

DECLARATION OF PROTECTIVE COVENANTS

FOR

HERITAGE PARK SUBDIVISION

A Common Interest Planned Community

TYRONE R. LOCKHART of Steamboat Springs, Colorado ("Declarant"), is the owner of all that real property in the County of Routt, Colorado, platted as a subdivision called HERITAGE PARK SUBDIVISION (the "Subdivision"), the plat of which is filed as File No. 12511, Routt County records (the "Plat"). All of the real property subdivided by the Plat and described in the Certificate of Ownership and Dedication by Declarant on the Plat is sometimes herein referred to as the "Property." Declarant desires to establish a Planned Community under the Colorado Common Interest Ownership Act (the "Act"), C.R.S. §§38-33.3-101 et seq., the name of which is HERITAGE PARK SUBDIVISION. Declarant has caused to be incorporated, under the laws of the State of Colorado, HERITAGE PARK OWNERS ASSOCIATION, a non-profit corporation, for the purpose of exercising the functions of an association under the Act within the Subdivision, and as herein set forth, and for the purposes described in its Articles of Incorporation. A description of all of the easements and licenses appurtenant to or included in the Property or to which any portion of the Subdivision is presently subject is contained in Exhibit "A" attached hereto and incorporated herein by this reference.

Declarant does hereby submit the Property to the provisions of the Colorado Common Interest Ownership Act, C.R.S. §§38-33.3-101 et seq., as may be amended from time to time, as a Planned Community under such Act. In the event the Act is repealed, the Act, as written on the effective date of this Declaration, shall remain applicable.

Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, grants, limitations and obligations shall be deemed to run with the Property and all parts thereof and all Structures erected thereon, and shall be a burden and a benefit to Declarant, its successors and assigns, and to any person acquiring or owning any Lot or any interest in the Property, their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. Definitions. Each capitalized term in this Declaration not otherwise defined in this Declaration or in the Plat shall have the meanings specified or used in the Act. As used in this Declaration, the following words and terms shall have the following meanings:

(a) "Association" means HERITAGE PARK OWNERS ASSOCIATION, a Colorado nonprofit corporation, the Members of which shall consist of all of the Owners of Lots and Parcels A through E. The Board of Directors of the Association are hereinafter referred to as the "Executive Board."

(b) "Association Control Period" means the time period between the initial recording of this Declaration in the real property records of Routt County and the last to occur of (1) 60 days after conveyance of 75% of the 80 Lots created by the Plat to Lot Owners other than an Affiliate of Declarant, or (2) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business; provided, however, that such time period shall in no event exceed the Declarant Control Period.

(c) "Common Expenses" means all expenses expressly declared to be Common Expenses by the Act, this Declaration or the Bylaws of the Association, together with all funds assessed for or allocated to the creation, funding or maintenance of reserves. Without limiting the generality of the foregoing, "Common Expenses" shall include (i) the expenses to repair, maintain, and replace landscaping on the open space of Parcels and the common landscaping irrigation systems, (ii) expenses to repair, maintain, and replace the Heritage Park Roads in the Subdivision (including snowplowing),

(iii) charges for electricity for common lights at the entrance sign and elsewhere, and for pumping of water for common landscaping irrigation systems, (iv) expenses of water quality monitoring and reporting for storm water runoff from or through the Subdivision, (v) reimbursements to Steamboat II Metropolitan District for additional water monitoring of the District's well system required as a result of the Subdivision, (vi) expenses resulting from the assumptions, performance, and indemnity by the Association as contained and referred to in Subparagraph 24(b) herein, (vii) expenses of repair, insuring, preserving, and maintenance of the improvements constructed by Declarant or by the Association as recreational amenities for use of all of the Owners in the Subdivision, and (viii) the fees and costs of attorneys, bookkeepers, accountants, managers, surveyors, land planners, and other professionals engaged by the Association.

(d) "Declarant" means TYRONE R. LOCKHART, and his successors and assigns to the Special Declarant Rights when conveyed pursuant to the Act.

(e) "Declarant Control Period" means 99 years, or the maximum time limit permitted by C.R.S. §38-33.3-205(1)(h), as may hereafter be amended from time to time. There is presently no maximum time limit in C.R.S. §38-33.3-205(1)(h).

(f) "Declaration" means this instrument and all amendments to this instrument hereafter recorded in the real property records of Routt County, Colorado, together with the Plat and all amendments and supplements to the Plat.

(g) "Duplex Lots" shall mean each of Lots 4, 9, 10, and 14 in the Subdivision, and each such Lot may hereinafter be referred to as a "Duplex Lot." A duplex or two-family dwelling structure may be constructed and occupied on any Duplex Lot.

(h) "Dwelling" means a single building on a Lot constructed for residential purposes and occupied by one family as a single-family residence, but a Dwelling may also include and mean each separate part of a duplex or two-family dwelling Structure constructed on a Duplex Lot.

(i) "Family" has the same meaning as the term "family" is defined from time to time in the zoning resolution or Community Development Code of the City of Steamboat Springs and in the Routt County zoning resolution.

(j) "First Lienor" means the Person who is the beneficiary of or holds the first-lien Security Interest on a Lot, other than the Association with respect to its lien under the Act as described in Paragraph 25(i) of this Declaration.

(k) "Heritage Park Roads" shall mean Brandon Circle and Lindsay Drive as shown on the Plat, and including all roadway improvements now existing or hereafter constructed within such Brandon Circle and Lindsay Drive, as described in the Special Warranty Deed from the Declarant to the Association for the Heritage Park Roads, but subject to the reservations in Declarant as described in such Association Special Warranty Deed.

(l) "Lot" means a separately described and subdivided part of the Property designated as a lot by number on the Plat, each of which is a "Unit" within the Planned Community, as such term "Unit" is defined and used in the Act. A "Lot" does not include any of Parcels A, B, C, D, E, F, G, or H, as shown on the Plat. Lot 1 and/or Lot 2 may be used and occupied for residential purposes, or may be used and occupied for a fire station and/or church and related parking and related uses. Except as provided in the preceding sentence and except as permitted by Paragraph 26(b), each Lot within the Property may be used and occupied only for residential purposes, and only one Dwelling and one Outbuilding may be constructed on a Lot (provided that each Dwelling on a Duplex Lot may be a duplex). Allocated to each Lot are the Common Expense liability of such Lot and its one vote in the Association.

(m) "Membership Parcels" shall mean Parcels A, B, C, D, and E, as shown and described on the Plat, the Owners of which will be Members of the Association.

(n) "Outbuilding" means a garage or storage building constructed and located separate from the Dwelling on a Lot.

(o) "Owner" means any Person who is the record owner of an undivided fee simple interest in any Lot or Parcel, including a contract seller but excluding those having such interest merely as security for the performance of any obligation, and where the context clearly requires, "Owner" also means all co-owners of undivided fee simple interests in such Lot or Parcel.

(p) "Parcels" means Parcels A, B, C, D, E, F, G, and H as shown and described on the Plat, none of which shall be deemed to be a Lot.

(q) "Plat" means the land survey plat recorded at the Routt County Clerk and Recorder's file number set forth in the opening paragraph of this Declaration, and any proper amendment or supplement to such plat or any part thereof which is a land survey plat as set forth in C.R.S. §38-51-102, depicts all or any portion of the Planned Community in two dimensions, is executed by a person that is authorized by the Act to execute the Declaration or amendment to the Declaration for the Planned Community, and is recorded in the real estate records of Routt County.

(r) "Property" means the real property described in the Certificate of Ownership and Dedication by Declarant on the Plat, including all of the Lots and Parcels and all Structures constructed thereon.

(s) "PUD Plan" shall mean the final PUD plan for the Subdivision as approved by the Routt County Regional Planning Commission on December 4, 1997, including the recorded PUD plan maps filed contemporaneously with this Declaration, and including any proper amendment or supplement to such final PUD plan which is approved by Routt County in accordance with the land use regulations of Routt County.

(t) "Structure" means a Dwelling, building, driveway, parking area, fence, Outbuilding, improvement, wall, foundation, walkway, gazebo, patio, deck, utility line or appurtenance, or other fixture or structure or improvement affixed and situated on a Lot or a Parcel with the intent to remain indefinitely.

2. General Purposes. This Declaration is made and declared for the purpose of regulating development and use of, and construction and occupancy in, the Property, in order to keep the Property, insofar as possible, desirable, attractive, beneficial and suitable to residents, and of guarding against fires and casualties and unnecessary interference with the natural beauty of the Property, and to enhance the mutual benefit, health, welfare and protection of the Owners and occupants of Lots and Parcels.

3. Lots and Boundaries.

(a) Number of Lots and Parcels. The Property is initially divided into eighty (80) Lots and eight (8) Parcels (identified as Parcels A, B, C, D, E, F, G, and H) whose horizontal boundaries are delineated on the Plat. The Identifying Number of each Lot is set forth on such Plat. The maximum number of units which the Declarant reserves the right to create in the Subdivision is equal to the maximum number of Lots, Parcels, and Dwellings which may be located in the Subdivision pursuant to the Plat, the PUD Plan, and this Declaration.

(b) Allocated Interests. Each Lot and each Membership Parcel is allocated one vote in the Association. However, no Parcel shall have any Common Expense Liability. The Common Expense Liability of each Lot shall be a fraction, the numerator of which is one and the denominator of which is the total number of Lots then existing in the Property.

(c) Resubdivision of Lots. Pursuant to the Act, upon approval by the Executive Board and by Routt County, a Lot may be resubdivided pursuant to the Routt County subdivision regulations and zoning resolution into two or more Lots by an amendment to the Declaration, and each such further subdivided or resubdivided lot shall be deemed a separate Lot under this Declaration. In order to resubdivide a Lot, the Owner of the Lot to be resubdivided shall submit to the Executive Board an application which includes matters required by the Act and such other information as may be reasonably requested by the Executive Board. The Executive Board shall approve, approve upon reasonable conditions, or disapprove such application within a reasonable period of time, and shall communicate promptly to the applying Owner the reasonable conditions of approval or all of the reasons for disapproval, as applicable. A resubdivision of a Lot shall be accomplished by an amendment to the Declaration, prepared in accordance with the Act, executed by the Owner of the subdivided Lot and by the president of the Association, and approved by the Board of County Commissioners of Routt County pursuant to all applicable County regulations, and shall be recorded in the Routt County real property records. Parcels may not be resubdivided.

(d) Relocation of Boundaries of Lots or Parcels. Pursuant to the Act, upon approval by the Executive Board and the approval of the Board of County Commissioners of Routt County pursuant to all applicable County regulations, the boundaries between adjoining Lots or adjoining Parcels may be relocated by an amendment to the Declaration, and each Lot or Parcel whose boundaries are so relocated shall be deemed a separate Lot or Parcel, respectively, under this Declaration. In order to relocate the boundaries between adjoining Lots or Parcels, the Owners of such Lots or Parcels shall submit to the Executive Board an application which includes matters required by the Act and such other information as may be reasonably requested by the Executive Board. The Executive Board shall approve, approve upon reasonable conditions, or disapprove such application within a reasonable period of time, and shall communicate promptly to the applying Owners the reasonable conditions of approval or all of the reasons for disapproval, as applicable. Relocation of the boundaries between such Lots or Parcels shall be accomplished by an amendment to the Declaration, prepared in accordance with this Declaration and the Act, executed by the Owners of the Lots or Parcels whose boundaries are relocated and by the president of the Association, approved by the Board of County Commissioners of Routt County pursuant to all applicable County regulations, and recorded in the Routt County real property records.

(e) Lot 1. Declarant shall not sell or convey Lot 1 to any unrelated person or entity for a period of two years after recording of this Declaration, except that Declarant may convey said Lot 1 at any time to any entity in which Declarant holds a substantial interest. During such period of time of restraint on alienation, said Lot 1 shall be available to be purchased and acquired by a governmental agency or entity having fire protection powers, for cash at a reasonable price. After two years after recording of this Declaration in the Routt County real property records, the provisions and limitations of this Subparagraph 3(e) shall terminate and be null and void.

#### 4. Title and Certain Restraints on Alienation and Use.

(a) Title. Title to a Lot or Parcel may be acquired, held, encumbered and conveyed individually or in any form of concurrent ownership recognized in Colorado.

(b) Restrictions on Duplex Lots. Declarant shall convey the Duplex Lots to Christian Heritage School, Inc. ("CHS"). For purposes of this Subparagraph 4(b), "CHS" shall also mean its successors and assigns in ownership of Parcel F, Heritage Park Subdivision. So long as CHS owns a Duplex Lot and CHS has employees who desire and are able to lease a Dwelling on such Duplex Lot, the Dwellings on such Lot shall be used for CHS employee housing. If CHS desires to sell and convey a Duplex Lot (the "Offered Lot"), then CHS shall first record a declaration with the Clerk and Recorder of Routt County stating that CHS desires to sell such Offered Lot to employees of CHS on terms acceptable to CHS, and shall deliver a copy of such declaration to the Routt County Regional Planning Department. For a period of six months after recording such declaration, any employee of CHS may negotiate with CHS to acquire such Offered Lot. If so acquired, the deed of conveyance from CHS shall recite that

at least one of the grantees is an employee of CHS, which recitation shall be conclusive on all persons, and upon such conveyance the restrictions and provisions of this Subparagraph 4(b) shall terminate and be null and void with respect to such Offered Lot. If at the end of such 6-month period after recording of such declaration by CHS, the Offered Lot has not been conveyed of record to one or more persons or entities, at least one of which is recited in the deed to be an employee of CHS, then CHS shall give notice of such fact to the Routt County Regional Planning Department and the Board of County Commissioners of Routt County, for itself or on behalf of any non-profit or governmental entity, shall have the right to purchase and acquire the Offered Lot on terms reasonably acceptable to CHS. If at the end of 12 months after the recording by CHS of its declaration as above described the Offered Lot has not been sold and conveyed of record to persons or entities at least one of whom is recited in the deed to be an employee of CHS, or to the Board of County Commissioners of Routt County, then the restrictions and provisions of this Subparagraph 4(b) shall terminate and be null and void with respect to the Offered Lot described in the CHS declaration. If at any time within 12 months after the recording by CHS of its declaration as above described the Board of County Commissioners approves a resolution releasing the Offered Lot from the restrictions of this Subparagraph 4(b), and a certified copy of such resolution is filed in the office of the Routt County Clerk and Recorder, then upon recording of such resolution the restrictions and provisions of this Subparagraph 4(b) shall terminate and be null and void with respect to the Offered Lot described in the CHS declaration. For purposes of determining the compliance of CHS with the provisions of this Subparagraph 4(b), only documents recorded in the office of the Routt County Clerk and Recorder shall be applicable, and no person, lienor, lender, or title insurer shall be required to examine or determine the existence or non-existence of any facts not described in a recorded instrument. The provisions of this Subparagraph 4(b) shall not apply to any Owner other than CHS, nor to any Lot other than the Duplex Lots. If a Duplex Lot is sold or conveyed by CHS in violation of this Subparagraph 4(b) or prior to recording of a resolution by the Board of County Commissioners of Routt County releasing such Duplex Lot from the provisions of this Subparagraph 4(b), then the sole and only person or entity who shall be entitled to enforce the provisions of this Subparagraph 4(b) shall be the Board of County Commissioners of Routt County, and such Board shall have all remedies at law and in equity to enforce the provisions of this Subparagraph 4(b), except that no damages shall be recoverable against any grantee of any Duplex Lot.

5. Uses. Except as permitted by Paragraph 26(b), all of the Lots in the Property shall be used only for single-family residential purposes, and only one single-family Dwelling and one Outbuilding may be constructed on any Lot, except that a duplex dwelling may be constructed on each of Lots 4, 9, 10 and 14 within the Subdivision, and except that Lot 1 and/or Lot 2 may be used and occupied for residential purposes, or may be used and occupied for a fire station and/or church and related parking and related uses. All uses of the Property shall be in conformance with the zoning, subdivision and other applicable ordinances, rules and regulations of Routt County, and the PUD Plan, subject to such changes therein as are from time to time approved by Routt County. No tent, tepee, shack, camper, boat, or trailer, or any other temporary Structure, shall be used for residential occupancy at any time on any part of the Property, except as may be specifically authorized in writing by the Executive Board. Except as permitted by Paragraph 26(b) and except for such home occupations as may be specifically authorized in writing by the Executive Board, and except for the use of Lot 1 and/or Lot 2 for a fire station and/or church in addition to or in lieu of residential uses, no Lot may be used for commercial purposes. Owners of Lots may rent or lease Lots and Dwellings to others, provided, however, that each such lease or rental agreement is subject to the Act, this Declaration and the Articles of Incorporation. Bylaws and Rules and Regulations of the Association, and provided, further, that no Dwelling shall be leased for a short-term rental of less than 30 days.

The Parcels may be used for any lawful purposes.

6. Architectural Guidelines and Approval of Construction Plans.

(a) Plans. All plans for the construction of any Structure to be erected, constructed, placed or maintained upon any Lot, and the proposed location thereof upon any Lot and any changes after approval thereof, and any remodeling, reconstruction, alteration or addition to any Structure, shall

require the advance approval in writing of the Executive Board. Two complete sets of plans and specifications of the proposed construction and Structure, including front, side, and rear elevations, floor plans for each floor and basement, exterior color schemes, exterior material types, and two site plans indicating the exact location of such Structure or altered Structure on the Lot shall be furnished to the Executive Board. The site plan shall include but not be limited to the following information:

- 2' contour intervals
- Location of major vegetation (trees & shrubs to be retained or removed)
- Location of major rock outcroppings
- Location of existing utility lines and easements
- Building setback lines
- Location of proposed utility lines
- Location of existing and proposed drainage ways
- Grading plan of the entire area to be affected by any construction, including spot elevations in critical drainage areas
- Location of driveway, parking areas, Dwelling and Outbuilding.

(b) Prohibition of Unapproved Construction. No Lot may be graded, cleared, marred, changed, or altered in any way unless in strict compliance with plans for the development of the Lot that have been approved by the Executive Board as set forth above. No Structure of any kind shall be erected, constructed, placed or maintained upon any Lot unless the plans, elevations and specification of such Structure have been prepared in compliance with the foregoing requirements and have received the written approval of the Executive Board, and such Structure shall then be erected, constructed or placed only in full compliance with such approved plans and specifications. Approval of such plans and specifications shall be evidenced by the written endorsement of the President of the Association on such plans or by other notice in writing to the Owner, prior to the beginning of such construction. No material changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the Executive Board.

(c) Guidelines for Approval. In passing upon any plans and specifications submitted to it, the Executive Board shall consider:

- (i) The provisions of this Declaration and all applicable governmental ordinances, rules and regulations;
- (ii) Suitability of the Structure and materials of which it is to be constructed to the site upon which it is to be located;
- (iii) The nature of the adjacent neighboring improvements and Structures as compared to the nature and design and materials of the proposed Structure; it is desirable to enhance internal structural design harmony within the Subdivision, and yet retain individuality of creativity and expression in structural design;
- (iv) The quality and safety of the materials to be utilized in any proposed Structure;
- (v) The effect of any proposed Structure on the outlook and views from the adjacent or neighboring property; and
- (vi) Traditional neighborhood styles, referred to in the Steamboat Springs Area Community Plan adopted in 1995 by the City of Steamboat Springs and the County of Routt, are to be encouraged. The Executive Board should encourage the de-emphasis of the visual prominence of garages in the site layout of Structures on a Lot. Greater emphasis should be placed on the visual prominence of front porches on residences. Where practicable, garages should be set back further from the streetscape than the front of the residence on the Lot; however, the Board should honor location of garages near the streetscape where reasonably necessary due to site constraints

and snow removal purposes, but in such circumstances, the Board should strongly encourage a prominent front porch which may, if necessary or appropriate, extend up to ten feet into the front setback of the Lot.

In passing on any plans and specifications, it shall be an objective of the Executive Board to make certain that no Structure will be so similar or so dissimilar to others in the vicinity that values, monetary or aesthetic, will be impaired, and to maintain insofar as feasible for the benefit of all Owners the natural character of the land and to require that all Structures blend into the natural background rather than stand out against it.

(d) Review Fee. The Executive Board may charge the Owner \$150.00 (adjusted annually for changes in the cost of living after 1997) as the fee for the review of final plans and specifications for such Lot, which fee shall be paid in advance.

(e) No Liability. The Executive Board shall use reasonable judgment in passing upon all plans and specifications submitted to it but the Executive Board shall not be liable to any person for its actions in connection with submitted plans and specifications, unless it be shown that the Executive Board acted willfully and wantonly with malice and wrongful intent. Disapproval of plans and specifications shall be made in writing by the Executive Board to the Owner and shall specify in reasonable detail the reasons for such denial. Failure by the Executive Board to respond in writing to the Owner for thirty (30) days after submittal of final and complete plans and specifications shall automatically be deemed approval of such plans and specifications.

(f) Not Applicable to Parcels. Structures constructed, repaired, renovated, improved, expanded, or remodeled on the Parcels are exempt from the provisions and requirements of this Paragraph 6.

(g) Continuity of Construction. Construction of any Structure which is commenced within the Lots shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless otherwise specifically approved in writing by the Executive Board.

7. Access and Drainage: All driveways and all vehicular accesses and entrances to all Lots shall connect with Brandon Circle or Lindsay Drive as shown and designated on the Plat. No driveway shall be permitted or constructed from any Lot direct to U.S. Highway 40. No driveway or vehicle access to any Lot from Brandon Circle or Lindsay Drive shall be constructed or used unless a drainage culvert of a size and length approved in writing by the Executive Board is installed in the barrow ditch adjacent to Brandon Circle or Lindsay Drive, as applicable. In reviewing drainage plans for construction of any Structure on a Lot, the Executive Board may be guided by the recommendations of the Road Department or Building Department of Routt County.

8. Easements: Certain easements are dedicated for the installation, replacement, repair and maintenance of certain public utilities, and for snow storage adjacent to Brandon Circle and Lindsay Drive, as shown or described on the Plat. Any such easement, or a portion thereof, situated in any Lot or Parcel shall be and become released and vacated to and in favor of the Owner of such Lot or Parcel immediately upon the recording in the real property records of Routt County of a certified copy of an ordinance of the Commissioners of Routt County vacating such easement or portion thereof. No approval of the Executive Board or Lot Owner or any utility supplier shall be required prior to such vacation, but the County Commissioners may consider the desires of the Executive Board or any Owner or utility supplier prior to adoption of a vacation ordinance.

9. Fences, Walls, Trees and Shrubs. No fence, wall, hedge, shrubs, trees or other obstruction shall be constructed or planted in such manner as to obstruct a clear view of any driveway intersection off of Brandon Circle or Lindsay Drive. No fence over the height of 72 inches from the ground level shall be permitted at any place on any Lot, and no fence shall be permitted in the front yard of a Dwelling on a Lot. No wall or fence shall be constructed, placed or allowed on any Lot unless such

fence is approved in advance by the Executive Board. The Executive Board shall strongly encourage Owners to use black chain link fences within Lots.

10. Signs. No signs, billboards or other advertising Structure of any kind shall be erected, constructed or maintained on any Lot for any purpose whatsoever, except for one "For Sale" sign on any Lot, any sign advertising the Subdivision placed within the Property by Declarant pursuant to Paragraph 26(c) below, and such signs as have been approved by the Executive Board for identification of residences.

11. Utilities. Each Dwelling shall connect with water and sewage disposal trunk lines made available by Steamboat II Metropolitan District. No private wells shall be used as a source of water for human consumption or irrigation on a Lot, and no private septic tanks, cesspools, vaults or similar individual sewage disposal means shall be installed on or used in any Lot. All electric, gas, telephone, cable TV, water, sewer and other utility lines, including all services lines, shall be situated underground, except for such appurtenances thereto as must of necessity be located above ground. Wells or springs or surface water diversion may be used for irrigation of landscaping or athletic fields within the Parcels.

12. Trash and Screening of Items. No trash, ashes or other refuse shall be thrown or dumped on any land within the Property. There shall be no burning or landfill disposal of refuse out of doors. Each Owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be kept within a building or screened from the public view and protected from disturbance, except during the trash collection day for the Property set by the trash collection agent of Routt County. No campers, camper shells, snowmobiles, boats, boat trailers, trailers, commercial vehicles, automobiles, equipment or machinery shall be parked or stored outside of any Dwelling or Outbuilding on a Lot for more than 7 consecutive days unless totally screened from public view and screened from view from all other Lots. The Executive Board may require that screening be supplied by an Owner in the form of landscaping with earth berms or vegetation.

13. Livestock. No animals shall be kept, allowed, permitted, raised or bred in or on any Lot outside of any Structure, except for dogs and/or cats for household enjoyment and not for commercial purposes. No dogs shall be allowed or permitted to run at large within the Property, but all dogs shall at all times be within a Dwelling or building, within a fenced area, restrained by chain or electronic collar restraint device to it's Owner's Lot, or accompanied by (and under the control of) an Owner or a relative, tenant or guest of an Owner. An owner of a dog shall not permit such dog to bark during the night such that the barking can be heard in Dwellings on neighboring Lots.

14. Floor Space and Garage Space.

(a) Minimum Floor Space. Each Dwelling shall have a minimum fully-enclosed habitable floor area (as measured by reference to exterior walls) devoted to living purposes, exclusive of porches, garages, balconies, decks, terraces, cellars, basements, carports and lofts, of 1,200 square feet. If a Dwelling shall have two or more stories, then the main level shall have a minimum fully-enclosed habitable floor area (as measured by reference to exterior walls) devoted to living purposes, exclusive of porches, balconies, decks, terraces, cellars, basements, carports or garages, of 800 square feet.

(b) Maximum Floor Space in Certain Lots. The maximum fully-enclosed habitable floor area (as measured by reference to exterior walls) devoted to living purposes, exclusive of porches, balconies, decks, terraces, cellars, basements, carports or garages, on each of Lots 41, 46, 48, and 54, shall be 1,800 square feet. Since the Duplex Lots are each permitted for duplex dwellings, the maximum fully-enclosed habitable floor area (as measured by reference to exterior walls) devoted to living purposes, exclusive of porches, balconies, decks, terraces, cellars, basements, carports or garages, on each Duplex Lot, including both Dwellings of any duplex on any such Duplex Lot, shall be 3,000 square feet, which may be allocated to each of the two Dwellings of a duplex as the Owner may desire provided that each Dwelling which is a part of such duplex shall meet the requirements of Subparagraph 14(a) above.



(c) Garages. Garages on Lots shall not face on U.S. Highway 40, unless otherwise approved by the Executive Board where necessary or appropriate due to physical site constraints, optimum Dwelling layout or material economic constraints, and except for any garage space constructed on Lot 1 within the Subdivision.

15. Building Set Back. No Dwelling, Outbuilding or other Structure, except and excluding an approved fence and any porch attached to a Dwelling, shall be erected or placed on any Lot closer to the boundary of such Lot fronting on Brandon Circle or Lindsay Drive than is then permitted under the zoning ordinance or resolution of the governmental entity having jurisdiction over such Lot. No Dwelling, Outbuilding or other Structure (except an approved fence) shall be erected or placed on any Lot within seven and a half (7.5) feet of either side property line of such Lot, or within twenty-five (25) feet of the rear property line of such Lot. Attached front porches may extend up to 10 feet into the front setback requirement for a Lot. Lots 25 through 32, inclusive, each have a 35-foot setback from their south lot line.

16. Roofs. All roofs on all Dwellings constructed in any Lot shall be covered by roofing material of dark earth tone coloration and approved in writing by the Executive Board. All roofs on all Dwellings and Structures shall have at least a 6/12 pitch and shall have at least an eighteen (18) inch overhang beyond the top vertical termination of each of the exterior walls. No garish colored or reflective roofing material, and no metal or polypropylene roofs, shall be permitted or installed on any Structure on a Lot. Heavy textured asphalt simulated shake shingles are to be encouraged.

17. Parking; Paving of Driveways and Parking Areas. Plans and specifications for construction of any Dwelling on any Lot shall include provision for off-street parking sufficient for all occupants of the Dwelling on such Lot and all persons using such Lot, and such off-street parking requirement shall be maintained so long as such Dwelling remains on such Lot. No vehicles shall be parked or kept on U.S. Highway 40, and no vehicles shall be parked on Brandon Circle or Lindsay Drive except for vehicles of guests of an Owner parked for not longer than 12 consecutive hours. Heavy construction equipment shall not be permitted on any Lot at any time except during construction of a Structure or unless approved in advance in writing by the Executive Board. In reviewing and considering plans and specifications for a Dwelling on a Lot, the Executive Board shall encourage, and may in appropriate circumstances require, the construction of guest parking spaces on the site outside of any interior garage space. All driveways and parking areas on a Lot shall be asphalt or concrete paved within one year after a certificate of occupancy is issued for a Dwelling on such Lot.

18. Towers and Antennae; Woodburning Stoves. No exterior towers, poles or antennae shall be constructed, placed or maintained at any time within any Lot or on any Structure within any Lot unless approved in writing by the Executive Board. Satellite dish television reception antennae of not more than 3 feet in diameter and attached to a Dwelling or Outbuilding on a Lot are permitted. No woodburning or coal burning stoves or fireplaces shall be permitted or used in any Structure on the Property.

19. Landscaping. Surface scars, cut and filled slopes due to any construction, utility installation, and all other grading shall be reestablished with vegetative cover. The selection of vegetation shall approximate native plant material affected by the construction or grading and shall be installed no later than the next planting season following the end of construction or grading. Cut and filled slopes shall be re-covered with topsoil and shall not exceed a 2:1 slope. Within one year of completion of construction of a Dwelling on a Lot, the Owner of such Dwelling must sod the front yard of such Lot, and must plant 2 deciduous trees and 4 bushes in the front yard and install underground water irrigation system to such yard, trees, and bushes. Additionally, within one year of completion of construction of a Dwelling on any of Lots 1 through 15, the Owner of such Dwelling must sod the front, back, and side yards of such Lot and plant 4 honeysuckle bushes, one cottonless cottonwood tree, and one evergreen tree in the back yard of such Lot, all as shown on the landscape plan for the Property as filed by Declarant with Routt County, and shall install an underground water irrigation system to such front, back, and side yards, trees, and bushes. Additionally, within one year of completion of

construction of a Dwelling on any of Lots 16 through 23, the Owner of such Dwelling must plant 2 honeysuckle or similar bushes along their eastern property line, all as shown on the landscape plan for the Property as filed by Declarant with Routt County, and shall install an underground water irrigation system to such bushes. Deciduous trees shall be a minimum caliper of 2 to 2½ inches. All bushes shall be have a minimum size equivalent to a 5-gallon container, and all evergreen trees shall have a minimum height of eight feet from ground level after installation. If any tree installed pursuant to this Paragraph 19 dies within 12 months after installation, then the Owner who installed such tree shall at the expense of such Owner replace such tree with one of like kind.

20. Outbuildings. Not more than one Outbuilding shall be constructed on any Lot and no Outbuilding may be constructed until a Dwelling is constructed on such Lot. An Outbuilding must be design-coordinated with the Dwelling on the Lot. No Outbuilding shall be occupied for Dwelling purposes. No Outbuilding shall be used for commercial purposes.

21. Heritage Park Roads.

(a) Conveyance of Heritage Park Roads. The Declarant has granted and conveyed to the Association by Special Warranty Deed contemporaneously with this Declaration the fee simple to the Heritage Park Roads. The Heritage Park Roads shall be common elements of the Subdivision.

(b) Reserved Use. Declarant has reserved and retained the right and easement of co-use of the Heritage Park Roads as provided in the Association's Special Warranty Deed, but without obligation to pay or reimburse any of the costs and expense of maintaining, repairing, constructing, or reconstructing roadways or utilities within the Heritage Park Roads, except as may be required by the Subdivision Improvements Agreement entered into between Declarant and Routt County and recorded in the Routt County real property records.

(c) Licenses. The Declarant or the Association may, in its discretion, license and permit the electric, gas, water, sewage disposal, telephone, and cable television utility companies which propose to provide any such utility service to and within the Subdivision to use and occupy the Heritage Park Roads for the purposes only as specified in easement grants to such utility suppliers, but any such use shall not interfere with the use of Heritage Park Roads for ingress and egress by Owners of Lots and Parcels and by Declarant, except during periods of construction, repair, or reconstruction of such utilities. The Association may also, in its discretion, license and permit the U.S. Postal Service or Routt County or the City of Steamboat Springs to install and maintain cluster mail boxes within the right-of-way of the Heritage Park Roads, so long as such installation does not interfere with the use of Heritage Park Roads for ingress and egress by Owners of Lots and Parcels and by Declarant.

(d) Vacation. The Association may vacate and release the Heritage Park Roads, or any part thereof, if (i) the part proposed to be so vacated has been dedicated to and accepted by a governmental body as a public road, or (ii) such vacation is necessary or proper to relocate or move any part of the Heritage Park Roads, and the Association acquires fee simple title to the relocated part of such Roads, subject to no encumbrances, and such relocated part of such Roads continue to provide access to all Lots and Parcels equal to or better than previously existed, and such relocation or move is determined by the Executive Board of the Association to be in the best interests of the Association and all Owners of Lots and Parcels. In no event shall legal access to any Lot or Parcel be eliminated or injured by any such vacation. A part of a Heritage Park Road shall be deemed to have been so vacated and released, and thus made of no further force or effect, if the Association: (i) executes and records in the real property records of Routt County, Colorado, a quit claim deed conveying the portion proposed to be vacated and releasing all of the Association's right, title and interest in and to the portion of the Heritage Park Road so vacated, or (ii) executes and records in the real property records of Routt County, Colorado, a document stating that the portion of the Heritage Park Road which is to be vacated and released is so vacated and released.

(e) Relocation. The Association shall have the right, at its sole cost and expense, and pursuant to approval of the Board of County Commissioners of Routt County pursuant to applicable County regulations, to relocate the Heritage Park Roads, or any part thereof, provided that the relocated Roads or part thereof continue to provide access to the adjacent Lots and Parcels equal to or better than previously existed, the Association is not burdened with any expense to construct a replacement road, and such relocation has been determined by the Executive Board of the Association to be in the best interests of the Association, and provided, further, that the Association has first obtained fee simple title, unencumbered, for the land underlying the relocated portion of the Heritage Park Roads which is of the same nature as that which is to be vacated and released. The consent or approval of the Declarant or of any Owner shall not otherwise be required to accomplish such relocation. Such relocated Road shall be deemed covered and encumbered by the easements reserved in Grantor as described in the Association's Special Warranty Deed made and given contemporaneously with this Declaration.

(f) Title. Title to the Heritage Park Roads as granted and conveyed to the Association in the Association's Special Warranty Deed made and given contemporaneously with this Declaration is subject to existing deeds of trust, mortgages, reservations, restrictions and covenants of record.

(g) Restoration of Surface. Completion of construction or reconstruction of any road or underground utility line and appurtenances within the Heritage Park Roads shall be made with reasonable promptness after commencement. The Association or utility supplier shall place and fully compact backfill over the utility line after installation, repair or replacement, to 95% proctor density, and shall patch and compact all disturbed paving areas with asphalt of equal thickness. Promptly after such installation, repair or replacement of utilities, the Association or utility supplier shall restore to its previous condition the surface of the Heritage Park Road and any landscaping thereon to the reasonable satisfaction of the Association, at the cost of the utility supplier.

(h) Maintenance. The Association shall insure, maintain, snowplow, repair, and renovate as necessary the roadway improvements within the Heritage Park Roads, and all of the expenses thereof shall be Common Expenses. Declarant shall have no liability for such expenses, notwithstanding the reservation of certain easements on, over, and under the Heritage Park Roads as contained in the Association's Special Warranty Deed. Driveways, culverts or other Structures shall not be constructed through or within the Heritage Park Roads without the prior written consent of the Executive Board, provided that the Executive Board may not deny consent to construction of any utility lines and facilities or deny access to any Lot or Parcel. The Owner constructing any such Structure shall be obligated to restore and revegetate, as required by the Executive Board, areas within the Heritage Park Roads adjacent to any such Structure which are disturbed as a result of such construction.

(i) Public Dedication. The Association may dedicate to the County of Routt or the City of Steamboat Springs the Heritage Park Roads or an easement therein, without necessity of any prior approval of any Owner.

22. Nuisance. No noxious or offensive activity shall be carried on or within the Lots, nor shall anything be done or permitted which may be or may become a public nuisance within the Lots. All on-site exterior athletic field lighting shall be extinguished at 10:00 o'clock p.m. Other exterior lighting on any Lot shall be extinguished within 45 minutes of the conclusion of the activities on such Lot. In the event of complaints due to congestion at the intersection of the Heritage Park Roads and U.S. Highway 40, if such congestion is identified as a congestion problem by and according to Colorado Department of Transportation standards, then the Association will work with CDOT, homeowners in Steamboat II, Filing Nos. 1 and 2, and public agencies to help mitigate the identified congestion to the extent created by the Subdivision, and the costs thereof to the Association are Common Expenses. Vans, school buses, and/or public transportation may be an option in the future to satisfy this requirement.

23. Leases. The Owner of each Dwelling which is leased to another person or family shall include in every lease a reference to this Declaration and an obligation on the part of the lessee to abide

by all the restrictions herein contained and as set forth in the Rules and Regulations of the Association. No Lot may be leased separately from the Dwelling on such Lot. No Outbuilding may be leased separately from the Dwelling on such Lot, without the approval of the Executive Board. No lease of a Dwelling on a Lot shall be for a period less than 30 days.

24. The Association; Administration, Management and Voting.

(a) Association Authority. The affairs of the Planned Community shall be administered and managed by the Association, pursuant to the Act and this Declaration, and pursuant to the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association. The Association has among its purposes and powers the protection of the Property, the acquisition of, maintenance, care and improvement of easements and interests within the Property which are for the collective benefit of the Owners, the enforcement on behalf of the Owners of this Declaration, and the Association shall have the power generally to do everything necessary or proper for the health, welfare, safety, benefit or enjoyment of the Members. If at any time the Association shall be dissolved or shall become defunct and inoperative, all Owners of Lots shall jointly be responsible for maintenance of property interests which had been owned by the Association, and any and all costs of maintenance thereof in such event shall be borne by the Owners of Lots in proportion to the total number of Lots within the Subdivision.

(b) Powers; Assumption of Agreements. The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of the Planned Community. The Association may assign its future income, including its rights to receive Common Expense assessments, only by the affirmative vote of the Members to which at least 51 percent of the votes in the Association are allocated, at a meeting of the Association called for that purpose. Declarant has entered into, or will enter into, certain agreements with Steamboat Golf Club, Inc., and Steamboat II Metropolitan District with respect to the Subdivision, and the Property is subject to a certain Agreement recorded in Book 507, Page 613, Routt County records. The Subdivision is subject to terms, limitations, obligations, and agreements contained in the PUD Plan. The Association shall assume and perform the Agreement recorded in Book 507, Page 613, after recording of this Declaration. The Association shall also assume and perform, from and after the earlier to occur of the end of the Association Control Period or three years after recording of this Declaration in the Routt County property records, all of the obligations and agreements contained in the PUD Plan for the Subdivision and all such agreements as are executed by Declarant and the Steamboat II Metropolitan District or Steamboat Golf Club, Inc., and recorded in the Routt County property records prior to the earlier of such dates. The Association shall indemnify and hold Declarant harmless from obligations and agreements assumed by the Association as provided in the preceding sentences. All of the cost and expense of such assumption and performance and indemnity shall be Common Expenses.

(c) Declarant Control. The Declarant hereby reserves, and shall have, the Special Declarant Right for Declarant, or any Person designated by Declarant in a writing delivered to the Executive Board, to appoint and remove the members of the Executive Board and the officers of the Association at any time and from time to time, in the sole discretion of the Declarant or the designee of Declarant, with or without cause, but only during the Association Control Period. Declarant may voluntarily surrender and waive the right to appoint and remove the members of the Executive Board and the officers of the Association before termination of the Association Control Period, in a recorded instrument executed by Declarant, but in that event the Declarant may require, for the duration of the Association Control Period, that specified actions of the Association or the Executive Board, as described in such recorded instrument, shall be approved by the Declarant before such actions become effective.

(d) Managing Agent. The Executive Board of the Association may contract with or employ any managing agent for the Association (including Declarant or any Affiliate of Declarant), to perform inter alia any of the duties, services, powers and responsibilities of the Association set forth in the Act or in this Declaration or in its Articles of Incorporation or Bylaws.

(e) Membership in Association. Each Owner of a Lot and each Owner of a Membership Parcel (including Declarant with respect to Lots and such Membership Parcels from time to time owned by Declarant) shall be a Member of the Association and shall remain a Member until he ceases to be an Owner of a Lot or Membership Parcel, respectively. Each Owner of an undivided fee interest in a Lot or Membership Parcel amounting to less than the entire fee interest in such Lot or Membership Parcel, including a co-owner as tenant-in-common or in joint tenancy, shall be a Member of the Association. Each Member shall comply strictly with the provisions of this Declaration and of the Articles of Incorporation and Bylaws and Rules and Regulations of the Association, except that no limitation or restriction on the use of land or Structures as may be contained in the Articles of Incorporation or Bylaws or Rules or Regulations shall apply to the Parcels or Owners of the Parcels unless specifically provided for in this Declaration. The Owners of Parcels F, G, and H shall not ever be or become Members of the Association.

(f) Votes. Each Lot and each Membership Parcel shall be allocated one (1) vote on all and any matters to be voted on by the Members of the Association. If a Lot is resubdivided pursuant to Paragraph 3(c) above, then thereafter each resubdivided Lot shall be allocated one (1) vote on all and any matters to be voted on by the Members of the Association. If the boundaries of two or more adjoining Lots or Membership Parcels are relocated pursuant to Paragraph 3(d) above, then each resulting altered Lot or Membership Parcel shall nevertheless have one (1) vote on all and any matters to be voted on by the Members of the Association. Division of the vote allocated to a Lot or Membership Parcel among multiple Owners of such Lot or Membership Parcel shall not be allowed; rather, the vote allotted to a Lot or Membership Parcel shall be voted entirely and undivided for or against or in abstention of an issue or matter put to vote among the Members of the Association.

(g) Rules and Regulations. Each Member and his guests, invitees and tenants shall be bound by and shall comply with the Rules and Regulations of the Association duly made and adopted in the manner set forth in the Act and in the Articles of Incorporation or Bylaws, subject to (e) above. After notice and an opportunity to be heard, the Association may levy reasonable fines for violations of this Declaration or the Bylaws or Rules and Regulations of the Association, subject to (e) above. Any fine levied against an Owner of a Lot, or against any Person occupying such Owner's Lot with the consent of such Owner, shall be a special Common Expense assessment to such Owner's Lot. The Rules and Regulations of the Association shall not encumber or be binding upon the Parcels or the Owners thereof.

(h) Ratification of Budget by Members. Within 30 days after adoption by the Executive Board of any proposed budget for the Association, the Executive Board shall mail, by ordinary first-class mail, a copy of the budget as adopted, or a summary thereof, to all Members at the last-known mailing addresses of the Members, and shall set a date for a meeting of Members, which may be the annual meeting of Members, to consider ratification of the budget, such meeting to be not less than 14 nor more than 60 days after mailing of the copy or summary of the budget to the Members. Unless at that meeting Owners having a majority of the votes of all Members reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected by the affirmative vote of Owners having a majority of the votes of all Members, the periodic budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Executive Board. The Association may require that each initial purchaser of a Lot from Declarant deposit with the Association a working capital and emergency fund deposit equal to 1/4th of the then estimated annual assessments for Common Expenses to such Lot, and such deposit shall be credited on the books of the Association to such Lot, shall pass without necessity of separate assignment to the credit of successors of such Lot, but shall not be refunded to current Owners until and unless approved by the affirmative vote of the Owners of 67% of the Lots.

25. Association Assessments for Common Expenses; Lien; Collection of Assessments; Remedies of Association; and Estoppel Certificate of Assessments.

(a) Association to Levy Assessments. The Association shall fix, determine, assess and collect general assessments from the Owners of all Lots on an annual basis for payment of the Common Expenses of the Association, based upon the Association's advance budget of the cash requirements needed by it to provide for the management of the Subdivision and the administration and performance of the Association's duties during such assessment year, and to fund and contribute to any reserves deemed appropriate by the Executive Board. The Association may also fix, determine, assess and collect special Common Expense assessments authorized by the Act, this Declaration or in the Bylaws of the Association, subject to any limitations provided by the Act, this Declaration, or the Bylaws.

(b) Obligation to Pay Assessments. Declarant covenants and agrees with the Association for each Lot from time to time owned by Declarant, and each Owner of a Lot, by acceptance of a deed of conveyance for such Lot, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree with the Association, to pay to the Association all of the assessments for Common Expenses levied and made to such Lot by the Association, and all and any fines levied by the Association against the Owner or any Person occupying any part of the Lot with the consent of the Owner, for violation of the Rules and Regulations of the Association. The Owners of Parcels shall have no obligation to pay any assessments of the Association.

(c) Apportionment. Common Expenses shall be assessed against all Lots in accordance with the Allocated Interest of each Lot, which is a fraction, the numerator of which is one and the denominator of which is the total number of Lots within the Property, except that (i) if any Common Expense is caused by the misconduct of any Lot Owner, the Association may assess that expense exclusively against such Owner's Lot as a special Common Expense assessment, and (ii) if any fine is levied by the Association for violation of this Declaration or the Bylaws or Rules and Regulations of the Association against an Owner, or against any Person occupying such Owner's Lot with the consent of such Owner, such fine shall be a special Common Expense assessment to such Owner's Lot only.

(d) Liability of Co-Owners. If a Lot is owned at any time by two or more Persons in undivided interests pursuant to a form of concurrent co-ownership recognized by Colorado law, then each co-owner of such Lot is jointly and severally liable with all other co-owners of such Lot, to the Association for payment of all Common Expenses, assessments, fees (including attorneys' fees), interest and charges levied against or with respect to such Lot, and for the performance and observance of all of the duties and responsibilities of an "Owner" with respect to the Lot.

(e) Procedures for Payment. The Bylaws of the Association shall establish the procedures by which the general and special Common Expense assessments shall be made known to and paid by the Owners of Lots. Such procedures may include the determination and levying of such assessments as a periodic installment billing of the annual general Common Expense assessment based upon the annual budget of the Association.

(f) Suit. An action may be brought by the Association in a court of competent jurisdiction to recover unpaid general and special Common Expense assessments, late payment charges, and accrued interest from the Owner or Owners of Lots liable for payment thereof, with or without foreclosing the lien of the Association described in Paragraph 25(i) below. In any such action the Association shall also be entitled to recover judgment from such Owner or Owners for all of the Association's attorney's fees, costs of discovery and court costs incurred in connection with such suit. All of such attorney's fees and costs incurred after delinquency of general or special Common Expense assessments shall be a special assessment to the Lot of the delinquent Owner in any event.

(g) Interest; Late Charges. Unpaid general and special Common Expense assessments shall bear interest from and after the date the same are due until paid at the rate of 21% per annum, compounded annually. The Bylaws of the Association may also empower the Association to levy reasonable late charges against a delinquent Owner and such Owner's Lot for late payment of any general or special Common Expense assessment.

(h) Suspension of Voting Rights. The Association may, during the period any general or special Common Expense assessment is past due and unpaid by an Owner, suspend the voting rights and privileges in the Association allotted to such Lot; provided, however, that such suspension may be imposed only after at least 3 days' advance written notice given by the Association to the delinquent Owner, and provided, further, that no suspension of voting rights shall affect the rights of any First Lienor to vote pursuant to a proxy granted in a first-lien Security Interest on the affected Lot.

(i) Lien. All unpaid general and special Common Expense assessments, all fines for violations of the Declaration or Rules and Regulations or Bylaws of the Association which are levied against an Owner of a Lot, accrued interest on and any late charges levied with respect to any unpaid general or special Common Expense assessment or fine, and attorney's fees and costs of discovery and suit incurred in connection with enforcement of any unpaid general or special Common Expense assessment or fine (whether or not suit is brought), shall each and all constitute a continuing lien on such Lot pursuant to and as granted by C.R.S. §38-33.3-316, in favor of the Association, as secured party. Such lien of the Association on the Lot shall be prior and superior to all other Security Interests and non-consensual liens and encumbrances on the Lot EXCEPT as provided in C.R.S. §38-33.3-316(2), as amended from time to time.

No recordation of any claim of lien by the Association after the initial recordation of this Declaration is required. However, the Association may in its sole discretion determine to record in the real property records of Routt County a notice of such claim of lien, setting forth therein (i) the amount of the unpaid sums (itemized showing general and special Common Expense assessments, fines, interest, fees and charges), (ii) the name of the Owner or reputed Owner and the legal description of the Lot against which such lien is asserted, and (iii) a statement that such lien extends to reasonable attorney's fees and costs of the Association incurred in enforcing such lien. Failure of the Association to record any such notice shall not, however, defeat such lien nor affect its priority.

If an assessment is payable in installments, and if an Owner shall default and fail to pay any installment, then unless the Act requires otherwise, the Executive Board may elect, by notice to the defaulting Lot Owner, to accelerate payment of the full amount of the assessment and to require the full amount of such assessment to be immediately due and payable. In the event of such acceleration, the full amount of the assessment is a lien from the time of the acceleration of the assessment by the Executive Board.

(j) Foreclosure. The Association's lien against a Lot as described in Subparagraph 25(i) above may be foreclosed by the Association in like manner as foreclosure of a mortgage on real estate under Colorado law. The Association shall be entitled to purchase the Lot at the foreclosure sale, and thereafter to acquire, hold, lease, mortgage or convey the same.

(k) Liability of Transferee. In case of sale or other voluntary transfer of a Lot or an interest therein with respect to which general or special Common Expense assessments, interest, charges, costs or fees are accrued and unpaid to the Association as of the date of transfer, the purchaser or other transferee shall be jointly and severally liable with the seller or transferor for such unpaid sums and shall be deemed to have personally assumed the obligation for payment of same. Therefore, if any lienor (including the First Lienor) of a Lot obtains title to such Lot by a voluntary deed in lieu of foreclosure, such lienor shall be jointly and severally liable for all unpaid general and special Common Expense assessments, charges, interest, costs, and fees accrued against such Lot as of the date of transfer, and such lienor shall be deemed an Owner for all purposes from and after such transfer. However, if the First Lienor obtains title to a Lot by sheriff's deed or public trustee's deed upon foreclosure of the first-lien Security Interest against a Lot, then such First Lienor is not liable for any unpaid assessments, charges, interest, costs or fees which accrued against such Lot prior to the vesting of title in such beneficiary, EXCEPT as provided in C.R.S. §38-33.3-316(2)(b).

26. Special Declarant Rights. Declarant hereby reserves the right, from time to time during only the Declarant Control Period, to perform each and all of the acts and to exercise each and all of

the special Declarant rights hereinbelow specified (the "Special Declarant Rights") within all or any part of the Subdivision. The Special Declarant Rights hereby reserved by Declarant are the following:

(a) Completion of Improvements and Enforcement of Certain Instruments. The right to complete or make improvements within the Property indicated or shown on the Plat or the PUD Plan for the Property or required or permitted by the Subdivision Improvements Agreement with Routt County recorded contemporaneously with this Declaration, and the right to enforce (by all lawful means including suit for specific performance) the restrictions, limitations, and encumbrances set forth in (i) the Plat or such PUD Plan, (ii) any agreement between Declarant and Steamboat Golf Club, Inc., or Steamboat II Metropolitan District, (iii) the Agreement recorded in Book 507, Page 613, Routt County records, and (iv) this Declaration. In connection with any such enforcement, Declarant shall be entitled to recover Declarant's attorney's fees and costs of suit and discovery.

(b) Sales and Marketing. The right to maintain sales offices and model units on any of the Lots owned by Declarant, without limitation as to number.

(c) Signs. The right to place and maintain signs on the Property advertising the Subdivision and the sale of Lots, and to relocate and remove such signs.

(d) Control of Association and Executive Board. The right for Declarant, or any Person designated by Declarant in a writing delivered to the Executive Board, to appoint and remove the officers and members of the Executive Board at any time and from time to time, in the sole discretion of the Declarant or the designee of Declarant, with or without cause, but only during the Association Control Period, as described in Paragraph 24(c) above.

(e) Warranty Work. The right to perform warranty work, and repairs and construction work and to store materials in secure areas, within Lots, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Lot Owner.

(f) Future Amendments to the Declaration. The right to amend this Declaration from time to time, without necessity of the consent of Owners, First Lienors, or the Association, pursuant to Paragraph 30.

(g) Other Rights. The right to exercise any other reserved right created by any other provision of this Declaration or permitted by the Act.

27. Rights Transferable. Any Special Declarant Right reserved under Paragraphs 26 above may be transferred to any Person or entity by an instrument describing the right transferred and recorded in the real property records of Routt County. Each such instrument of transfer shall be executed by the transferor Declarant and the transferee. After transfer, the transferee shall be deemed to be the "Declarant" for purposes of exercising each of the transferred Special Declarant Rights.

28. Variance. A variance from or exception to any of the provisions hereof, except for Paragraphs 3 and 26 through 31, may be granted in writing by the Executive Board, so long as such variance does not violate applicable ordinances, rules and regulations of Routt County, Colorado.

29. Effect and Duration of Covenants. The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each Lot, and each Owner of any interest in real property within the Property, his heirs, successors, representatives and assigns, and shall continue in full force and effect until twenty (20) years and eleven (11) months after the death of the last to die of a class of persons consisting of Governor Roy Romer of Colorado and his children and grandchildren living as of the date of execution hereof.



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30. Amendment. The conditions, restrictions, stipulations, agreements and covenants contained herein may be amended and altered only:

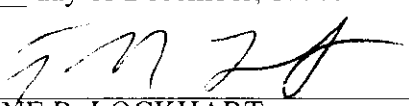
- (i) by Declarant for any reason, but only if such amendment or alteration is made and recorded prior to the conveyance of 7 Lots in the Subdivision; or
- (ii) by Declarant, if necessary to bring the Declaration and/or the Subdivision into compliance with any amendments to the Act hereafter adopted; or
- (iii) at any time, by the written agreement and consent of the Owners of at least 67% of the Lots and the Owners of 60% of the Membership Parcels in the Property.

Further, this Declaration and the Plat may be amended by Declarant, at any time and from time to time without necessity of the consent of any Owner or lienor or the Association, to correct surveying errors or omissions, typographical errors, technical errors or omissions, to grant further easements within the Subdivision for utility or roadway or trail purposes, to comply with the PUD Plan, to implement the Subdivision Improvements Agreement for the Subdivision recorded contemporaneously with this Declaration, or in the best interests of the Association. This Declaration shall not be terminated except by the written consent of the Owners of all of the Lots in the Property. No amendment, alteration or termination shall be effective unless and until the consents required as hereinabove provided shall be reduced to writing, executed and acknowledged, and recorded in the real property records of Routt County, Colorado.

31. Enforcement. If any person or entity shall violate or threaten to violate any of the provisions of this Declaration or the Bylaws or Rules and Regulations of the Association, then the Executive Board or the Association or any Owner or the Declarant may institute proceedings at law or in equity to enforce the provisions of this Declaration, the Bylaws or Rules and Regulation, to restrain or enjoin the person or entity violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorney's fees and costs of discovery and suit, for such violation or threatened violation.

32. Miscellaneous. Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect. The paragraph headings are informational only and do not amplify or limit paragraph provisions. Use of any pronoun herein shall be deemed to include all other pronouns, where appropriate, and the singular shall be deemed to include the plural, and vice versa, where appropriate. This Declaration shall be construed in accordance with Colorado law.

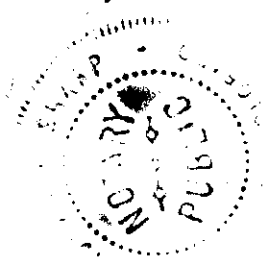
EXECUTED by Declarant this 16 day of December, 1997.


  
\_\_\_\_\_  
TYRONE R. LOCKHART

STATE OF COLORADO     )  
                                      ) ss.  
COUNTY OF ROUTT     )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of December, 1997, by Tyrone R. Lockhart.

Witness my hand and official seal.  
My commission expires: 10-15-2000



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

**Exhibit "A"**

**DESCRIPTION OF EASEMENTS AND LICENSES TO WHICH PROPERTY IS SUBJECT**

1. All easements shown and described on the Plat of Heritage Park Subdivision.
2. All easements created or reserved in the Association Special Warranty Deed.
3. Rights of way reserved to the United States in the Patents to any part of the Property.
4. Easements or rights of way for any ditches.
5. Easement for gas meter station granted by Easement recorded in Book 354, Page 759, Routt County records.
6. Easement granted by instrument recorded in Book 159, Page 445, Routt County records.
7. Easements and licenses granted in or created by or under Agreement recorded in Book 507, Page 613, Routt County records.
8. Any easements created by the plat of Steamboat II, Filing No. III, not vacated or released by the Board of County Commissioners of Routt County.
9. Easement granted to Steamboat II Water and Sanitation District by deed recorded in Book 638, Page 605, Routt County records.
10. Easement for diversion and drainage of run-off to the Yampa River as contained in instrument recorded in Book 503, Page 658, Routt County records.
11. Easement to Western Slope Gas Company contained in instrument recorded in Book 353, Paged 235, Routt County records.
12. Rights of way for the Sampson Ditch and the Duquette Ditch.
13. Rights of way for existing fences, ditches, and other matters disclosed by ALTA survey of the Property prepared by D&D, Inc., Project No. 3766-1, dated December 14, 1996.
14. Agreement recorded in Book 507, Page 613, Routt County records.