulk rate service agreement for the provision of Community Systems to all Units as a Common Expense. If particular services or benefits are provided to particular Owners or Units at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Neighborhood Assessment or Specific Assessment, as appropriate.

(b) Notices and Disclaimers as to Community Systems.

In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, neither Declarant nor any of Declarant’s successors or assigns shall in any manner be liable for, and no Community System user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in

Community Systems services, regardless of whether or not such interruption is caused by reasons within the service provider's control.

(c) **Disclaimer and Limitation of Liability.**

The Association shall not be liable for any loss, damage or injury resulting from: (a) any virus or contamination of any data, computer, or computer system arising from access to the Community Systems; (b) any delays, interruptions, or inconveniences in accessing or using any functions of the Computer, or inability to access or download information, software or other materials through the Community Systems; and (c) the quality, validity, completeness of, or any inaccuracies, errors or omissions in, any information, software or other materials accessible through the Community Systems. The Association does not endorse and makes no representations or warranties regarding the quality, safety, suitability, or usefulness of any software or other materials accessible through the Community Systems. All users assume the entire risk associated with use of and access to the Community Systems and any information, software or other materials available through the Community Systems.

The Community Systems, and all information and materials accessible to users of the Community Systems, are made available “as is” without warranties of any kind, either express or implied, including, without limitation, warranties of title or implied warranties of merchantability or fitness for a particular purpose.

(d) Community Intranet.

The Property may be equipped with community intranet system. Declarant shall have the sole discretion and authority to determine and select the appropriate system or systems, and may change, modify, or terminate the systems from time to time. There is no guarantee or representation that any particular type of community intranet system(s) will be utilized or provided.

Declarant shall have the sole authority to select the provider(s) of the components and services (including, but not limited to, hardware, software, programming, infrastructure, management, and administration) constituting the community intranet system. Declarant shall have no obligation to utilize any particular provider or providers. Declarant also shall have the sole authority to control the content and the operation of the community intranet system.

Declarant may enter into contracts with providers for different components of the community intranet system and with other Persons for the Maintenance, management, administration, upgrading, modification, and operation of such systems. The terms of the applicable contract(s) may obligate individual Owners or occupants to execute contracts or agreements directly with the Persons providing intranet services or components prior to gaining access to such systems. Such contracts or agreements may contain terms and conditions relating to use and access to the community intranet system in addition to those contained in this Section.

Declarant may, from time to time, but shall not be obligated to, delegate or assign all or a portion of its reserved rights under this Section to the Association or a Neighborhood Association.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, Declarant, the Association, and others within or adjacent to the community.

Article XII Easements

12.1. Easements in Common Area.

Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying an interest in such property to the Association;
- (c) The Board's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, or (B) for a period not to exceed 30 days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
 - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests under conditions established by the Board (which may include the payment of fees) and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public; and

(vi) mortgage, pledge, or hypothecate any or all of its real or personal property and its right to receive future income, including the right to receive Base Assessments as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 16.9 and 17.3; and

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated Limited Common Area, as described in Article XIII or other designated portions of the Common Area limited to Owners.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

12.2. Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for Maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

12.3. Easements To Serve Additional Property.

Declarant hereby reserves, until the termination of the Development Period, for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Property for the purposes of enjoyment, use, access, and development of the property described in Exhibits "A" and "B," as well as other real property owned or developed by Declarant, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant further agrees that if the easement is exercised for permanent access to such property and such property, or any portion thereof, benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any Maintenance which the Association provides to or along any roadway providing access to such property.

12.4. Easements for Maintenance, Emergency, and Enforcement.

Declarant grants to the Association easements over the Property as necessary to enable the Association to fulfill its Maintenance responsibilities under Section 8.2. Specifically, the

Association shall have a right of entry upon and easement of access through every Unit, but not through a structure, for the purpose of Maintaining any property or improvement for which the Association has Maintenance responsibility. The Association also shall have the right, but not the obligation, to enter upon any Unit (including a structure) for emergency, security, and safety reasons, to perform Maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

12.5. Easements for Pond and Wetland Maintenance and Flood Water.

Declarant reserves for itself, its successors, assigns, and designees, during the Development Period, and grants to the Association and its successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to: (a) install, operate, Maintain and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct and Maintain structures and equipment used for retaining water; and (c) Maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any portion of the Property abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, its successors, assigns, and designees, until the termination of the Development Period and grants to the Association and its successors, assigns, and designees in perpetuity, a nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet or such other distance specified on a Plat of bodies of water and wetlands within the Property, in order to: (a) temporarily flood and back water upon and Maintain water over such portions of the Property; (b) alter in any manner and generally Maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) Maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

No Person shall exercise an easement pursuant to this Section in violation of, or for any purpose which violates, local, state, or federal laws or regulations.

12.6. Easements for Irrigation System.

Declarant reserves for itself, its successors, assigns, and designees, until the termination of the Development Period, and grants to the Association and its successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon every Unit (but not into a dwelling or other structure) and the Common Area to install, operate, Maintain, and replace irrigation systems or portions thereof, including irrigation ditches, head gates, and

siphons. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any portion of the Property abutting or containing irrigation systems to the extent reasonably necessary to exercise their rights under this Section.

12.7. Easement To Inspect and Right To Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Property, including Units, and a perpetual, nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the Owner's consent. The Person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

12.8. Easements of Record.

Exhibit D sets out the easements of record affecting the Property as of the date hereof.

Article XIII Limited Common Areas

13.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area of primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods and may or may not be reserved for the exclusive use of such particular Neighborhood(s). By way of illustration and not limitation, Limited Common Areas may include driveways, entries, entry features, recreational facilities, landscaped medians and cul-de-sacs, and other portions of the Common Area within or adjacent to a particular Neighborhood or Neighborhoods. All costs associated with Maintenance and insurance of a Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

13.2. Designation.

Except as otherwise provided in the Act, any Limited Common Area shall be designated as such and assigned to particular Units in this Declaration, any Supplemental Declaration, on the subdivision plat relating to such Limited Common Area, or in the deed conveying such Limited Common Area to the Association. Thereafter, any Limited Common Area may be reassigned, subject to prior approval of the Board and the consent of the Unit Owners whose Units are affected and, as long as Declarant owns any portion of the Property or has the right to subject unilaterally property to the provisions of this Declaration under Section 10.1, prior approval of Declarant. Any such reassignment shall be effected by a Recorded assignment executed by the Owners of the Units between or among which the Limited Common Area is assigned and reassigned, or by an amendment to this Declaration executed by such Owners.

13.3. Use by Others.

Upon approval of a majority of Owners within the Neighborhood to which any Limited Common Area is exclusively assigned, the Association may permit Owners in other Neighborhoods to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Limited Common Area. No fees may be charged for Limited Common Areas that are not reserved for the exclusive use of a Neighborhood or Neighborhoods.

13.4 Private Limited Common Areas.

A Supplemental Declaration may also establish Private Limited Common Areas. Any shutters, awnings, window boxes, door steps, stoops, porches, balconies and patios and all exterior doors and windows or other fixtures designed to serve a single Unit, but located outside the Unit's boundaries, are Private Limited Common Areas allocated exclusively to that Unit. Any Neighborhood Expense associated with the Maintenance, repair or replacement of a Private Limited Common Area shall be assessed as a Specific Assessment against the Unit(s) to which that Private Limited Common Area is assigned, except as otherwise provided in a Neighborhood Declaration or as otherwise required by an Agency.

Article XIV Party Walls and Other Shared Structures

14.1. General Rules of Law To Apply.

Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section or of any Supplemental Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

14.2. Maintenance; Damage and Destruction.

The cost of reasonable Maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution shall not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

14.3. Disputes.

Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XV.

14.4. Variation by Supplemental Declaration.

The terms of a Supplemental Declaration or Neighborhood Declaration shall prevail over any conflicting provision of this Article.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of Pine Bluffs as a community in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the community and with our neighbors, and protection of the rights of others who have an interest in the community.

Article XV Dispute Resolution and Limitation on Litigation

15.1. Consensus for Association Litigation.

Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of Voting Members representing at least 67% of the total vote of the Association. This Section shall not apply, however, to: (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the foreclosure of liens); (b) the collection of Assessments; (c) proceedings involving challenges to *ad valorem* taxation; (d) counterclaims or cross-claims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Prior to the Association or any Member commencing any judicial or administrative proceeding to which Declarant or an Affiliate of Declarant is a party and which arises out of an alleged defect in the Property or any improvement constructed upon the Property, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of the Property, including any improvement as to which a defect is alleged. In addition, the Association or the Member shall notify the Builder who constructed the subject improvement prior to retaining any other expert witness or for other litigation purposes.

15.2. Common Area Construction Inspection.

The Association may, but shall not be obligated to engage, as a Common Expense, the services of a disinterested structural engineer acceptable to both the Association and the Declarant to inspect the original construction of the Common Area, pool(s) and cabana

building(s) or any other facility that is part of the Area of Common Responsibility to determine whether or not any original construction defects exist in such facility. At the time of the inspection, the engineer shall develop a list of any original construction defects which should be corrected by Declarant. The costs of such correction shall be paid by Declarant. Upon completion of the corrections of the construction defects, the engineer shall re-inspect the facility to confirm completion of the work needed. If such work is completed to the engineer's satisfaction, then the engineer, the Declarant and the Association shall execute a certificate that the construction defects have been cured (the "Compliance Certificate"). No Owner nor the Association shall have a claim against Declarant based upon any alleged construction defect for which a Compliance Certificate has been issued.

15.3. Alternative Method for Resolving Disputes.

Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Property, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to use good faith efforts to resolve those claims, grievances, or disputes described in Sections 15.4 using the procedures set forth in Section 15.5.

15.4. Claims.

Unless specifically exempted below, all claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Property ("Claims") shall be subject to the provisions of Section 15.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 15.4:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article IX;
- (b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to Maintain the status quo and preserve the Association's ability to enforce the provisions of Article III, Article IV, and Article V;
- (c) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents; and
- (d) any suit in which any indispensable party is not a Bound Party.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 15.5.

15.5. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (“Notice”), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
- (ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);
- (iii) Claimant’s proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have 30 additional days to submit the Claim to mediation under an independent agency providing dispute resolution services in the County area.

(iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided; nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated. Thirty-one (31) days after the date of a Termination of Mediation notice, the Claimant shall thereafter be entitled to sue in

any court of competent jurisdiction or to initiate proceedings before any appropriate administrative tribunal on the Claim; provided that (1) if the Claimant is the Association, and if the Association cannot obtain Owner consent to file litigation pursuant to Section 15.1, or (2) if the Respondent includes the Declarant, then in either case, the Association or the Declarant, as applicable, may demand arbitration pursuant to Section 15.5(c).

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with this Section and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

(c) Arbitration.

A demand by the Association as Claimant or the Declarant as Respondent for the resolution of a Claim by arbitration must be made in writing within 30 days after the Termination of Mediation. If the Association does not submit the Claim to arbitration within such time or if the Association does not appear at arbitration, the Association shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant. The demand for arbitration shall be delivered to the other party(ies) and the American Arbitration Association (the "AAA") before the date when commencement of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. In no event shall the demand for arbitration of a Claim be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations. Any party who fails to submit to binding arbitration regarding a Claim following a lawful demand by the opposing party shall bear all costs and expenses, including reasonable attorney's fees, incurred by the opposing party in compelling arbitration of such Claim. Except as otherwise provided in this Section 15.5 or by the express written agreement of the parties, the AAA shall administer all aspects of arbitrations conducted pursuant to this Section 15.5, including selection of arbitrators, pursuant to the AAA's Commercial Arbitration Rules. Except as provided below with respect to enforcing the decision of the arbitrator(s), once a Claim is submitted to arbitration, the claims involved cannot later be brought, filed or pursued in any court.

All arbitration of Claims shall be conducted in the greater Denver, Colorado metropolitan area. Except with respect to any Claim involving, in the aggregate, claims and counterclaims of less than \$10,000, arbitration hereunder shall be before a three-person panel of neutral arbitrators, consisting of persons from either of the following categories, but at least one from each category: (i) an attorney who has practiced in the area of real estate transactional law for at least ten (10) years or a retired judge at the district court or an appellate court level; or (ii) a person with at least ten years' experience in the residential construction industry. Any Claim

involving, in the aggregate, claims of less than \$10,000 shall be resolved before a single arbitrator meeting the qualifications set forth in clause (i) of the preceding sentence. The AAA shall submit a list of persons meeting the criteria outlined above for each category of arbitrator, and the parties shall select one person from each category in the manner established by the AAA. Arbitrations conducted pursuant to the terms of this Section 15.5 will be governed by Colorado law.

Multiple Claims or party claims not consolidated or administered as a class action pursuant to the following sentence will be subject to, and will be arbitrated individually pursuant to the terms of, this Section 15.5. Only with the written consent of all parties involved, but not otherwise, the arbitrator(s) may (i) consolidate in a single arbitration proceeding any multiple Claims or party claims that are substantially identical, and (ii) arbitrate multiple Claims as a class action in accordance with Rule 23 of the Colorado Rules of Civil Procedure. A party will state as a counterclaim any claim that relates in any way to a Claim and does not require the presence of a third party who could not be joined as a party in the proceeding. The arbitrator(s) also may resolve any dispute regarding the arbitrability of any Claim or a claim that any part of the Arbitration Documents (including this provision) is void or voidable, but will have no power to change or alter the terms of the Arbitration Documents. The decision of the arbitrator(s) shall be in writing and shall specify the factual and legal basis for the decision.

Except as provided below in this Section 15.5 with regard to awards of attorneys' fee and expenses, no party shall be entitled to receive any award of damages in connection with the litigation or arbitration of a Claim other than such party's actual damages, and Declarant, the Association and any Owner shall be deemed to have waived their right to receive any damages in a Claim other than actual damages, including, without limitation, special damages, consequential damages, and punitive or exemplary damages.

BY TAKING TITLE TO A UNIT, EACH OWNER ACKNOWLEDGES AND AGREES THAT SUCH OWNER HAS WAIVED AND SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO ANY AWARD OF DAMAGES IN CONNECTION WITH THE LITIGATION OR ARBITRATION OF A CLAIM, OTHER THAN SUCH OWNER'S ACTUAL DAMAGES.

The arbitrator(s) shall make an award of attorneys' fees and expenses, including the fees and expenses of the arbitrator(s), to the prevailing party, with the arbitrator(s) determining who is the prevailing party; provided, however, if the decision of the arbitrator(s) is not wholly in favor of one party, the arbitrator(s) shall allocate such fees and expenses between the parties. The results of any arbitration conducted pursuant to this Section 15.5 shall be binding and final, and the decision of the arbitrator(s) may be filed, converted and enforced as a judgment, order or decree in the District Court of the County.

In the event that all or a portion of this Article XV is unenforceable or inconsistent with Colorado law, then state law shall control as to such inconsistency, but the remainder of Article XV shall be enforceable to the maximum extent permitted by law.

Article XVI Mortgagee Provisions

The following provisions are for the benefit of holders, insurers and guarantors of First Mortgages on Units within the Property. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

16.1. Notices of Action.

An Eligible Holder which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an “Eligible Holder”), shall be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a First Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of Assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

16.2. Special FHLMC Provision.

So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the First Mortgagees or Voting Members representing at least 67% of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner of a Unit;

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or Maintenance of Units and the Common Area (the issuance and amendment of architectural standards, procedures, or Rules and Regulations shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

After 20 days' notice to the Association, First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

16.3. Other Provisions for First Lien Holders.

To the extent not inconsistent with Colorado law:

(a) Any restoration or repair of the Property after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless Eligible Holders representing at least 50% of the votes of Units subject to Mortgages held by Eligible Holders elect otherwise.

(b) Termination of the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders representing at least 50% of the votes of Units subject to Mortgages held by Eligible Holders.

16.4. Amendments to Documents.

The following provisions do not apply if amendments to the Governing Documents or termination of the Association results from destruction, damage, or condemnation pursuant to Section 16.3(a) and (b), or to the addition or withdrawal of land in accordance with Article X.

(a) The consent of Voting Members representing at least 67% of the votes in the Association; and of Declarant, so long as it owns any land subject to this Declaration; and the approval of the Eligible Holders to which at least 67% of the votes of Units subject to a Mortgage appertain, shall be required to terminate the Association.

(b) The consent of Voting Members representing at least 67% of the votes in the Association (and including Declarant, so long as it owns any land subject to this Declaration), and the approval of Eligible Holders to which more than 50% of the votes of Units subject to a Mortgage appertain, shall be required materially to amend any provisions of the Declaration, By-

Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) Assessments, assessment liens, or subordination of such liens;
- (iii) reserves for Maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for Maintenance and repair of the Property;
- (vii) expansion or contraction of the Property or the addition, annexation, or withdrawal of property to or from the Association;
- (viii) boundaries of any Unit;
- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of First Mortgages on Units.

16.5. No Priority.

No provision of this Declaration, the Articles, or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.6. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

16.7. Failure of Mortgagee To Respond.

The Association shall send a dated, written notice and a copy of any proposed amendment by certified mail to each First Mortgagee at its most recent address as shown on the Recorded Deed of Trust or Recorded Assignment thereof. In addition, the Association shall cause the dated notice, together with information on how to obtain a copy of the proposed amendment, to be printed in full at least twice, on separate occasions at least one week apart, in a newspaper of general circulation in the County. A First Mortgagee that does not deliver to the Association a negative response within sixty (60) days after the date of the notice shall be deemed to have approved the proposed amendment.

16.8. Construction of Article XVI.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or Colorado law for any of the acts set out in this Article.

16.9. HUD/VA Approval.

Until the termination of the Declarant Control Period, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such Agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance, or mortgaging of Common Area; or material amendment of this Declaration. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

16.10. Encumbrance of Units and Subordination.

Any Owner may encumber his Unit with a Mortgage. Except as otherwise provided in Section 9.10, the Association's lien for unpaid Assessments under Article IX is subject and subordinate to the lien of any First Mortgage encumbering any Unit Recorded prior to the date that the Assessments secured by such lien became delinquent, unless the priority of such First Mortgage is expressly subordinated to such assessment lien by a written instrument duly Recorded.

16.11. Non-Liability for Unpaid Assessments.

Except as provided in Section 9.10, any Mortgagee who acquires title to a Unit pursuant to the judicial or non-judicial foreclosure remedies provided for in the Mortgage shall take title

to the Unit free of all claims for unpaid Assessments or Association charges that accrue before the date of such foreclosure. However, the Unit shall remain subject to this Declaration notwithstanding such foreclosure and the Unit and the grantee or purchaser of the Unit shall be liable for all Assessments, or installments thereof, coming due after the date of such foreclosure sale.

16.12. Appearance at Meetings.

Because of its financial interest in the Property, any Mortgagee may appear (but cannot vote) at meetings of the Members and the Board and may draw attention to violations of this Declaration that have not been corrected or made the subject of remedial proceedings or assessments.

16.13. Examination of Records.

Mortgagees shall have the right to examine the books and records of the Association and obtain copies of financial data concerning the Association, including annual audit reports and opening statement as and when furnished to the Owners.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as Pine Bluffs are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. The community and its Governing Documents must be able to adapt to these changes while protecting the things that make Pine Bluffs unique.

Article XVII Changes in Common Area

17.1. Condemnation.

If a Unit or portion thereof shall be taken by eminent domain, compensation and the Owner's interests in the Common Area shall be allocated as provided in the Act. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total votes in the Association and of Declarant, during the Declarant Control Period) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, to the extent of the award, the Association shall restore or replace such improvements on the remaining Common Area to the extent available, unless within 60 days after such taking Declarant, during the Declarant Control Period, and Voting Members representing at least 75% of the total votes in the Association shall otherwise agree.

Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 8.4 regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2. Transfer, Partition, or Encumbrance of Common Area.

(a) Except as may otherwise be specifically provided in this Declaration, the Common Area shall not be judicially partitioned or subdivided into Units, nor shall the ownership of the Common Area be otherwise divided or made subject to a security interest after conveyance to the Association, except upon the approval of at least 67% of the total votes in the Association, including 67% of the votes held by Members other than Declarant, and the consent of Declarant during the Declarant Control Period. Any such transfer, partition, or encumbrance shall be further subject to C.R.S. § 38-33.3-312. This section shall not prevent the Association from granting easements with respect to the Common Area as otherwise permitted in this Declaration and the Act.

(b) Except as provided in Section 11.9, the Association shall have the authority, subject to approval of a majority of the total votes in the Association, including a majority of the votes held by Members other than Declarant, and the consent of Declarant, during the Declarant Control Period, to transfer portions of the Common Area and improvements thereon to appropriate governmental entities or tax-exempt organizations for the Maintenance, operation and preservation thereof; provided, that any such transfer shall not relieve such Common Area from the rights and benefits of the Association and the Members as provided in this Declaration and shall otherwise be subject to the provisions of this Declaration.

17.3. Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then, during the Declarant Control Period, the following actions shall require the prior approval of Voting Members representing not less than 67% of the total votes in the Association and the consent of Declarant: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; and dedication, conveyance, or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 17.2 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and Maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

Article XVIII Miscellaneous

18.1. Amendment.

Except in cases of amendments which may be executed unilaterally by Declarant during the Development Period in the exercise of its Development Rights, or amendments executed by Declarant or the Association as authorized in the Act, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 67% of the total votes in the Association (including the consent of Declarant during the Declarant Control Period).

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause, except as otherwise required by the Act. Amendments to this Declaration shall be executed by the President of the Association and shall contain a recitation and certification that the requisite number of votes were obtained. Any amendment shall be effective upon Recordation.

18.2. Validity and Effective Date of Amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without Declarant's written consent (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Declaration or the By-Laws, it shall be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party shall affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one year of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

18.3. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. Exhibit "C" is incorporated by this reference and may be amended in accordance with Article IV or this Article. Exhibit D is attached for informational purposes and may be amended as record title to the Property changes.

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

DECLARANT:

KW Pine Ridge LLC, a Colorado limited liability company

By: _____
Name: _____
Its: _____

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2005 by _____ as a member of KW Pine Ridge LLC, a Colorado limited liability company.

Witness my hand and official seal.

Notary Public

My Commission expires: _____

EXHIBIT "A"

Land Initially Submitted
And Table of Allocated Interests

Lots 1-9 Block 4;
Lots 1-8 Block 5;
Lots 1-14 Block 6; and
Lots 5-12 Block 7;
Pines Bluffs Filing No. 1
Douglas County, Colorado

Table of Allocated Interests

Lot 1 Block 4	2.5641%
Lot 2 Block 4	2.5641%
Lot 3 Block 4	2.5641%
Lot 4 Block 4	2.5641%
Lot 5 Block 4	2.5641%
Lot 6 Block 4	2.5641%
Lot 7 Block 4	2.5641%
Lot 8 Block 4	2.5641%
Lot 9 Block 4	2.5641%
Lot 1 Block 5	2.5641%
Lot 2 Block 5	2.5641%
Lot 3 Block 5	2.5641%
Lot 4 Block 5	2.5641%
Lot 5 Block 5	2.5641%
Lot 6 Block 5	2.5641%
Lot 7 Block 5	2.5641%
Lot 8 Block 5	2.5641%
Lot 1 Block 6	2.5641%
Lot 2 Block 6	2.5641%
Lot 3 Block 6	2.5641%
Lot 4 Block 6	2.5641%
Lot 5 Block 6	2.5641%
Lot 6 Block 6	2.5641%
Lot 7 Block 6	2.5641%
Lot 8 Block 6	2.5641%
Lot 9 Block 6	2.5641%
Lot 10 Block 6	2.5641%
Lot 11 Block 6	2.5641%
Lot 12 Block 6	2.5641%
Lot 13 Block 6	2.5641%
Lot 14 Block 6	2.5641%

Lot 5 Block 7	2.5641%
Lot 6 Block 7	2.5641%
Lot 7 Block 7	2.5641%
Lot 8 Block 7	2.5641%
Lot 9 Block 7	2.5641%
Lot 10 Block 7	2.5641%
Lot 11 Block 7	2.5641%
Lot 12 Block 7	2.5641%
TOTAL	100%

EXHIBIT “B”

Land Subject to Annexation

All of Pine Bluffs as described or depicted on the Pine Bluffs Development Plan Amendment No. 1, Douglas County, Colorado, as it may be amended or supplemented in the future.

EXHIBIT "C"

Initial Residential Rules and Regulations

The following restrictions shall apply to all of the Property until such time as they are amended, modified, repealed, or limited pursuant to Article IV of the Declaration.

1. General. The Property shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. Restricted Activities. The following activities are prohibited within the Property unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, snowmobiles, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a total of no more than three dogs, cats, or other usual and common household pets may be permitted in a Unit; provided, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, disturb wildlife, cause a negative impact on the quality of life in Pine Bluffs, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; provided, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Property, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(n) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

(o) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(p) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of Maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article V;

(q) Any business, trade, garage sale, yard sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities

within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Property; (iii) the business activity does not have employees or independent contractors working in the Unit or appointments or visits to the Unit by clients, customers or others; (iv) the business activity does not involve door-to-door solicitation of residents of the Property; (v) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked within the Property which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (vi) the business activity is consistent with the residential character of the community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents within the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Property or its use of any Units which it owns within the Property, including the operation of a timeshare or similar program;

(r) Capturing, trapping, or killing of wildlife within the Property, except in circumstances posing an imminent threat to the safety of persons using the Property, and except for extermination of pests and rodents within a Unit;

(s) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Property or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(t) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article V;

(u) Operation of motorized vehicles on pathways or trails Maintained by the Association; and

(v) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article V. This shall include, without limitation, mail boxes, signs, basketball hoops, swing sets, and similar sports and play

equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind.

3. Prohibited Conditions. The following shall be prohibited within the Property:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Property, except that Declarant and the Association shall have the right to draw water from such sources; and

(d) Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that Declarant and the Association shall have the right, without obligation, to erect or install and Maintain any such apparatus for the benefit of all or a portion of the Property. However, (i) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas or satellite dishes designed to receive television broadcast signals ((i), (ii), and (iii), collectively, "Permitted Devices") may be installed by Owners, *provided that* any such Permitted Device is placed in the least conspicuous location on the Unit at which an acceptable quality signal can be received and is not visible from neighboring property or is screened from the view of adjacent Units in a manner consistent with the Community-Wide Standard and the Design Guidelines.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or other benefit. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Rules and Regulations. The Owner shall be responsible for any violations of the Governing Documents by such Owner's lessee(s) or members of such lessee(s)' family or guests to the maximum extent permitted by law.

EXHIBIT "D"

Easements and Licenses

RIGHT OF A PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AND A RIGHT OF WAY FOR DITCHES AND CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES AS RESERVED IN UNITED STATES PATENT CERTIFICATE NUMBER 17265. RECORDED JUNE 8, 1904.

UTILITY EASEMENT AS GRANTED TO PUBLIC SERVICE COMPANY OF COLORADO IN INSTRUMENT RECORDED MARCH 12, 1990, IN BOOK 900 AT PAGE 980.

AN EASEMENT FOR ELECTRIC TRANSMISSION AND/OR DISTRIBUTION LINE OR SYSTEM AND INCIDENTAL PURPOSES AS GRANTED TO INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION BY AN INSTRUMENT RECORDED JANUARY 27, 1978 IN BOOK 324 AT PAGE 482 UPON THE TERMS AND CONDITIONS THEREIN SET FORTH, OVER A PORTION OF THE SOUTHWEST 1/4 OF SECTION 26.

ANNEXATION MAP FOR RAMPART STATION NO. 1 RECORDED SEPTEMBER 19, 1983 AT RECEPTION NO. 312103 AND ANNEXATION MAP FOR RAMPART STATION NO. 2 RECORDED SEPTEMBER 19, 1983 AT RECEPTION NO. 312104.

TERMS, PROVISIONS, CONDITIONS, STIPULATIONS AND EASEMENTS AS CONTAINED IN EASEMENT AND AGREEMENT RECORDED MARCH 3, 1986 IN BOOK 626 AT PAGE 713.

AN EASEMENT FOR TELEPHONE, TELEGRAPH LINES AND INCIDENTAL PURPOSES AS GRANTED TO THE MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY BY AN INSTRUMENT RECORDED FEBRUARY 27, 1939 IN BOOK 93 AT PAGE 265 AT RECEPTION NO. 71423 UPON THE TERMS AND CONDITIONS THEREIN SET FORTH, OVER ALL LAND LYING EAST OF STATE HIGHWAY NO. 83.

TERMS, CONDITIONS AND PROVISIONS OF ASSIGNMENT(S) RECORDED DECEMBER 30, 1993 IN BOOK 1171 AT PAGE 2497 AND PAGE 2500.

UTILITY EASEMENT AS GRANTED TO INTERMOUNTAIN RURAL ELECTRIC ASSOCIATION IN INSTRUMENT RECORDED OCTOBER 14, 1999, IN BOOK 1766 AT PAGE 1081.

ORDINANCE NO. 3.163.1, SERIES OF 2003 RECORDED APRIL 16, 2004 UNDER RECEPTION NO. 2004038430.

CERTIFICATE OF COMPLIANCE RECORDED APRIL 16, 2004 UNDER RECEPTION NO. 2004038428.

TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN PINE BLUFFS COMPREHENSIVE DEVELOPMENT AGREEMENT RECORDED APRIL 16, 2004 UNDER RECEPTION NO. 2004038427.

TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN WATER AND/OR SEWER MAIN IMPROVEMENT AGREEMENT RECORDED JULY 09, 2004 UNDER RECEPTION NO. 2004071756.

TERMS, CONDITIONS AND PROVISIONS OF RELEASE AND SETTLEMENT AGREEMENT RECORDED AUGUST 06, 2004 AT RECEPTION NO. 2004082312 AND ORDER; STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW AND ENTRY OF JUDGMENT RECORDED SEPTEMBER 1, 2004 UNDER RECEPTION NO. 2004091012.

EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE RECORDED PLAT OF PINE BLUFFS FILING NO. 1 RECORDED NOVEMBER 5, 2004 UNDER RECEPTION NO. 2004113852.

TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN SUBDIVISION IMPROVEMENTS AGREEMENT RECORDED NOVEMBER 5, 2004 UNDER RECEPTION NO. 2004113853, AND AS AMENDED IN INSTRUMENT RECORDED NOVEMBER 24, 2004 UNDER RECEPTION NO. 2004120616, AND AUGUST 19, 2005 UNDER RECEPTION NO. 2005078684.

TABLE OF CONTENTS

PART ONE: INTRODUCTION TO THE COMMUNITY1

Article I Creation of the Community1

1.1. Purpose and Intent.1

1.2. Binding Effect.1

1.3. Governing Documents.2

Article II Concepts and Definitions.....4

PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS11

Article III Use, Occupancy, and Transfer.....11

3.1. General.11

3.2. Restrictions on Use.11

3.3. Restrictions on Occupancy.11

3.4. Changes in Ownership of Units; Notice Requirement.....11

Article IV Conduct.....12

4.1. Framework for Regulation.12

4.2. Regulation-Making Authority.....12

4.3. Owners’ Acknowledgment and Notice to Purchasers.14

Article V Architecture and Landscaping14

5.1. General.14

5.2. Architectural Review.15

5.3. Guidelines and Procedures.....16

5.4. No Waiver of Future Approvals.18

5.5. Variances.18

5.6. Limitation of Liability.18

5.7. Certificate of Compliance.19

Article VI Maintenance and Repair19

6.1. Maintenance of Units.....19

6.2. Maintenance of Neighborhood Property.....19

6.4. Responsibility for Repair and Replacement.20

PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION21

Article VII The Association and its Members.....21

7.1. Function of Association.21

7.2. Board of Directors.21

7.3. Membership.21

7.4. Neighborhoods, Voting Members, and Voting Groups.....22

Article VIII Association Powers and Responsibilities25

8.1.	Acceptance and Control of Association Property.....	25
8.2.	Maintenance of Area of Common Responsibility.	25
8.3.	Insurance; Warranty Claims.	26
8.4.	Repair and Reconstruction of Association Property.....	29
8.5.	Compliance and Enforcement.....	30
8.6.	Implied Rights; Board Authority.	32
8.7.	Indemnification of Officers, Directors, and Others.	32
8.8.	Security.	33
8.9.	Powers of the Association Relating to Neighborhood Associations.	33
8.10.	Provision of Services.	34
8.11.	Governmental Interests.	34
8.12.	Relations with Other Properties.....	34
8.13.	Facilities and Services Open to the Public or Reserved for Owners.	34
8.14.	Cooperation with Special District.....	35
8.15.	Relationship with Tax-Exempt Organizations.....	35
Article IX Association Finances.....		35
9.1.	Budgeting and Allocating Common Expenses.	35
9.2.	Budgeting and Allocating Neighborhood Expenses.....	36
9.3.	Special Assessments.	38
9.4.	Specific Assessments.....	38
9.5.	Rate of Assessment; Allocated Interests.....	38
9.6.	Authority To Assess Owners; Commencement of Assessments; Time of Payment.	39
9.7.	Obligation for Assessments.	40
9.8.	Statement of Account.....	40
9.9.	Lien for Assessments.....	41
9.10.	Exempt Property.	42
9.11.	Capitalization of Association.....	42
PART FOUR: COMMUNITY DEVELOPMENT		43
Article X Expansion of the Community		43
10.1.	Expansion by Declarant.....	43
10.2.	Expansion by the Association.....	43
10.3.	Withdrawal of Property.....	44
10.4.	Additional Covenants and Easements.....	44
10.5.	Effect of Filing Supplemental Declaration.	44
10.6.	Amendment.....	44
Article XI Development Rights and Protections		45
11.1.	Reasonable Rights To Develop.....	45
11.2.	Special Declarant Rights.....	45
11.3.	Marketing and Sales Activities.....	46
11.4.	Construction of Improvements.	46
11.5.	Right To Approve Additional Covenants.	47
11.6.	Right To Transfer or Assign Declarant Rights.....	47
11.7.	Additional Restrictions and Assessments on Portions of the Property.....	47

11.8.	Right To Designate Sites for Governmental and Public Interests.	47
11.9.	Right To Approve Changes in Community Standards.	48
11.10.	Use of Technology.	48
PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY.....		50
Article XII	Easements	50
12.1.	Easements in Common Area.....	50
12.2.	Easements of Encroachment.	51
12.3.	Easements To Serve Additional Property.	51
12.4.	Easements for Maintenance, Emergency, and Enforcement.	51
12.5.	Easements for Pond and Wetland Maintenance and Flood Water.....	52
12.6.	Easements for Irrigation System.....	52
12.7.	Easement To Inspect and Right To Correct.....	53
12.8.	Easements of Record.....	53
Article XIII	Limited Common Areas	53
13.1.	Purpose.....	53
13.2.	Designation.	53
13.3.	Use by Others.....	54
Article XIV	Party Walls and Other Shared Structures	54
14.1.	General Rules of Law To Apply.....	54
14.2.	Maintenance; Damage and Destruction.	54
14.3.	Disputes.	55
14.4.	Variation by Supplemental Declaration.....	55
PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY.....		55
Article XV	Dispute Resolution and Limitation on Litigation	55
15.1.	Consensus for Association Litigation.	55
15.3.	Alternative Method for Resolving Disputes.	56
15.4.	Claims.	56
15.5.	Mandatory Procedures.	57
Article XVI	Mortgagee Provisions	60
16.1.	Notices of Action.	60
16.2.	Special FHLMC Provision.....	60
16.3.	Other Provisions for First Lien Holders.	61
16.4.	Amendments to Documents.	61
16.5.	No Priority.	62
16.6.	Notice to Association.....	63
16.7.	Failure of Mortgagee To Respond.	63
16.8.	Construction of Article XVI.	63
16.9.	HUD/VA Approval.....	63
16.10.	Encumbrance of Units and Subordination.	63
16.11.	Non-Liability for Unpaid Assessments.....	63
16.12.	Appearance at Meetings.....	64

16.13. Examination of Records.....64

Article XVII Changes in Common Area64

17.1. Condemnation.....64

17.2. Transfer, Partition, or Encumbrance of Common Area.....65

Article XVIII Miscellaneous66

18.1. Amendment.....66

18.2. Validity and Effective Date of Amendment.66

18.3. Exhibits.66