

**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 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the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration; and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 Association and 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F. The purposes of the amendments in this Declaration are to remove developer "boilerplate" language that is no longer applicable to the Community, revise provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient authority to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions.

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, at least fifty percent or more of the members in Empire Lodge Homeowners Association 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:

**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, *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 to Lots pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.
- (c) Association shall mean Empire Lodge Homeowners Association, a Colorado nonprofit corporation, and its successors and assigns.
- (d) Board or Board of Directors shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.
- (e) Architectural Control or Design Review Committee 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 the two lakes, lodge, cabins, horse corrals, and any other common 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. or 3) further 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 to reserves
- (h) Community or Beaver Lakes Estates Community or Planned Community shall mean the planned community known as “Beaver Lakes Estates and the real property subject to this Declaration, as further defined by the recorded Plats and the legal descriptions contained in this Declaration, and the Members of the Association.
- (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, otherwise known as the Act."
- (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, to 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.
- (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 property described in or which is subject to the Declaration together with all easements, rights, and

appurtenances thereto and the buildings and improvements erected or to be erected thereon.

- (q) Reserve Fund – A fund established and maintained by ELHOA 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 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.

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, 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' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to any Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Board to 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 right of the Board, to borrow funds pursuant to Article 5, Section 5.11; and, upon approval of more than 67% of the total vote 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 right and authority of the Board to lease to Members and/or their guests any improvement located in the Common Areas, including but not limited to the lodge and any cabins owned by the Association.

(e) The right of the Board to transfer or convey ownership of any Common Area, but only upon approval of more than sixty-seven percent (67%) of the total vote of the Association;

(f) By bid or by sale, the Board shall transfer or convey ownership of a lot acquired by the Association as provided in this Declaration or designate said lot as Common Area. If the lot is not designated as common area, the Board will offer the lot for bid to the membership for 90 days. At the end of the 90 days, the board will accept the highest bid greater or equal to market value. If such a bid is not received, the Board will 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 right of the Board to close or limit the use of any Common Area while maintaining, repairing and making replacements in any Common Area; and

(h) The right of the Board to change use of, add or remove improvements to the Common Area upon approval of more than 50% of the total vote of the Association, unless the change is of a minor nature.

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 as required in this Declaration and to mitigate any emergency situation which threatens the Use of or damage to the Common Areas without prior notice for this emergency. The temporary easement shall be considered vacated 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.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership. Every person who is a record Owner of a fee interest 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. Fractional and cumulative voting are prohibited.

Section 3.2 General Purposes and Powers of the Association. The Association, through its Board of Directors, shall perform functions and manage the Beaver Lakes Estates Community as provided in this Declaration so as to protect the value and desirability of the Empire Lodge Estates Community and the Lots. The Association shall be responsible for the maintenance,

repair, replacement and improvement of any Common Area. Any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Responsibilities of the Association shall be carried out through the Board of Directors 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 30% of the total votes 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. Reserve funds 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 road maintenance equipment. ELHOA shall maintain a reserve fund, which, at a minimum shall equal 10% of the association's current annual assessments. 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 account books.

(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 and obtaining Member approval for any significant expenditures and before incurring significant financial and/or legal liability behalf of the Community. Financial responsibility enjoined upon the Board also requires due diligence and transparent accountability on their part when entering into contracts, securing loans subject to requirements set forth in these Declarations, and incurring other liabilities on behalf of the Members.

(d) The Board shall keep accurate minutes of all meetings. 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 Association.

(g) For three (3) years, the Board shall keep and maintain a file of all documents including applications to the Design Review Committee, 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 Elements of the Community, including but not limited to road maintenance and snow removal, cabin repair and cleaning, lodge repair and cleaning, maintenance of water agreements and court-ordered culvert cleaning and gate repair etc. To this end the Board employs and oversees a resident manager or managers as well as, from time to time, 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 or without cause, upon approval of at least thirty percent (30%) of the total votes of the Association.

(b) In the case of a Special Meeting. 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.

(c) In the event of removal of one or more Directors, a successor shall be elected by the Members 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 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. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be managed under the direction of the Board of Directors. The Association may exercise any right or privilege and shall perform all duties and obligations expressly granted or reasonably necessary or implied in the Governing Documents to effect such right or privilege or to satisfy such duty or obligation.

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%) of the total vote 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

Section 3.8 Meetings of the Association

(a) Annual Meetings. An annual meeting of the Members shall be held during each of the Association's fiscal years, at such time of the year and date as determined by the Board. Directors shall be elected by the Members at the annual meeting, in accordance with the provisions of the Bylaws. The Members must 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 done according to the current Association Bylaws.

(b) 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 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, by the person(s) submitting the petition, or by a person chosen by a majority of the Board.

(c) 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.

(d) Board of Director Meetings:

(i) All meetings of the Board of Directors shall be open to attendance by all Members of the Association as provided by Colorado Law. These meetings shall be held in the Community or in Lake County or in such other location agreed upon by the Board.

(ii) Lot Owner Participation: Owners must be allowed to speak, before the Board votes on any issue under discussion. The Board shall allow a reasonable number of persons to speak on each side of an issue, but may place reasonable time restrictions on each Owner who elects to speak.

(iii) 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 is given.

(vi) Rules and Regulations may be adopted in open meetings of the Board and may not be adopted in closed or executive sessions of the Board.

(vii) Executive or closed Board meetings are limited to the following topics as set forth under Colorado Law:

(a) Matters pertaining to employees of the Association.

(b) Consultation with legal counsel regarding imminent 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.

(e) Quorum of Members: 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

(f) Proxies for Member Meetings:

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

(ii) All proxies shall be in writing and filed with the secretary or designee of the Association.

(iii) If a Lot is owned by more than one person, those persons shall delegate in writing one owner 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.

(iv) 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.

(v) A proxy is void if it is not dated

(vi) 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.

(vii) 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 these Declarations.

(b) All other voting may be by voice, by show of hands, by consent, by mail, by proxy, by written ballot or as otherwise determined by the Board of Directors prior to the meeting or by a majority of Members present at a meeting.

(c) Voting by Mail or Electronic Means:

(i) voting by electronic means is not allowed

(ii) 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.

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

(c) A date, at least 10 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.

(d) 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 of more than 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 in the Association is required in the Governing Documents, or by law.

(e) 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.

(f) Counting of Consents or Ballots. All consents and ballots 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 an open meeting in a fair manner by the President of the Board or by the person presiding at such meeting or as otherwise required by law.

Section 3.10 Indemnification. To the full extent permitted by law, each officer, director or committee member of the Association and 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, committee member or volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member or volunteer at the time such expenses are incurred, pursuant to the indemnification provisions set forth in the Bylaws and by Colorado law.

Section 3.11 Security Disclaimer. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community, including but not limited to providing for security guards to patrol the lake; however, each Owner, for himself or herself and his or her 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. As a Common Expense, the Association shall, in accordance with the Act, provide education and training opportunities for Owners, residents and occupants, including providing funding and permitting use of facilities for such purposes. The Association shall provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics benefiting or contributing to operation or governance of the Community and the rights and responsibilities of Owners and the Association. The Association may also fund and support education and training for officers and directors.

ARTICLE 4 MAINTENANCE RESPONSIBILITIES

Section 4.1 Association Maintenance and Service Responsibilities. The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities. The Association shall maintain and

keep in good repair as a Common Expense, all Common Area, 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 Case number 1994CV01(consolidated with 2001CV77) from the Colorado District Court in Lake County and 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.

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 last 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 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 Creation of Association Lien and Personal Obligation to Pay Assessments for Common Expenses. 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, shall be deemed to covenant and agree to pay to the Association annual Assessments for Common Expenses, and such other Assessments as imposed by the Association and as further clarified in this Article. Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, shall be the personal obligation of the Owner of such Lot at the time when the Assessment or other charges became or fell due. The Association annual Assessments for Common Expenses and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, shall be a charge on each Member as defined in these Declarations, and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due and is unpaid by the due date.

The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Assessments for Common Expenses by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot against which the Assessments for Common Expenses are made. All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof, except as provided in this Declaration, shall be

permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration.

Except as provided in this Declaration, all Assessments for Common Expenses shall be assessed against all Members or as more particularly described in Article 3 Section 3.4.

Section 5.2 Basis of Assessments. Common Expense Assessments may be made on an annual basis against all Members and shall be used for the purpose of maintaining and repairing the common areas (including roads, lodge, cabins, lakes etc.) and for providing such services to the Members as the Board may from time to time find advisable and the amount of such assessment may vary from time to time as dictated by general economic conditions and further by the need to furnish services. 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 general reserve fund, estimated to be sufficient to cover unexpected or unbudgeted items.

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

Section 5.3 Annual Assessment. Assessments for Common Expenses shall be allocated equally 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 from time to time to cover previously unbudgeted expenses or expenses in excess of those budgeted, including, the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements that are not covered by the general reserve fund. Any proposed Special Assessment shall be adopted by the Board and shall require approval of more than fifty percent (50%) of the total vote 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 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; and

(b) All fines and costs assessed against an Owner pursuant to the Governing Documents.

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) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefore.

(d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, 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 detailed in Section 2.3(f)

(e) 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 (including any assignment of rents), to the extent permitted under the Act.

Section 5.9 Assignment of Rents. If a Lot is rented by its Owner, the rent is hereby pledged and assigned to the Association as security for the payment of all Assessments due by that Owner to the Association. If the Assessments owed by the Owner of a rented Lot are more than 30 days delinquent, the Association may collect, and the occupant or lessee shall pay to the Association, the rent for any Lot owned by the delinquent Owner, or that portion of the rent equal

to the amount due to the Association; provided, however, the lessee need not make such payments to the Association in excess of or prior to the due date for monthly rental payments unpaid at the time of the Association's request. The Association shall send notice to the Owner by any reasonable means at least 10 days prior to initiating the collection of rent from the Owner's occupant or lessee. The occupant and/or lessee shall not have the right to question the Association's demand for payment. Payment by the occupant or lessee to the Association will satisfy and discharge the occupant or lessee's duty of payment to the Owner for rent, to the extent of the amount paid to the Association. No demand or acceptance of rent under this Section shall be deemed to be a consent or approval of the Lot rental or a waiver of the Owner's obligations as provided in the Declaration. The Association shall not exercise this power where a receiver has been appointed with respect to a Lot or Owner, nor in derogation of the exercise of any rights to rents by a the holder of a first lien security interest of a Lot. If an occupant or lessee fails or refuses to pay rent to the Association as provided for in this Section, the Association shall have the right to bring an action for unlawful detainer for non-payment of rent under Colorado statutes, and the costs and attorney fees incurred by the Association in connection with that action shall be collectable from the occupant or lessee in that action, and from the Owner of the Lot in the same manner as any other Assessment under this Declaration.

Section 5.10 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 the 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. Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, 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 5.11 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: building maintenance, 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.

(c) All fines imposed are collectable as Assessments.

Section 6.3 Use/Occupancy. All Lots within the Community shall be used only for those uses and/or purposes as allowed by the 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 Committee. No mobile home or remodeled mobile home shall be permitted on any Lot. Notwithstanding the preceding, 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 one meter 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 broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

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. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Lot.

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 Nuisances. No nuisance shall be permitted within the Empire Lodge Estates Community, nor any use, activity or practice which is the source of unreasonable annoyance, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession or the proper use of a Lot or any Common Area, or any portion of the Empire Lodge Estates Community by residents. Further, no improper, offensive or unlawful use shall be permitted within the Empire Lodge Estates Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Empire Lodge Estates Community or a portion thereof shall be observed.

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 for 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, storage, or repairs shall be permitted Vacant/Undeveloped Lots in the Community. 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 the streets by residents, obstruct emergency access to/from the Community, or interfere with the reasonable needs of other residents to use their driveway, Community streets or guest parking, if any.

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 ~~one~~ professionally lettered “For Sale” or “For Rent” sign 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 at the Owner’s expense, and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal, if any, to be assessed to the Owner as a Supplemental Assessment under Article 4 of this Declaration.

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. No garbage cans, trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 6.13 Rules and Regulations. In furtherance of the provisions of this Declaration, and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time to time by the Board of Directors. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 6.14 Compliance With Other Laws. No improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

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 should 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 Design Review 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. Exterior lights shall be muted and downward facing, in the sole discretion of the Board of Directors.

Section 6.20 No Hazardous Activities. No activity shall be conducted on and no improvement shall be constructed on any Property within the Community which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Property within the Community.

ARTICLE 7 ARCHITECTURAL REVIEW

Section 7.1 Required Approval. No structures, including residences, outbuildings, accessory buildings, antennas (except as otherwise permitted in this Declaration), flag poles (except as otherwise permitted by the Act), fences, walls, barriers, exterior lighting, or any other improvements shall be constructed, erected, relocated, removed or installed on a Lot, nor shall any painting (unless similar to existing color), alteration or change to the exterior of the

improvements, the exterior of a residence, to a Lot or to any structure or any attachment to the exterior of a residence (including, patios and decks,) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the Design Review Committee (“Committee”) as may be outlined in the Rules and Regulations. Written approval may be given via electronically. The Committee may require that applications of Owners and their plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee. 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 7.2 Acknowledgment of Owners. Owners acknowledge, accept and agree to the following:

- (a) 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. Written approval may be given electronically.
- (b) 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 and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of Committee approval, if previously granted
- (c) Committee approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;
- (d) Owners shall notify the Committee of completion of the improvement’s installation or construction within 30 days of such completion;
- (e) Upon completion of an improvement, Owners authorize the Committee or its representative(s) to enter onto the Lot for exterior inspection;
- (f) Failure of an Owner to notify the Committee of completion of an approved improvement, or refusal to allow inspection, shall result in the withdrawal of the Committee’s approval;
- (g) If the improvement as built does not substantially conform to the improvement as approved by the Committee, the Committee’s approval will be deemed withdrawn, and upon written request of the Committee, Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the submitted and approved plans and specifications;
- (h) In the event of withdrawal of Committee approval for any reason(s) cited in this Section, and upon written request from the Committee, the Owner, at his or her expense and cost, shall promptly restore the Lot to substantially the same condition as it existed prior to commencement of the improvement's installation or construction, and such withdrawal will be deemed to toll the statute of limitations as it pertains to the improvement until such time as the improvement is brought into compliance.

Section 7.3 Architectural Criteria. The Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to improvements on a Lot or landscaping of a Lot shall comply with the requirements set forth in this Declaration. The approval or consent of the Committee 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, but not limited to, conformity and harmony of the exterior appearance of structures with neighboring structures, effective location and use of improvements on nearby Lots, preservation of aesthetic beauty, and conformity with the specifications and purposes generally set out in this Declaration

Section 7.4 Establishment of the Committee. The Committee shall consist of a minimum of three members appointed by the Board of Directors. The Board shall have the authority to remove any members of the Committee at their sole discretion. Members elected to the Committee shall be required to have skill, training and/or experience in architecture, design, landscape design, building or a related field. Members shall retain the right to appeal the Architectural Committee's decision to the Board.

Section 7.5 Architectural Guidelines. The Committee may propose architectural guidelines from time to time, which guidelines may be approved by the Board of Directors and included in or with any Rules and Regulations of the Association and confirming that these guidelines comply with current Lake County Building Codes and are not strictly subjective in nature.

Section 7.6 Reply and Communication. The Committee shall reply to all submittals of plans made in accordance herewith in writing within 30 days after receipt. In the event the Committee fails to take any action on submitted plans and specifications within 30 days after the Committee has received the plans and specifications, approval shall be deemed to be approved. All communications and submittals shall be addressed to the Committee in care of the Association. Electronic submission shall be an acceptable form of submittal and must be accompanied by the Design Review Form provided by the Association. This submission must be acknowledged by the receiving Design Review Committee 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 Design Review Committee

Section 7.7 Conditions of Approval. In the discretion of the Board or the Committee, an Owner may be required to enter into a written agreement establishing the approval of the application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

Section 7.8 Commencement and Completion of Construction. All improvements approved by the Committee must be commenced within one year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work. Additionally, except with written Committee approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the Committee shall be completed within two years of commencement. Owners retain the right to apply for extensions due to other unforeseen complications of a personal nature.

Section 7.9 Variances. The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical

difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in architectural guidelines.

Section 7.10 Right to Appeal. If the Board of Directors is not acting as the Committee, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the Committee to the Board of Directors. The Board of Directors shall review the decision of the Committee pursuant to the criteria set forth in this Article and/or the architectural guidelines. Any decision of the Committee may be overruled and reversed on appeal by a majority of the directors by a written decision setting forth the reasons for the reversal when the directors conclude that the Committee's decision was inconsistent with the criteria set forth in this Article and the guidelines.

Section 7.11 Liability. The Committee and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or for any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. Neither the Board nor the Committee shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements.

Section 7.12 Records. The Association shall maintain written records of all architectural approval applications submitted and all actions taken and decisions made with respect thereto. Such records shall be retained for a minimum of three years and shall be open and available for inspection and copying by any Owner and such Owner's designated agent(s) during reasonable hours of the business day by appointment only, according to any policy adopted by the Board.

Section 7.13 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right, but not the obligation, to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association may be entitled to recover its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court.

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.

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 automobiles 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 insureds.

(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 thereunder 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:

(i) imposing 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.

(ii) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community; The lot owner will be notified in writing and electronically, when available.

(iii) 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 shall 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 provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of more than fifty percent (50%) of the total votes 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 9.6 Amendment of the bylaws. Any provision, covenant, condition, restriction or equitable servitude contained in the Bylaws may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at

any time and from time to time upon approval of more than thirty percent (30%) of the total votes 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 ~~date of~~ 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.

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.

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

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%) of the votes 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: