

**AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE AND
PROTECTIVE COVENANTS
FOR
BEAVER LAKES ESTATES AND
BEAVER LAKES ESTATES FILING #2**

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**AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS FOR
BEAVER LAKES ESTATES AND BEAVER LAKES ESTATES FILING #2**

THIS AMENDED AND RESTATED DECLARATION is effective upon recording.

RECITALS:

A. On December 31, 1998, the Members of the Empire Lodge Homeowners Association Inc. submitted the following real property to that certain Amended Declaration of Restrictive and Protective Covenants for Beaver Lakes Estates and Beaver Lakes Estates Filing #2, recorded in the real property records of Lake County, Colorado at Reception No. 319006 (collectively referred to as "Original Declaration"):

All of the real property located within Beaver Lake Estates (lower filing) Reception No. 244822 and Filing No. 2 Reception No, 263834, the plats of which are recorded in the Office of the Clerk and Recorder, Lake County, Colorado;

B. The Owners within the Beaver Lakes Estates Community desire to amend and restate the Original Declaration by virtue of this Amended and Restated Declaration of Restrictive and Protective Covenants for Beaver Lakes Estates and Beaver Lakes Estates Filing #2 ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration; and

C. The Original Declaration provides for and allows for this Declaration in Paragraph 10, which provides as follows:

These covenants may be amended at any time by more than fifty percent of the members in ELHA, Inc.;

D. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

E. The amendments within this Declaration have been prepared and determined by the Owners that have approved this Declaration to be reasonable and not burdensome;

F. The purposes of the amendments in this Declaration are to: give control of Common Area property rights, such as sale, use, and mortgaging, of the Common Area to the Membership; provide for financial oversight of the Association by the Membership; to promote the general welfare of persons living in Beaver Lakes Estates Community for the mutual benefit and protection of all Owners; remove provisions that do not comply with current state law; add provisions that provide the proper tools for the Association to effectively solve problems.

G. The purpose of the Association as provided in the Declaration is to preserve the value and desirability of the Community and the Lots and to further the interests of the residents of the Community and Members of the Association; and

H. Pursuant to the requirements set forth in Paragraph 10 of the Original Declaration, more than fifty percent (50% + 1 vote) of the members in Empire Lodge Homeowners Association Inc. subject to the Original Declaration have approved this Declaration.

NOW THEREFORE, the Original Declaration is replaced and superseded by the covenants, servitudes, easements and restrictions set forth below, which run with and concern the land described in Paragraphs A of the Recitals, together with all Common Property.

ARTICLE 1 DEFINED TERMS

Section 1.1 Defined Terms. Each capitalized term in this Declaration shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

- (a) Act shall mean the Colorado Common Interest Ownership Act, (as abbreviated CCIOA) C.R.S. '38-33.3-101 *et. seq.*, as it may be amended.
- (b) Assessment shall include all Common Expense Assessments and any other expense levied against Lots pursuant to this Declaration, including interest, late fees, attorney fees, fines, and costs.
- (c) Association shall mean Empire Lodge Homeowners Association Inc. (as abbreviated ELHOA) a Colorado nonprofit corporation, and its successors and assigns.
- (d) Board or Board of Directors shall mean the body, designated in the Governing Documents to act on behalf of the Association.
- (e) Architectural Control Committee or ACC means the committee appointed by the Board of Directors for the purpose of implementing the architectural review provisions of this Declaration and architectural guidelines for the Community to ensure proper use, appropriate improvement, and harmonious additions, alterations and improvements within the Community.
- (f) Common Area or Common Property shall mean:
- 1) all real property depicted as Common Area on the Plat and owned by the Association for the common use and enjoyment of the Owners, including by way of illustration, but not limited to: the two lakes, the lodge, camp grounds, cabins, horse corrals, roads, and any other common areas or facilities further identified in that certain deed recorded in Book 504 at Page 937 and Page 938, County of Lake, State of Colorado.
 - 2) Water Rights and Water Storage Rights as determined by Colorado District Court, Water Division 2 in Pueblo, in Case number 97CW83 "Findings of Fact, Conclusions of Law, Judgment, and Decree.
 - 3) Future acquisitions by the Association.
- (g) Common Expenses shall mean and refer to all expenditures made and liabilities incurred by or on behalf of the Association, together with any allocation by the Association for Reserve Fund.
- (h) Community or Beaver Lakes Estates Community or Planned Community shall mean the planned community known as "Beaver Lakes Estates" and which consists of the real property stated in Paragraph A of the Recitals, including all Common Areas and Common Property.
- (i) Declaration shall mean and refer to this Amended and Restated Declaration of Restrictive and Protective Covenants for Beaver Lakes Estates and Beaver Lakes Estates Filing #2, recorded in the Office of the Clerk and Recorder, Lake County, Colorado.

(j) Governing Documents shall mean this Declaration, the Plat, the Articles of Incorporation, the Bylaws, any Maps, Rules and Regulations, and any policies of the Association, as all of the foregoing may be amended from time to time.

(k) Lot shall mean and refer to any plot of land shown upon any recorded Plat of the Property with the exception of Common Areas and shall mean the same thing as "Unit" in CCOIA.

(l) Member shall mean any Owner of record title of a single lot or multiple lots titled with the same owner or owners.

(m) Owner shall mean the owner of record title, whether one or more persons or entities, of any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. In addition, each Lot Owner shall own an undivided interest in and to the Common Areas as defined in this Declaration. The Association shall hold title to all Common Areas for the use and benefit of Lot Owners.

(n) Pet shall mean and include cats, dogs, birds, reptiles or other household animals, as may be further defined in or supplemented by the Rules and Regulations.

(o) Plat or Map shall mean and refer to the plat(s) and/or map(s) of the Property and improvements that are subject to this Declaration and which are designated in the Plat or Map recorded in the records of the Office of the Clerk and Recorder of Lake County. More than one plat, map or supplement thereto may be recorded, and, if so, then the term "Plat" or "Map" shall collectively mean and refer to all of such plats, maps and supplements thereto.

(p) Property shall mean the real property contained within the Beaver Lakes Estates Community which is subject to this Declaration, together with all easements, rights, water rights and water storage rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

(q) Reserve Fund is a fund required to be established and maintained by ELHOA for replacement of and significant repairs to, major components of common area as defined in these Declaration, that the association is obligated to maintain. Reserve funds may also be used for major repair or replacement of road maintenance equipment. Reserve funds are not intended for routine maintenance of Common Area components or routine maintenance of road maintenance equipment.

(r) Rules and Regulations shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community and/or clarification of the Governing Documents, including any amendment to those instruments.

ARTICLE 2 NAMES & DESCRIPTION OF PROPERTY/EASEMENTS

Section 2.1 Name and Type. The type of Common Interest Community is a Planned Community. The name of the Planned Community is Beaver Lakes Estates. The name of the Association is the Empire Lodge Homeowners Association Inc. or as may be used from time to time: ELHOA.

Section 2.2 Property. The Planned Community is located in Lake County, State of Colorado. The Property of the Planned Community is described in the Recital A of this Declaration, in the Plat, along with all Common Areas, and/or is consistent with the common scheme and plan for the creation

and operation of the Community. The number of Lots currently included in the Community is two-hundred and sixty (260). Easements for utilities and other purposes over and across the Lots and any Common Area may be as shown upon a recorded Plat and on any recorded Map of the Planned Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.3 Owners' Right of Enjoyment. Every Owner shall have an undivided interest and a right of enjoyment in and to all Common Areas, and such undivided interest and right of enjoyment shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Board may promulgate and publish Rules and Regulations with which each Owner and their tenants, invitees, licensees and guests shall strictly comply;

(b) The Board shall suspend voting rights and the right to use of any Common Area (excluding roads, which right to use shall not be suspended) during any period that an Owner is in default in payment of any Common Expense Assessment.

(c) The Board, may borrow funds pursuant to Article 5, Section 5.10 and, upon approval of more than eighty percent (80% + one vote) of the total vote of the Members of the Association, to mortgage the Common Area as security for the purpose of borrowing money, provided, that the rights of such mortgagee shall be subordinate to the rights of the homeowners;

(d) The Board may lease only to Members and/or Members guests, any improvement located in the Common Areas, including but not limited to the lodge, campground, and cabins owned by the Association.

(e) The Board may transfer or convey ownership of any Common Area, but only upon approval of more than eighty percent (80% + one vote) of the total vote of the Members of the Association.

(f) By bid or by sale, the Board shall transfer ownership of a lot acquired by the Association as provided in this Declaration, or shall designate said lot as Common Area. Designation of said lot as Common Area requires approval of more than fifty percent (50% + one vote) of the total vote of the Members of the Association. If the lot is not designated as common area, the Board shall, by written notice to all Members, offer the lot for bid to the membership for 90 days. The minimum bid shall equal the current market value of the Lot. If a minimum bid is not received, the Board shall offer the sale of the lot at market value to the general public. Net proceeds from the sale of said lot shall be deposited directly into the Reserve Fund.

(g) The Board may close or limit the use of any Common Area while maintaining, repairing and making replacements in any Common Area.

(h) The Board may change use of, add or remove improvements to the Common Area upon approval of more than eighty percent (80% + one vote) of the total vote of the Members of the Association, unless the change is of a minor nature.

(i) Use of the Common Area is restricted to Members and Members' guests. Use of the Common Area is solely for the benefit of Members and Members' guests.

Section 2.4 Easements for the Association. Each Lot shall be subject to a temporary easement in favor of the Association, acting through the Board of Directors (including its agents, employees and contractors) to allow for their performance of obligations in this Declaration as permitted in

Article 4, Section 4.2 or to mitigate any emergency situation which threatens the use of or damage to the Common Areas, or to any other Member's Lot(s) or improvements, without prior notice for this emergency. The temporary easement shall be considered vacated once Article 4, Section 4.2 is complied with or once the emergency situation is remedied.

Section 2.5 Utility, Map and Map Easements. Easements for utilities and other purposes over and across the Lots and Common Areas may be as shown upon the Plat of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.6. Augmentation Plan. An augmentation plan to provide wells in Beaver Lakes Estates filing #2 as determined by Colorado District Court, Water Division 2, in Pueblo, in Case number W-4482 "Findings of Fact, Conclusions of Law, and Decree approving Plan for Augmentation including exchange". All right, title, and interest in 4 shares of Twin Lakes Reservoir and Canal Company Stock has been irrevocably assigned to Empire Lodge, Inc. for the perpetual use and benefit of Beaver Lakes Estate filing #2 and its individual property owners. The State Water Engineer is the Plan's administrator. The State Water Engineer currently requires well water meters to measure the removal of all water from every well in Beaver Lakes Estate filing #2 and that meter readings be reported to State Water Engineer yearly. Plan requirements are subject to change. The Augmentation Plan limits water use to household uses only. Water use for irrigation is not allowed. (See Court Document for complete Augmentation Plan Details).

Section 2.7 Annexation: Annexation of additional Lots and/or Property to the property listed in paragraph A of the Recitals shall require more than fifty percent (50% + 1 vote) of the total votes of the Members of the Association.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership. Every person who is a record Owner of a record title in any Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for such membership. Each Member shall be allocated one vote, which shall be cast as a single vote (see section 3.7 Allocated Interests). Fractional and cumulative voting are prohibited.

Section 3.2 General Purposes and Powers of the Association. The Association shall, through its Board of Directors, perform functions and manage the Beaver Lakes Estates Community as provided in this Declaration so as to protect the value and desirability of the Beaver Lakes Estates Community and the Lots. The Association, through its Board of Directors, shall be responsible for the maintenance, repair, replacement and improvement of any Common Areas, and enforce the provisions of this Declaration. Any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designation and management, and shall acquire title subject to this Declaration.

Section 3.3 Responsibilities of the Association shall be carried out through the Board of Directors ("Board"), and include, but not limited to, the following:

(a) The Board shall prepare, approve, and publish a proposed annual budget at least four months prior to the end of the fiscal year. A member may object to this budget within 30 days of publication, by submitting to the board, an electronic or paper statement listing the reasons for the objection. If the number of objections reaches twenty five percent (25%) of the total votes of the

Member of the Association, the proposed budget is rejected and shall be amended accordingly by the board, otherwise the budget is approved. Upon rejection of the budget, the board will revise the budget, republish the budget, and repeat the objection process until the budget is not rejected.

(b) The Board shall not make expenditures exceeding the annual budget for a current fiscal year. A Reserve Fund as defined in these Declarations shall only be used for replacement of and significant repairs to, major common area components as defined in these Declarations, that the association is obligated to maintain. Reserve funds may also be used for major repair or replacement of road maintenance equipment. Reserve funds are not intended for routine maintenance of common area components or routine maintenance of road maintenance equipment. ELHOA shall maintain a Reserve Fund, which, at a minimum shall equal ten percent (10%) of the association's current annual budget. Any past due amounts from previous fiscal years collected from members shall be deposited in the reserve fund. The reserve assessment shall be accounted for separately in ELHOA's account books. The Association is required to commission an initial Reserve Fund study, and to repeat the survey as deemed necessary by the Board.

(c) Fiduciary responsibility, which includes, but is not limited to, preparing, amending and adhering to annual budgets, along with statements of income and expense to be presented to the Membership for approval. This responsibility also speaks to managing costs and expenses in a responsible way, fairly determining annual assessments, collecting assessments and delinquent assessments as set forth in this Declaration. It also entails obtaining Member approval for any significant expenditures (see section 5.4 Special Assessments). Before incurring significant legal liability on behalf of the Community, the Board shall be required to obtain approval from Members (see Section 5.2 Purpose and Basis of Assessments). Financial responsibility also requires due diligence and transparent accountability by the Board when entering into contracts, securing loans subject to requirements set forth in these Declarations, and incurring other liabilities on behalf of the Association.

(d) The Board shall keep accurate signed minutes of all meetings. If the Secretary fails to sign meeting minutes, any business conducted at said meeting shall be invalid. The Board shall keep and maintain full and accurate financial records, showing receipts, expenses and disbursements of the Association. Such accurate and accessible record keeping fosters the smooth operation of the Community. The Board shall present a current balance sheet, a current assessment income and expense report, Reserve Fund report, and a current special assessment income and expense report, if a special assessment was collected during the current fiscal year, at every Board of Directors meeting. The Board shall publish all meeting minutes including the topics discussed in closed meetings, but excluding minutes from closed meetings. The Board shall publish all assessment income and expense reports, Reserve Fund reports, and special assessment income and expense reports.

(e) The publication requirement can be met by posting said documents on a web site or similar electronic forum which is accessible to all members and sending said documents electronically or by paper mail to a member, upon member request. Requests by members may be open ended.

(f) The Board shall keep current and maintain an accurate list of Members, listing last known address, phone number(s), and any email information or other electronic contact information provided to the Association and the total number of votes of the Members of the Association.

(g) For three (3) years, the Board shall keep and maintain a file of all documents including applications to the Architectural Control Committee and appeals to the Board, whether submitted in written form, or as an electronic document, including the approval or disapproval of applications and any appeal and results of those appeals made by Lot Owners.

(h) The Board shall oversee the upkeep and maintenance of all Common Areas of the Community, including but not limited to road maintenance and snow removal, cabin repair and cleaning, lodge repair and cleaning, performance of water agreements and court-ordered culvert cleaning and gate repair etc. To this end the Board may employ and direct a resident manager or managers and, as needed, independent contractors to carry out the work required to adequately discharge this responsibility.

Section 3.4 Removal of Directors.

(a) One or more Directors or the entire Board of Directors may be removed at a Annual Meeting, Board of Directors meeting or a Special Meeting called pursuant to Section 3.5b of this Declaration, with cause or without cause, upon approval of at least twenty five percent (25%) of the total votes of the Members of the Association.

(b) Notice of a Special Meeting of the Members to remove Directors shall set forth that the meeting is being conducted for that purpose and shall be provided to every Member of the Association, including the Directors sought to be removed. Directors sought to be removed retain the right to be present at the Special Meeting and shall be given the opportunity to speak to the Members prior to a vote to remove being taken. Directors sought to be removed shall not conduct the meeting.

(c) In the event of removal of one or more Directors, a successor shall be elected by the Members present at the meeting to serve for the remainder of the term of his or her predecessor.

Section 3.5 Authority of the Association. The business affairs of the Community shall be managed by the Board of the Association. The Association shall be governed by the Act, to the extent it applies to communities created prior to July 1, 1992, this Declaration, the Plat, its Articles of Incorporation and Bylaws, and any Rules, Regulations and policies adopted by the Board of Directors.

Section 3.6 Managing Agent. The Association may employ or contract for the services of a managing agent to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association, but only upon the approval of more than sixty seven percent (67% + one vote) of the total vote of the Members of the Association.

Section 3.7 Allocated Interests. The Common Expense liability and votes in the Association allocated to each Member are set as follows:

(a) The percentage of liability for Common Expenses, equally per Member as defined in this Declaration.

(b) The number of votes in the Association, equally per Member as defined in this Declaration.

Each Member pays one Annual Assessment and has one vote regardless of the number of lots owned. The Board or a Board member is not entitled to votes for any Lots the Association owns.

Section 3.8 Meetings of the Association.

(a) Rules of Order. The current edition of Roberts Rules of Orders shall be observed at all Meetings of the Association.

(b) Annual Meetings. An annual meeting of the Members shall be held during the Association's fiscal year, at such time of the year and date as determined by the Board. Directors shall be elected by the Members at the annual meeting as per Section 3.9 (e). The Members shall transact other business as may properly come before them at the annual meeting. Failure to hold an annual meeting shall not be considered a forfeiture or dissolution of the Association. Notice of these meetings shall be done according to the current Association Bylaws.

(c) Special Meetings. Special meetings of the Association may be called by the President, a majority of the members of the Board of Directors, or by the secretary upon receipt of a petition signed by Owners holding at least ten percent (10%) of the total votes of the Members of the Association. The form of notice, date, time, and place of the meeting shall be determined by the Board. If a notice for a special meeting demanded pursuant to petition is not given by the secretary within 14 days after the date the written demand or demands are delivered to the secretary, the person(s) signing the demand or demands may set the time and place of the meeting and give notice. Any meeting called under this Section may be conducted by the President of the Board except as specified in Section 3.4 (b), by the person(s) submitting the petition, or by a person chosen by a majority of the Board.

(d) Place of Meeting. Meetings of the Members shall be held at Beaver Lakes Estates or in any other location in Lake Country and may be adjourned to a suitable place convenient to the Members as may be designated by the meeting chair.

(e) Board of Director Meetings.

(1) All meetings of the Board of Directors (Except Executive Meetings) shall be open to attendance by all Members of the Association. These meetings shall be held in the Community or in Lake County or in such other location agreed upon by the Board.

(2) Lot Owner Participation: All Owners shall be allowed to speak before the Board votes on any issue under discussion. The Board may place reasonable time restrictions on each Owner who elects to speak.

(3) All meetings of the Board of Directors may be conducted in person, via conference call, via electronic means or via any other method permitted by Colorado Law, provided all Members of the Association have the same opportunity to participate in said meeting that a Board Member has.

(4) Rules and Regulations shall be adopted in open meetings of the Board and shall not be adopted in closed or executive meetings of the Board.

(5) Executive or closed Board meetings are strictly limited to the following topics and shall not be expanded beyond the following topics:

(a) Matters pertaining to employees of the Association.

(b) Consultation with legal counsel regarding threatened legal action or court proceedings, or matters that involve privileged or confidential matters, such as attorney client privilege.

(c) Investigative proceedings regarding possible criminal misconduct.

(d) Matters subject to specific constitutional, statutory or judicially imposed requirements protecting particular proceedings or matters from public disclosure.

(e) Any matter, the disclosure of which, would constitute unwarranted invasion of individual privacy.

(f) Review of or discussion relating to an written or oral communication from legal counsel.

(f) Quorum of Members For Meetings. The presence of twenty percent (20%) of the Members eligible to vote at any meeting, in person or by proxy, shall constitute a quorum for any action except as otherwise provided in the Governing Documents. If the required quorum is not present, the Members present shall have power to adjourn the meeting until such time as a quorum shall be present. If adjourned, notice of the new date, time or place need not be given, if the new date, time and place is announced at the meeting before adjournment

(g) Proxies for Member Meetings.

(1) The vote allocated to a Member may be cast under a proxy duly executed by that Member.

(2) All proxies shall be in writing and filed with the secretary or designee of the Association, prior to the start of business of the meeting.

(3) If a Lot is owned by more than one person or entity, those persons or entities shall delegate in writing one member to cast the proxy vote. In the event of disagreement between or among Co-owners and an attempt by two or more of them to cast such votes, such votes shall not be counted.

(4) A member may revoke a proxy given under this section by written notice of revocation to the person presiding over a meeting of the Association.

(5) A proxy is void if it is not dated and signed by the Member.

(6) A proxy terminates at the end of the meeting for which it was given or upon sale of the Lot for which the proxy was issued.

(7) Proxies obtained through fraud or misrepresentation are invalid as determined by the Secretary of the Association.

Section 3.9 Voting Procedures.

(a) Secret ballots must be used in contested Board Member elections and in any other matter required by law or whenever specified in this Declaration.

(b) All other voting may be by Members present, by consent, by mail, by proxy or by written ballot.

(c) If a Lot is owned by more than one person or entity, those persons or entities shall delegate one Member to cast the vote. In the event of disagreement between or among Co-Owners and an attempt by two or more of them to cast such votes, such votes shall not be counted.

(d) Voting by Mail or Electronic Means:

(1) Voting by electronic means shall not be allowed.

(2) In case of a vote or consent by mail in lieu of a meeting, the secretary shall mail or deliver written notice to all Members at each Member's address as it appears in the records of the Association. Notice shall include:

(a) A proposed written resolution setting forth a description of the proposed action, and a ballot or a consent, which permits a "yes" or "no" vote, or, in the case of an election, space for write-in candidates. A vote is valid only for the election it pertains to, while a consent is valid until changed.

(b) A statement that Members are entitled to vote by mail for or against the stated proposal.

(c) A date, at least 21 days after the date such notice shall have been given, on or before which all votes must be received at the office of the Association at the address designated in the notice (including the Association's email address)

(d) The number of votes which must be received to meet the quorum requirement and the percentage of votes received needed to grant approval to the proposed action. Voting by mail shall be acceptable in all instances in the Governing Documents requiring the vote of Members at a meeting.

(e) In an election of Directors, the Members receiving the largest number of votes shall be elected. On all other issues presented for a vote or a consent, a total vote fifty percent (50%) of Members represented at a meeting, at which at least a quorum is present, shall constitute a majority and shall be binding except where a higher percentage of the total vote of the Members of the Association is required in the Governing Documents, or by law.

(f) The Association has the right to reject a vote, consent, written ballot, waiver, proxy appointment or proxy revocation when it has a reasonable, good faith basis to doubt the validity of the signature on such a document, or the signatory's authority to sign for the Owner. The Association and its officer or agent who accepts or rejects any of the above in good faith is not liable for any damages resulting from that acceptance or rejection. Unless a court decides otherwise, any action taken on the acceptance or rejection of any of the above will be deemed valid.

(g) Counting of Consents or Ballots. All ballots and consents shall be counted by a neutral third party, or a committee of volunteers who are not Board members and not candidates in an election. This committee shall be selected or appointed at a meeting open to all Members of the Association in a fair manner by the Members present at such meeting. Records of all ballots and consents shall be retained by the Association for at least 3 years, and shall be available for inspection by all Members of the Association upon request.

Section 3.10 Indemnification. To the full extent permitted by law, each officer, director, employee, or committee member of the Association and any other volunteer appointed by the Board of Directors shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, employee, committee member or volunteer of the Association, or any settlements thereof,

whether or not they are an officer, director, employee, committee member or volunteer at the time such expenses are incurred, pursuant to the indemnification provisions as set forth in the Bylaws and by Colorado Law.

Section 3.11 Security Disclaimer. Each Owner and his tenants, guests, licensees and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. Furthermore, the Association does not guarantee that non-residents will not gain access to the Community and commit criminal acts in the Community, nor does the Association guarantee that criminal acts in the Community will not be committed by residents. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide security or the ineffectiveness of measures taken.

Section 3.12 Education and Training. The Association shall provide, or cause to be provided, at no cost, on at least an annual basis, education as to the general operations of the Association and the rights and responsibilities of owners, the Association and its Board of Directors. The Association shall provide each new Director with a copy of the current edition of Roberts Rules of Order, copies of all governing documents, and copies of all court cases that pertain to the Association.

Section 3.13 Compensation and Conflict of Interest: No compensation shall be paid to Members of the Board of Directors. No remuneration shall be paid to a Director for services performed by him or her for the Association in any other capacity unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. A Director shall abstain from voting on any issue for which he or she has a conflict of interest. Board Members shall not be related to each other. Board Members and employees of the Association shall not be related. Board members and contractors who provide materials and services to the Association shall be not be related. Co-Owners of a lot shall not be Members of the Board at the same time.

ARTICLE 4 MAINTENANCE RESPONSIBILITIES

Section 4.1 Association Maintenance and Service Responsibilities. The Association shall maintain and keep in good repair as a Common Expense, all Common Areas, and any improvements thereon, including snow removal on the common roads per the discretion of the Board to determine the amount of snow on roads that will require removal. The Board of Directors of the Association shall be responsible to ensure that all provisions of the following Court cases (as they may be modified) are met:

(a) Case number 1994CV01(consolidated with 2001CV77) from the Colorado District Court in Lake County.

(b) Case number 97CW83 from the Colorado District Court, Water Division 2 in Pueblo are met, as may be legally modified. This includes but is not limited to culvert, gate and road maintenance, water readings, water calculations, and meeting water calls.

(c) Water Rights as determined by Colorado District Court, Water Division 2, in Pueblo, in Case number W-4482 “Findings of Fact, Conclusions of Law, and Decree approving Plan for Augmentation including exchange”.

This includes but is not limited to culvert, gate and road maintenance, water readings, water calculations, and meeting water calls.

Section 4.2 Maintenance of Lots and Improvements. Owners are responsible for the maintenance, repair and replacement of the property and improvements located within their Lot boundaries. The Association, and its agents, shall have the authority, after giving the Owner 90 days written notice by certified mail to the owner of record, to enter and remove Rubbish as defined by Lake County, and to charge by means of a detailed invoice and collect from the Owner thereof all reasonable costs related thereto as a Supplemental Assessment against the Owner, pursuant to this Declaration.

Section 4.3 Owner Liability. An Owner shall not be liable for injury or damage to person or property caused by or resulting from the Owner's maintenance or lack of maintenance of the Lot except if the Owner has failed to exercise due care in performing said maintenance. An Owner shall not be liable to any other Owner, or any Owner's occupant, guest or family or the Association for any damage or injury caused in whole or in part by the Owner's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Owner's failure to discharge its responsibilities.

ARTICLE 5 COVENANT FOR ASSESSMENTS FOR COMMON EXPENSES

Section 5.1 Lien For Nonpayment of Assessments. Each Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed, or other conveyance, agrees to pay to the Association annual Assessments for Common Expenses and other Assessments imposed by the Association. Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, shall become a lien on the Owner's title to his/her Lot(s) if unpaid by the due date.

Section 5.2 Purpose and Basis of Assessments. Common Expense Assessments may be made on an annual basis against all Members as provided in Section 3.7, Allocated Interests. All Assessments shall be used for maintaining and repairing common areas (including roads, lodge, cabins, lakes, campground etc.), road maintenance and snow removal and for providing services to Members. The amount of such assessment may vary as dictated by economic conditions and the need to furnish services requested by Members. The annual assessment for common expenses shall be based upon the Association's advance budget of cash requirements prepared by the Board. This budget shall include a Reserve Fund.

The Board shall be limited to engaging legal council, for collection of unpaid assessments, foreclosure of Association liens, operational advice, or defending a lawsuit, without membership approval. If the Board deems it necessary to engage legal council for other reasons, the proposal shall require more than fifty percent (50% + one vote) approval of the total vote of the Members of the Association.

Section 5.3 Annual Assessment. Assessments for Common Expenses shall be allocated equally (see section 3.7 Allocated Interests) and shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 5.4 Special Assessments. In addition to other authorized Assessments, the Association may levy Special Assessments to cover expenses not covered by the reserve fund. Any proposed Special Assessment shall require approval of more than fifty percent (50% + 1 vote) of the total vote of the Members of the Association. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 5.5 Supplemental Assessments. The Association shall have the right to add to any Owner's Assessment as provided in this Article for the following:

(a) improvement, repair, replacement or maintenance to common areas or improvements thereon caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration.

(b) All fines and costs assessed against an Owner pursuant to provisions of the Governing Documents. Fines shall be limited to a maximum of \$250.00 per infraction, not to be imposed as a daily charge or obligation.

Section 5.6 Working Capital. The Association may levy a Working Capital fee upon each transaction of the sale of a lot or lots in an amount equal to two times the then current monthly installment of the annual Common Expense Assessment, in order to fund the Association and its purposes, including all duties and obligations under this Declaration. The Transfer fee shall be collected and transferred to the Association at the time of closing of each sale.

Section 5.7 Application of Payments. All sums collected on a delinquent account referred to an attorney shall be remitted to the Association's attorney or to the Board at the Board's discretion until the account is brought current. All payments received on an account of any Owner or the Owner's Lot shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents, prior to application of the payment to any special or regular Assessments due or to become due with respect to such Owner.

Section 5.8 Effect of Non-Payment of Assessments.

(a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within thirty (30) days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, but not to exceed 12%, on a per annum basis to accrue monthly from the due date, and the Association may assess a reasonable late fee thereon as determined by the Board of Directors.

(b) Should the Association determine to make assessments due and payable in something other than annual installments (e.g., monthly, quarterly, etc.), failure to make payment of an installment within sixty (60) days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board. The Board may, in its discretion, decelerate the Member's annual Assessment.

(c) The Association may foreclose its liens against an Owner's Lot(s). Foreclosure or attempted foreclosure by the Association shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessments, charges or fees, or monthly or other installments thereof, which are not fully paid when

due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale. The Association must sell or add this lot to the Common Area as provided for in Section 2.3(f)

(d) The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set in its deed of trust or mortgage, to the extent permitted under the Act.

Section 5.9 Lien Priority. The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of this Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or material-men's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. No sale, transfer, foreclosure, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

Section 5.10 Borrowing. The Association shall have the power to borrow money and assign its right to future income, including the right to assign its right to receive Assessments for Common Expenses, as security for the loan for the following purposes: snow removal equipment, road maintenance equipment, and lake maintenance, with approval of at least a majority of Members present and voting, in person or by proxy, at a regular or special meeting of the Membership at which a quorum is present.

ARTICLE 6 COVENANTS AND RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 6.1 Flexible Application of the Subsequent Covenants and Restrictions. All Lots within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

Section 6.2 Authority. All provisions of the Governing Documents shall apply to Owners and their guests, tenants, invitees and licensees. Owners and their successors and assigns, by acceptance of a deed to their Lot, acknowledge that they have been given notice, and that:

(a) The ability of Owners to use their Lots may be limited by the provisions in the Governing Documents.

(b) The Board may establish penalties for the infraction of all regulations and Owners will be responsible for fines assessed against their tenants, guests and invitees for violations of the restrictions. Fines shall be limited to a maximum of \$250.00 per infraction, not to be imposed as a daily charge or obligation.

(c) All fines imposed are collectable as Assessments.

Section 6.3 Use/Occupancy. All Lots within the Community shall be used only for those purposes allowed by local zoning, control and regulation, and permitted by this Declaration, subject to any Rules and Regulations adopted by the Association. Lots shall not be used for any purpose other than a residential dwelling, a private garage and such other enclosed and covered outbuildings as are incidental to a residential use of the Lot. No flat, apartment, duplex, multi-family dwelling or structure to be used for commercial purposes shall be erected or maintained on any Lot. No used or second-hand structure shall be moved upon any Lot except with the written permission of the Architectural Control Committee. No mobile home or remodeled mobile home shall be permitted on any Lot. This provision shall in no way be deemed to restrict or prevent short term or vacation style rentals of the Lots within the Community.

Notwithstanding the above, home occupations and light construction, including but not limited to furniture construction, shall be allowed so long as the home occupations and/or light construction are incidental and secondary to the use of the Lot and do not change the residential character thereof, comply with local zoning ordinances and regulations, and comply with this Declaration. External advertising of any kind is prohibited. In no instance shall a home occupation or light construction project be visible externally, nor shall any home occupation or light construction project employ more than one person other than the Owner. Uses which have one or more of the following characteristics are not permitted: (a) storage of hazardous materials (b) increased traffic or parked vehicles beyond that reasonable and customary to a residential dwelling use; (c) permanent or long term parking of heavy equipment, including semi trailers; (d) the use or rental of any structure on a Lot for any transient, hotel, motel, bed and breakfast, restaurant, bar or other commercial purposes.

Section 6.4 Camping During Construction and Non-Construction Periods. Owners may camp on their Lots for 90 consecutive days during construction periods only. Otherwise, if there is no ongoing construction, Owners may camp on their Lots for a period of 30 consecutive days, for successive 30-day periods so long as there is at least a one-week break between periods. Members may apply to the Board for permission to camp on their Lot for longer periods of time.

Section 6.5 Restrictions on Pets. Pets may be kept on a Lot, if the Pet is not a nuisance to other residents, except that no Pets may be kept for any commercial purposes. When on Common Area, Pets must be in the immediate control of the Owner. Feces left by Pets upon the Common Area must be removed promptly by the owner of the Pet or the person responsible for the Pet. Owners shall hold the Association harmless from any claim resulting from any action of their Pets or the Pets of their tenants, guests or other invitees. Nothing contained herein shall prohibit the keeping of horses in areas designated or approved by the Committee.

Section 6.6 Antennae. "Permitted Antennas" are defined as (a) an antenna which is less than 40 inches in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than 40 inches in diameter and is used to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television signals.

Permitted Antennas shall be installed in the least conspicuous location available on a Lot which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna.

Section 6.7 Tanks. Propane tanks are permitted. No liquid fuel tanks are permitted, except for the existing liquid fuel tank owned and maintained by the Association

Section 6.8 Disturbing The Peace. Any activity which unreasonably disturbs any Owner, or unreasonably interferes with the peaceful enjoyment or possession of a Lot or any Common Area, or any portion of the Beaver Lakes Estates Community by residents, is prohibited. No unlawful use or activities shall be permitted within the Beaver Lakes Estates Community or any portion thereof.

Section 6.9 Vehicular Parking, Storage, and Repairs. As used in this Section, the following terms shall be defined as follows:

Vacant/Undeveloped Lot: Any Lot for which plans for a residence have not yet been approved by the Committee, as set forth in this Declaration.

Developed Lot: Any Lot on which a residence has been constructed or for which plans for a residence have been approved by the Committee, as set forth in this Declaration.

(a) No vehicular parking (unless camping as provided in Section 6.4), storage, or repairs shall be permitted on Vacant/Undeveloped Lots in the Community. Parking upon any Common Area shall be permitted around rental cabins, Beaver Lakes Estates maintenance buildings, the lodge and the campground as designated by the Association. Parking upon any common area shall be regulated by the Association.

(b) No semi-tractor trailers shall be permitted in the Community except for loading and unloading, delivery of goods, emergency, construction, or for the maintenance of any Common Area, Lots, or any improvement located thereon. Excavation equipment shall only be permitted in the Community during construction.

(c) No abandoned, unlicensed or inoperable vehicles of any kind shall be stored or parked on a Lot or within the Community unless parked or stored within a garage. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes governing inoperable or abandoned vehicles on public streets.

(d) No parked vehicle may impede the safe and efficient use of roads or parking areas, obstruct emergency access to/from the Community, or interfere with residents' use of their driveways.

Section 6.10 Use of Common Area. There shall be no obstruction of any Common Area, nor shall anything be kept or stored on any part of any Common Area without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from any Common Area without the prior written approval of the Association.

Section 6.11 Restriction on Signs and Advertising Devices. (a) Except as provided in this Section no sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere on a Lot. (b) Political signs, which are signs intended to impact the outcome of an election or ballot issue, must be displayed in accordance with the Association's Rules and Regulations. (c) Two professionally lettered "For Sale" or "For Rent" signs not to exceed three feet by two feet may be displayed on a Lot. (d) Address posts are exempted from this restriction.

Should a sign, poster, billboard, advertising device, or display of any kind be erected or maintained on a Lot in violation of this Section, the Board or its designee shall contact the Owner and request that the offending sign be removed. If the request for removal has not been complied with

within 14 days the Board/designee shall have the right to enter the property, remove the item, and any such action shall not be deemed a trespass.

Section 6.12 Trash Removal Restriction. No garbage, refuse, rubbish, or cuttings shall be deposited on any street, road or any Common Area or on any Lot, unless placed in a suitable container, suitably located, screened from public view, and protected from disturbance. The burning of refuse out of doors shall not be permitted anywhere on the Property. No incinerator or other device for burning of refuse outdoors shall be constructed, installed or used by any person. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

Section 6.13 Rules and Regulations. In furtherance of the provisions of this Declaration, Rules and Regulations governing the Community may be adopted, amended, or repealed by the Board of Directors. The Board of Directors may establish and enforce penalties for infractions thereof. Fines shall be limited to a maximum of \$250.00 per infraction, not to be imposed as a daily charge or obligation.

Section 6.14 Compliance With Other Laws. No unlawful use shall be permitted within the Beaver Lakes Estates Community or any portion thereof.

Section 6.15 Restriction on Mining and Drilling. No Property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth. Notwithstanding the foregoing, private wells (with valid permit) are authorized as a source of water for "household use". "Household Use" shall include use for human, domestic needs, and for household pets and horses. Water from wells shall not be used for irrigation. Location and construction of wells shall conform to Lake County and State Health Department regulations.

Section 6.16 Sewage. Sewage disposal systems shall be limited to non-evapotranspiration systems that do not wholly or primarily utilize liquid evaporation or transpiration by vegetation as a means of effluent disposal. Location and construction of sewage disposal systems shall conform to Lake County and State Health Department regulations.

Section 6.17 Trees. No live trees shall be cut, trimmed, or removed from the Property except with prior written approval of the Architectural Control Committee. Trees may be removed to establish a defensible perimeter around an improvement on a lot as established by the Lake County Fire Department or the National Forest Service

Section 6.18 Use of the Words Beaver Lakes Estates and Empire Lodge Homeowners Association. No Owner or resident shall use the words Beaver Lakes Estates or Empire Lodge Homeowners Association or the logo of the Community or Association, if any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

Section 6.19 Restrictions on Lighting. No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare.

Section 6.20 Firearms, Fireworks and Fires. No firearms shall be discharged upon any Property within the Beaver Lakes Estates Community. All fires must be contained and supervised at all times. A contained fire is a fire in a barbecue pit with grill, a rock circle or a buried metal ring. Fires must be entirely extinguished when not supervised. Fires are allowed in designated areas

provided by the Association. County and Forest Service Fire Bans shall apply. No fireworks of any kind are allowed in the Beaver Lakes Estates Community.

ARTICLE 7 ARCHITECTURAL REVIEW

Section 7.1 Composition of the Architectural Control Committee. The Architectural Control Committee (or ACC), shall consist of three or more members designated by the Board of Directors to review and approve or reject proposed improvements within the Beaver Lakes Estates Community. Members elected to the ACC shall be required to have skill, training and/or experience in architecture, design, landscape design, building or a related field. Due to potential conflict of interest, any Member of the Board of Directors shall be prohibited from being a member of the ACC. Due to potential conflict of interest, any Member of the ACC is prohibited from gaining financially through the execution or assistance of execution of any project the ACC reviews. Members shall retain the right to appeal the ACC's decision to the Board.

Section 7.2 Land Use Permitted. On any platted lot in Beaver Lakes Estates Community there may be constructed, subject to approval by the ACC, one new single-family residence for private use or vacation rental, a private garage and other outbuildings incidental to single family use. All improvements shall comply with Lake County Building and Zoning regulations.

Section 7.3 Land Use Prohibited. No flat, apartment, duplex or multi-family dwelling, nor structures to be used for commercial purposes shall be erected on any platted lot at Beaver Lakes Estates Community. No mobile home or remodeled mobile home shall be permitted on any platted lot in Beaver Lakes Estates Community.

Section 7.4 Alterations. Painting an improvement constitutes an alteration (unless similar to the existing color). Alterations to the exterior of a residence or other improvement on a platted Lot are subject to approval by the ACC. Alterations must comply with Lake County Building and Zoning regulations.

Section 7.5 Fences. All fences, walls or other barriers shall require approval by the ACC. No fence, wall, hedge, barrier or other improvements shall be erected or maintained along, on, across, or within the areas reserved for easements and rights of way.

Section 7.6 Criteria. The approval of the ACC on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon the suitability of the improvement to the platted Lot upon which it is to be located and the effect of the proposed improvement on the outlook of adjacent or neighboring properties.

Section 7.7 Lot Owner Responsibility. It is the responsibility of the lot owner to apply directly in writing, upon the form provided by the ACC, submitting plans and specifications for any building or improvement. Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the Committee. Owners shall comply with any request by the Association for additional information relating to an improvement prior to the Committee's approval of a request.

Section 7.8 Reply and Communication. The ACC shall reply to all submittals of plans in writing within 30 days after receipt. In the event the ACC fails to take any action on submitted plans and specifications within 30 days after the ACC has received the plans and specifications, the

application shall be deemed to be approved. All communications and submittals may be addressed to the ACC in care of the Association or directly to an ACC Member. Electronic submission shall be an acceptable form of submittal and must be accompanied by the ACC Form provided by the Association. This submission must be acknowledged by the receiving ACC Member. This acknowledgement starts the 30-day approval period. Electronic submissions shall be in a word or PDF format or other easily readable file format or other file format specified by the ACC.

Section 7.9 Notice to Adjacent Lot Owners. Owners shall be required to provide adjacent Lot Owners notice of any major architectural requests, as further set forth in the Rules and Regulations.

Section 7.10 Approval of Plans. No buildings, outbuildings, fences or other improvements shall be erected or maintained on any platted Lot at Beaver Lakes Estates Community, nor shall any improvement or alteration be commenced until plans and specifications showing color, location, landscaping and other pertinent information have been submitted to and approved in writing by the ACC.

Section 7.11 Continuity of Construction. Exteriors of all structures commenced on platted lots at Beaver Lakes Estates Community shall be completed within 3 years. Owners retain the right to apply for extensions due to unforeseen complications of a personal nature.

Section 7.12 Liability. Approval of plans by the ACC shall not guarantee the correctness of lot lines, soil conditions, structural soundness, drainage, or sewage disposal systems. ACC approval does not constitute approval by Lake County Building and Zoning Department.

Section 7.13 Records. The Association shall maintain written records of all architectural applications submitted along with their approval or rejection by the ACC and the outcome of appeals by the Board. Such records shall be retained for a minimum of three years and shall be open and available for inspection and copying by any Owner or any Owner's designated agent(s) during reasonable business hours.

ARTICLE 8 INSURANCE

Section 8.1 Insurance on the Lots. Each Owner has the responsibility to obtain hazard insurance covering loss, damage or destruction by fire or other casualty to the improvements, installed or made to their Lot, or other property of that Owner located on such Lot, and liability insurance covering any injuries occurring to persons or property damages on a Lot. The Association shall not insure Lot Owner improvements or liability.

Section 8.2 Insurance to be Carried by the Association. The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth in this Declaration and as set forth in the Act, which insurance coverage shall include the following terms and shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 8.3 Hazard Insurance on Common Area. The Association shall obtain hazard insurance covering loss, damage or destruction by fire or other casualty to any insurable improvements installed or made to any Common Area and the other property of the Association.

Section 8.4 Association Liability Insurance. The Association shall obtain public liability and property damage liability insurance covering any Common Area, in such limits as the Board may determine from time to time, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries and operation of motor vehicles on behalf of the Association.

Section 8.5 Association Fidelity Insurance. The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.

Section 8.6 Association Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to employees, if any, in the amounts and forms as may now or hereafter be required by law.

Section 8.7 Directors' and Officers' Personal Liability Insurance. The Association shall obtain directors' and officers' personal liability insurance to protect the officers, directors, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

Section 8.8 Miscellaneous Terms Governing Insurance Carried by the Association. The Association shall maintain, to the extent reasonably available, insurance policies with the following terms or provisions:

(a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.

(b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his or her household.

(c) All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without prior written notice to all of the Owners as provided by Colorado law and to the Association.

(d) If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all holders of first lien security interests at least 10 days prior to the expiration of the then-current policies.

(e) All liability insurance shall name the Association, the Board, the manager, the officers of the Association, holders of first lien security interests, their successors and assigns and Owners as insured persons or entities.

(f) Prior to the Association obtaining any blanket policy of casualty insurance on any Common Area, the Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of any Common Area and any improvements thereon, without deduction for depreciation, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions

hereof. In the event the Association obtains casualty insurance on the Lots, then in no event shall that casualty insurance policy contain a co-insurance clause.

(g) All policies of insurance of the Association shall be primary, providing the primary insurance of the loss, if there is other insurance in the name of the Owner.

(h) All policies of insurance shall provide that the insurance there-under shall not be invalidated, suspended, voidable or have any condition of recovery due to an act or omission by any Owner.

Section 8.9 Other Association Insurance. The Association may obtain insurance against such other risks, of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association responsibilities and duties.

Section 8.10 Insurance Premium. Insurance premiums for insurance provided by the Association shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 8.11 Annual Insurance Review. The Board shall review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

Section 8.12 Adjustments by the Association. Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association and not to any holder of a first lien security interest. The Association shall hold any insurance proceeds in trust for the Association, Owners and holders of first lien security interests as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association is not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored.

Section 8.13 Duty to Repair. Any portion of the Community for which the Association is required to insure under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association, except as provided in the Act.

Section 8.14 Condemnation and Hazard Insurance Allocations and Distributions. In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be as the parties with interests and rights are determined or allocated by record and pursuant to the Act.

Section 8.15 Responsibility for Payment of Deductible Amount. Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Area unless the damage is caused by the negligent or willful act or omission of an Owner, his family, guests, or invitees, in which case the Association shall seek reimbursement of the deductible amount in compliance with and under the terms of the Declaration.

Section 8.16 Insurance Assessments. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional

cost shall be a Common Expense. This Insurance Assessment shall not be considered an Assessment as discussed in this Declaration and shall not require any vote or ratification of the Owners.

Section 8.17 Damage to or Destruction on Lots. In the event of damage to or destruction of structures or improvements on a Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure and improvements in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration, unless a determination not to rebuild is made by the Owner in cases of substantial damage or destruction. If the structure is substantially destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and, thereafter, the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with this Declaration.

ARTICLE 9 GENERAL PROVISIONS

Section 9.1 Compliance and Enforcement.

(a) Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(1) Monetary Fines. Prior to imposing a monetary fine, notice must be given as specified in this Declaration with an opportunity for a hearing by a dispute resolution committee appointed by Board and the owner must be found to have violated the Governing Document at said hearing. The fine shall constitute a lien upon the violator's Lot. Fines shall be limited to a maximum of \$250.00 per infraction, not to be imposed as a daily charge or obligation

(2) Without liability to any person, any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration, may be prevented from performing or continuing any further activities in the Beaver Lakes Estates Community by the Association. The lot owner shall be notified in writing and electronically, when available.

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

(c) 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, the prevailing party may be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.

(d) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or

capricious in taking enforcement action. A decision of the Association to pursue enforcement action shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

Section 9.2 Attorney Fees. In a legal proceeding in any way related to the Governing Documents or the Community, the court may award to the party prevailing on each claim the prevailing party's reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded by the court against an Owner shall be charged as an Assessment and shall constitute a lien against the Lot.

Section 9.3 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 9.4 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 9.5 Amendment of Declaration by Owners.

Any Article, Section or Subsection of this Declaration that requires sixty seven percent (67%) or more than sixty seven percent (67% +1 vote) approval of the total votes of the Members of the Association may be amended, revised, or repealed at any time, upon approval of more than sixty seven percent (67% +1 vote) of the total votes of the Association.

Any Article, Section or Subsection of this Declaration that requires eighty percent (80%) or more than eighty percent (80% +1 vote) approval of the total votes of the Members of the Association may be amended, revised, or repealed at any time, upon approval of more than eighty percent (80% +1 vote) of the total votes of the Association.

All other Articles, Sections or Subsections of this Declaration, not otherwise specified in this section (section 9.5) may be amended, revised, or repealed at any time, upon approval of more than fifty percent (50% +1 vote) of the total votes of the Members of the Association.

Judicial approval to amend, revise or repeal any Article, Section or Subsection of this Declaration with less than the percentages specified in this section (section 9.5) is prohibited.

Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Lake County of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above.

Section 9.6 Amendment of the Bylaws. Any Article, Section or Subsection in the Bylaws may be amended, revised, or repealed, at any time upon approval of more than thirty percent (30%) of the total votes of the Members of the Association.

Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of Lake County of a

certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above.

Section 9.7 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 9.8 Interpretation. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 9.9 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 9.10 Challenge to this Amendment. All challenges to the validity of this amendment or any future amendments must be made within one year after the recording date of this document. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 9.11 Non-Waiver. Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of such provision.

Section 9.12 Conflict of Provisions. In case of conflict between this Declaration and the Articles or Bylaws, this Declaration shall control. In the case of conflict between the Articles and Bylaws, the Articles shall control.

EXHIBIT A PROPERTY

Common Area and Common Property on the Beaver Lake Estates Plat Reception No. 244822 and Beaver Lake Estates Filing Number 2 Plat Reception No, 263834 owned by the Association for the common use and enjoyment of the Owners identified in the deed and assignment recorded in Book 504 at Page 937 and Page 938, County of Lake, State of Colorado.

Access road easement recorded in Book 414 Page 196 County of Lake, State of Colorado and as amended by Case number 1994CV01(consolidated with 2001CV77) from the Colorado District Court in Lake County.

Water Rights and Water Storage Rights as determined by Colorado District Court, Water Division 2 in Pueblo, in Case number 97CW83 "Findings of Fact, Conclusions of Law, Judgment, and Decree.

Water Rights as determined by Colorado District Court, Water Division 2, in Pueblo, in Case number W-4482 "Findings of Fact, Conclusions of Law, and Decree approving Plan for Augmentation including exchange".

The undersigned, being Lot Owners of Empire Lodge Homeowners Association, hereby certify that we have obtained written approval of this Declaration from more than (50% + 1 vote) of the total votes of the Member of the Association. Approvals obtained shall remain in effect until this Declaration is approved unless approval is expressly revoked in writing.

EMPIRE LODGE HOMEOWNERS ASSOCIATION

a Colorado nonprofit corporation,

By: _____

Lot Owner

ATTEST: _____
Lot Owner

STATE OF COLORADO

COUNTY OF _____

The foregoing Declaration was acknowledged before me by _____, as Lot Owner and by _____, as Lot Owner, members of Empire Lodge Homeowners Association, a Colorado nonprofit corporation, on this day of , 20__

Notary Public _____

My commission expires: