

ALBANY COUNTY, LARAMIE, WY REC \$86.00  
JACKIE R GONZALES, ALBANY COUNTY CLERK

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**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR  
WESTFIELD VILLAGE**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR WESTFIELD VILLAGE is made and entered into this 15<sup>th</sup> day of May, 2002, by WESTFIELD DEVELOPMENT, INC., a Wyoming corporation ("Declarant").

**RECITALS**

The Declarant owns the real property located in the County of Albany, State of Wyoming legally described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"). The Declarant seeks to create a planned community on the Property to be known as Westfield Village (the "Community"). The Westfield Village Homeowners' Association, Inc., a Wyoming Nonprofit Corporation, will govern the use of property in the Community and the use and enjoyment by Owners of the Common Elements.

**ARTICLE 1. SUBMISSION OF PROPERTY**

The Declarant hereby declares that on and after the date of recording of this Declaration, the Property shall be subject to the following covenants, conditions, and restrictions which are for the purpose of protecting the value and desirability of the Property and the Community, and which shall run with the Property and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Property, or any portion thereof, their heirs, personal representatives, successors, and assigns.

**ARTICLE 2. DEFINITIONS**

2.1 Definitions. When used in this Declaration, unless the context clearly indicates otherwise, capitalized terms not otherwise defined in the Plat shall have the meanings provided below:

2.1.1 "Access Easement" shall mean and refer to the access easement more particularly described in Section 6.2(a) of this Declaration.

2.1.2 "Allocated Interests" shall mean and refer to the Common Expense liability, Extended Service Expense liability, and votes in the Association.

2.1.3 "Approval" or "Consent" shall mean and refer to the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.

2.1.4 "Assessments" shall mean and refer to all Common Expense Assessments, Extended Service Expense Assessments, Special Assessments, Individual Assessments and Fines levied by the Board pursuant to this Declaration, the Bylaws or the Rules and Regulations.

2.1.5 "Association" shall mean and refer to The Westfield Village Homeowners' Association, Inc., a Wyoming Nonprofit Corporation, its successors and assigns.

2.1.6 "Board" shall mean and refer to the Board of Directors designated in the Bylaws and this Declaration to act on behalf of the Association.

2.1.7 "Building Envelope" shall mean and refer to those areas within each Lot on which Dwelling

Units and other Improvements may be constructed, which building envelope shall be reflected on the Plat or established and designated by the Declarant or the Design Review Committee.

2.1.8 "Bylaws" shall mean and refer to any instrument adopted by the Association for governing the Association, including amendments to those instruments.

2.1.9 "Common Elements" shall mean and refer to any real estate, easements or real property interests within the Community owned or leased by the Association or over which the Association has acquired easements, including access, pedestrian, drainage, utility, sign, landscape and entrance easements hereafter created pursuant to Section 6.2 and any other property rights owned, leased or otherwise acquired by the Association. "Common Elements" shall also include any storm drainage improvements, structures or other facilities, or other public improvements installed or located (or to be installed or located) within the Community, as well as related off-site improvements, structures or facilities used by or benefiting the Community and/or installed pursuant to requirement of Albany County as a condition to development of the Community or any part thereof.

2.1.11 "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves. These expenses for the operation of the Community include, but are not limited to:

(a) expenses of administering, maintaining, leasing, securing, insuring or replacing the Common Elements;

(b) expenses declared to be Common Expenses by this Declaration;

(c) expenses agreed upon as Common Expenses by the Association;

(d) such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association.

2.1.12 "Community" shall mean and refer to the Property and all real property added to the Community pursuant to Article 15.

2.1.13 "Common Roads" shall mean and refer to the streets and roads identified on the Plat or other public streets or roads subsequently constructed.

2.1.14 "Declarant" shall mean and refer to Westfield Development, Inc., a Wyoming corporation, and its successors or assigns.

2.1.15 "Declaration" shall mean and refer to this Declaration, including any amendments hereto and also including, but not limited to, Plats for the Property recorded in the office of the Clerk and Recorder of Albany County, Wyoming.

2.1.16 "Default Rate" shall mean and refer to the lesser of (i) the rate per annum of five (5) points above the prime rate charged by the Association's bank, or such other rate as shall have been established by the Board of the Association, and (ii) the maximum rate allowed by law.

2.1.17 "Design Guidelines" shall mean and refer to the guidelines and rules published and amended and supplemented from time to time by the Design Review Committee.

2.1.18 "Design Review Committee" or "DRC" shall mean and refer to the committee established to review and approve plans for the construction of Improvements on Lots as set forth in Article 8 of this Declaration.

2.1.19 "Director" shall mean and refer to a member of the Board.

2.1.20 "Documents" shall mean and refer to this Declaration, the Plat as recorded and filed, the Articles of Incorporation of the Association, Bylaws, and the Rules and Regulations as they may be amended from time

to time, together with any exhibit, schedule or certificate accompanying such Documents.

2.1.21 "Drainage and Utility Easements" shall mean and refer to the drainage and utility easements more particularly described in Section 6.2(b) of this Declaration.

2.1.22 "Dwelling Unit" shall mean and refer to a single-family residential dwelling constructed on a Lot.

2.1.25 "Entry Sign(s)" shall mean and refer to any sign(s) identifying the Community located near any entrances to the Community.

2.1.26 "Extended Service Area" shall mean each area or group of lots listed in Schedule 1 to Exhibit A to this Declaration. The Extended Service Area may be expanded from time to time, by the Declarant during the Period of Declarant Control, or by the Association after the Period of Declarant Control.

2.1.27 "Extended Service Expenses" shall mean expenses for landscape maintenance, snow removal and any other services provided by or on behalf of the Association solely to or for the benefit of the Lots in an Extended Service Area, as well as any expenses agreed upon by Owners of a majority of Lots in each Extended Service Area, plus any reasonable reserve agreed upon by Owners of a majority of Lots in the Extended Service Area.

2.1.28 "Fines" shall mean and refer to any monetary penalty imposed by the Board against a Owner because of a violation of this Declaration, the Articles of Incorporation of the Association, its Bylaws or the Rules and Regulations by such Owner, a member of the Owner's family or tenant or guest of the Owner or a member of a family of a tenant of a Owner.

2.1.29 "Improvement(s)" shall mean and refer to all Dwelling Units, buildings, parking areas, fences, walls, hedges, plantings, lighting, poles, roads, ponds, lakes, trails, gates, signs, changes in exterior color or shape, excavation and all other site work, including, without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvement(s)" does not include turf, shrub or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearances. "Improvement(s)" does include both original improvements and all later changes and improvements.

2.1.30 "Individual Assessment" shall mean and refer to any Assessment made against the Lot of a Owner pursuant to the provisions of this Declaration, the Bylaws or the Rules and Regulations, other than a Common Expense Assessment or Special Assessment.

2.1.31 "Limited Common Elements" shall mean and refer to those portions of the Common Elements, if any, designated in this Declaration, or on any Plat, for the exclusive use of one (1) or more, but fewer than all of the Lots.

2.1.32 "Lot" shall mean and refer to a physical portion of the Community which is designated for separate ownership or occupancy and the boundaries of which are described in or determined from the Declaration.

2.1.33 "Manager" shall mean and refer to a Person employed or engaged to perform management services for the Community and the Association.

2.1.34 "Member" shall mean and refer to every person or entity who holds membership in the Association.

2.1.35 "Owner" shall mean and refer to the record owner, whether one (1) or more Persons, of a fee or undivided fee interest in any Lot that is part of the Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

2.1.36 "Period of Declarant Control" shall mean and refer to the period of Declarant control as set forth in Section 4.2.

2.1.37 "Person" shall mean and refer to an individual, corporation, business trust, estate, limited liability company, limited partnership, general partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.

2.1.38 "Plat" shall mean and refer to the Plat of Westfield Village, as it has been recorded and may be amended or supplemented from time to time, in the records of the office of the Clerk and Recorder of Albany County, Wyoming.

2.1.39 "Property" shall mean and refer to that certain real property described on Exhibit "A" attached hereto and incorporated herein by reference.

2.1.40 "Purchaser" shall mean and refer to a Person, other than the Declarant or a Dealer, who, by means of a transfer, acquires a legal or equitable interest in a Lot, other than a leasehold interest in a Lot of less than forty (40) years, including renewal options or a Security Interest.

2.1.41 "Rules and Regulations" shall mean and refer to any instruments which are adopted by the Association for governing the Community, and all amendments to those instruments.

2.1.42 "Security Interest" shall mean and refer to an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation. "First Security Interest" shall mean and refer to a Security Interest in a Lot prior to all other Security Interests except the Security Interest for real property taxes and assessments made by Albany County, Wyoming, or other governmental authority having jurisdiction over the Community.

2.1.43 "Special Assessment" shall mean and refer to the special assessment for capital improvements, capital acquisitions and other items which are described in Section 7.4 of this Declaration.

2.1.44 "Special Declarant Rights" shall mean and refer to the rights reserved for the benefit of the Declarant to perform those acts specified in Article 10 hereinafter.

2.1.45 "Special Declarant Rights Period" shall mean the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Albany County, Wyoming, and ending on the date on which the Declarant shall have conveyed to parties (other than a Successor Declarant) all Lots originally owned by the Declarant in the Community.

2.1.46 "Successor Declarant" shall mean any Person to whom the Declarant assigns any or all of its rights, obligations or interest as Declarant, as evidenced by an assignment or deed of record in the office of the Clerk and Recorder of Albany County, Wyoming, designating such party as a Successor Declarant, signed by the transferor and the transferee. Upon such recording, the Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

2.1.47 "Supplemental Covenants" shall mean and refer to additional or further restrictive covenants imposed on a portion or portions of the Property from time to time.

2.2 Other Terms in Declaration. Other terms in this Declaration may be defined in specific provisions contained herein and shall have the meaning assigned by such definition.

### ARTICLE 3. COMMON INTEREST COMMUNITY

- 3.1 Name. The name of the Community is WESTFIELD VILLAGE.
- 3.2 Association. The name of the Association is THE WESTFIELD VILLAGE HOMEOWNERS' ASSOCIATION.
- 3.3 Planned Community. The Community is a Planned Community.
- 3.4 Legal Description. The legal description of the Property included in the Community is set forth on Exhibit "A" attached hereto and incorporated herein by reference. The legal description may be changed by the addition of real property pursuant to Article 15 hereinafter.
- 3.5 Maximum Number of Lots. The maximum number of Lots that the Declarant reserves the right to create within the Community is ninety (90), subject to an increase at the sole option and discretion of the Declarant.
- 3.6 Boundaries of Lots. The boundaries and identifying number of each Lot created by the Declaration are set forth on the Plat for the Property.
- 3.7 Limited Common Elements. The Community may include Limited Common Elements, and any real estate may be subsequently allocated as Limited Common Elements, as provided elsewhere in this Declaration.
- 3.8 Recording Data. All easements and licenses to which the Community is presently subject are as set forth in this Declaration, the Plat for the Property or are listed on Exhibit "B" attached hereto and incorporated herein by reference.
- 3.9 Notices. Notice of matters affecting the Community may be given to Owners by the Association or by other Owners in the following manner: Notice shall be hand delivered or sent by United States mail, postage prepaid, to the mailing address of each Lot or to any other mailing address designated in writing by the Owner to the Association. Such notice shall be deemed given when hand delivered or when deposited in the United States mail, postage prepaid.

### ARTICLE 4. ASSOCIATION

- 4.1 Authority and Power. The business and affairs of the Community shall be managed by the Association according to the provisions of this Declaration, the Articles of Incorporation, the Bylaws, the published Rules and Regulations of the Association, and applicable law. The Association shall have all of the powers, authority and duties permitted pursuant to the Documents which are necessary and proper to manage the business and affairs of the Community.
- 4.2 Declarant Control. The Declarant, or Persons designated by it, may appoint and remove the officers of the Association and members of the Board for a period that shall terminate on the later of sixty days after conveyance to Owners other than the Declarant of seventy-five percent of the Lots that may be created within the Community, or two years after any right to add new lots was last exercised.
- 4.3 Board Powers and Duties. The Board may act in all instances on behalf of the Association, except as provided in this Declaration or the Bylaws. The Board shall have, subject to the limitations contained in this Declaration, the powers and duties necessary for the administration of the affairs of the Association and of the Community, which shall include, but not be limited to, the following:
- (a) Adopt and amend Bylaws.
  - (b) Adopt and amend Rules and Regulations regarding the use and enjoyment of the Common Elements, and the activities of occupants thereon.
  - (c) Adopt and amend budgets for revenues, expenditures and reserves.

- (d) Collect Assessments from Owners.
- (e) Hire and discharge Managers.
- (f) Hire and discharge independent contractors, employees and agents, other than Managers.
- (g) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association, or two (2) or more Owners on any matters affecting the Community.
- (h) Make contracts and incur liabilities.
- (i) Enter into agreements for the acquisition of real property interests and recreational opportunities, including, without limitation, access easements to public and private lands.
- (j) Regulate the use, maintenance, repair, replacement and modification of the Common Elements.
- (k) Cause additional Improvements to be made as a part of the Common Elements.
- (l) Acquire, hold, encumber and convey in the Association's name, any right, title or interest to real estate or personal property, but the Common Elements may be conveyed or subjected to a Security Interest only pursuant to this Declaration and applicable law.
- (m) Grant easements for any period of time, including permanent easements, leases, licenses and concessions through or over the Common Elements, and to provide for the sharing of costs of maintaining same, as appropriate, and on terms deemed reasonable by the Board.
- (n) Accept exclusive or non-exclusive easements for any period of time, including permanent easements, through or over lands lying outside the Community for the benefit of Owners of Lots, and to provide for the sharing of costs of maintaining same, as appropriate, and on terms deemed reasonable by the Board.
- (o) Impose and receive a fee or charge for the use, rental or operation of the Common Elements and for services provided to Owners.
- (p) Impose a reasonable charge for late payment of Assessments and levy a Fine for violation of this Declaration, the Bylaws and the Rules and Regulations of the Association.
- (q) Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Declaration and for statements of unpaid Assessments.
- (r) Provide for the indemnification of the Association's officers, agents and the Board and maintain Directors' and officers' liability insurance.
- (s) Assign the Association's right to future income, including the right to receive Common Expense Assessments, only upon the affirmative vote of the Owners of Lots to which at least seventy-five percent (75%) of the votes in the Association are allocated, at a meeting called for that purpose.
- (t) Act as an arbitrator or mediator with respect to any dispute between Owners if the Owners involved shall consent in writing to the submission of such dispute to the Association for resolution.
- (u) Exercise any other powers conferred by the Documents.
- (v) Exercise any other power that may be exercised in the State of Wyoming by a legal entity of the same type as the Association.
- (w) Exercise any other power necessary and proper for the governance and operation of the Association.
- (x) By resolution, establish permanent and standing committees of Directors to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Owners and the Board. However, actions taken by a committee may be appealed to the Board by any Owner within forty-five (45) days of publication of a notice. If an appeal is made, the committee's action must be ratified, modified or rejected by the Board at its next regular meeting.

4.4 Board Limitations. The Board may not act on behalf of the Association to amend this Declaration, to terminate the Community, or to elect members of the Board or determine their qualifications, powers and duties or the terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.

4.5 Owner's Negligence and Individual Assessments. Notwithstanding anything to the contrary contained in this Declaration, or in the event that the need for maintenance or repair of the Common Elements or any Improvements located thereon is caused by the willful or negligent act, omission or misconduct of any Owner, or by the

willful or negligent act, omission or misconduct of any member of such Owner's family, or by a guest or invitee of such Owner, or any tenant of such Owner or any contractor, subcontractor, agent or subagent of such Owner, or the tenant's family, the costs of such repair and maintenance shall be the personal obligation of such Owner, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction shall constitute an "Individual Assessment" and shall be added to and become part of the Assessment to which such Owner's Lot is subject and shall be a lien against such Owner's Lot as provided in this Declaration. In addition, the Board may levy an Individual Assessment against any Owner or his or her Lot if the Owner, his or her family members, tenants, guests or invitees willfully or negligently fail to comply with the terms and provisions of the Documents, resulting in the expenditure of funds by the Association to cause compliance by such Person with the terms and provisions of the Documents. An Individual Assessment shall be levied and the amount of the Individual Assessment shall be established only after notice to the Owner and the right to be heard before the Board in connection therewith.

#### ARTICLE 5. MEMBERSHIP, VOTING RIGHTS AND ALLOCATIONS

5.1 Membership. Every Owner of a Lot which is subject to Common Expense Assessments shall be a Member of the Association. All Members of the Association shall be deemed to ratify, accept and agree to the terms and conditions of this Declaration. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Common Expense Assessments by the Association. Ownership of such Lot shall be the sole qualification for membership. When more than one (1) Person holds a membership interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

5.2 Voting Rights and Assignment of Votes. The effective date for assigning votes to Lots created pursuant to this Declaration shall be the date on which this Declaration is recorded in the records of the Clerk and Recorder of Albany County, Wyoming.

5.3 Allocated Interests. Except as otherwise provided in this Declaration, the Common Expense liability, Extended Service Expense liability, and votes in the Association allocated to each Lot are set forth as follows:

(a) The percentage of liability for Common Expenses shall be allocated on the basis of equal liability for each Lot, including all Lots in the Extended Service Area, regardless of the actual number of square feet contained therein; and

(b) The percentage of liability for Extended Service Expenses in each Extended Service Area shall be allocated on the basis of equal liability for each Lot in the Extended Service Area, regardless of the actual number of square feet contained therein; and

(c) The number of votes in the Association shall be allocated on the basis of one (1) vote for each Lot regardless of the actual number of square feet such Lot contains, and regardless of whether the Lot is in the Extended Service Area.

5.4 Extended Service Areas. Inclusion of any Lot in an Extended Service Area shall not grant any greater voting or other rights. Instead, the designation of one or more Extended Service Areas shall be made solely for the purpose of defining one or more areas in which certain services, paid for solely by Owners of Lots in that Extended Service Area, shall be provided solely to those Lots. The Owner of each Lot in an Extended Service Area shall pay Common Expense Assessments, allocated as provided in Section 5.3, on the same basis as all other Lots, and shall also pay Extended Service Expense Assessments for the Extended Service Area in which the Lot is located.

#### ARTICLE 6. COMMON ELEMENTS

6.1 Dedication of Common Elements. The Declarant hereby dedicates the Common Elements to the common use and enjoyment of Owners as hereinafter provided.

6.2 Dedication of Easements. Subject to the limitations and restrictions set forth in this Article 6 and all existing easements, reservations, restrictions, covenants and agreements of record, the Declarant hereby establishes and

dedicates to the Association, its successors and assigns, for the use of the Owners, their family members, tenants, guests and invitees, the following perpetual non-exclusive easements in, over, across and upon real property located within the Property at the locations described below and/or depicted or described upon the Plat for the Property:

(a) Access Easements and Entrance Easements. A perpetual non-exclusive vehicular and pedestrian Access Easement, for each Common Road, to provide ingress and egress to and from each Lot to public streets or roads adjacent to the Community. The Access Easements created hereby shall be deemed to include each "Temporary Turn Around Access Easement," in each location as indicated upon the Plat for the Property, which shall be deemed to burden any property of Declarant on which they are located until the earlier of such time as that property (or as much thereof as may be necessary) shall become dedicated as a permanent Access Easement for the Common Road to which it pertains, or 10 years from the date of this Declaration. In addition, there are hereby established perpetual non-exclusive Entrance Easements near the intersections of each Common Road with each public street or road adjacent to the Community for the installation, construction, maintenance, inspection, operation, replacement or removal of Entry Signs, landscaping, fencing and other Improvements or amenities compatible with the Community, as determined by Declarant.

(b) Drainage and Utility Easements. Perpetual non-exclusive Drainage and Utility Easements located: (i) within the Access Easement described in Section 6.2(a) above, (ii) within Block 3, Lot 8, Block 4, Lot 7, and all other areas identified as a "Drainage Easement" on the Plat; and (iii) within all areas identified as a "Utility Easement" on the Plat. The Drainage and Utility Easements shall exist for stormwater drainage and for the installation, construction, maintenance, inspection, operation, replacement or removal of all utilities, including, but not limited to, water, sewer, telephone, natural gas, electricity and cable television, to the Lots within the Community. All utilities located within the Drainage and Utility Easements shall be installed below ground unless the Declarant, upon receipt of professional engineering advice, reasonably determines that the installation of such utilities below ground is impractical or will result in excessive expense due to topographical, geological or environmental factors.

(c) Parks. Declarant reserves the right to designate Lots for use by the Association, for the benefit of the Members, as parks with such recreational facilities as Declarant or the Association shall from time to time determine appropriate to install thereon. Any such Lots shall be conveyed to the Association free and clear of all liens and encumbrances prior to expiration of the Period of Declarant Control, at which time such lots shall become Common Elements.

6.3 Installation of Improvements Within Common Elements by Declarant. The Declarant shall, at its sole cost and expense, be responsible for the construction, installation or placement of the following Improvements within the Community:

- (a) An asphalt surface road within the Access Easement, which road shall comply with any applicable road construction standards imposed by the City of Laramie or Albany County, Wyoming, for private roads.
- (b) Telephone, electrical, water and/or sewer service within the Access Easement to the boundary line of each Lot at such locations as shall be determined by the Declarant.
- (c) One or more Entry Signs, landscaping, and related improvements within the Entrance Easements.
- (d) Declarant shall install, and thereafter transfer to the Association, fences along Pierce Street, which fences shall constitute Common Elements and shall be maintained by the Association as such.

Notwithstanding the foregoing, in the event any delays are caused in the installation, construction or placement of such Improvements as a result of strikes, transportation delays, partial or total destruction of the Improvements or property, unavoidable casualties, unavailability of materials, acts of God, war, or adverse or inclement weather conditions, or any causes beyond the reasonable control of the Declarant, the time for completion of such Improvements shall be extended for a period equal to the actual delay in the construction work so caused. Except as set forth herein, the Declarant shall have no obligation to install any other Improvements within the Community.

6.4 Maintenance and Regulation of Common Elements. After the installation of the Common Roads, utility services, Entry Sign(s), and other Improvements as required of the Declarant pursuant to the terms of this



Declaration, such Improvements shall be deemed Common Elements, and such improvements, together with any other Common Elements, shall be maintained, repaired and replaced as necessary by the Association so that the Common Elements present an attractive appearance and serve the purpose for which they were installed; provided, however, the Association shall have no responsibility to maintain any utility line to the extent such line is operated, maintained, repaired and serviced by the utility provider. The costs of any such maintenance by the Association shall be deemed a Common Expense Assessment, except as provided in Section 4.5 in cases of negligent or willful acts, omissions or misconduct by or attributable to any Owner.

The Association may adopt such Rules and Regulations with respect to its Members, their family members, tenants, guests, invitees, contract users, contractors, subcontractors and agents as shall be necessary for the proper regulation of the use of the Common Elements, including the Common Roads, in order to allow the Owner of each Lot the full use and enjoyment of the Common Elements provided herein in a manner which shall not unreasonably disturb or interfere with the use of the Property by Persons who own a Lot within the Community.

6.5 Declarant's Right to Perform Work. In the event the Association fails to repair or maintain Common Elements or otherwise perform any obligation under this Declaration, Declarant shall have the right, but not the obligation, to perform such duties for the account of the Association. In such event, Declarant will be entitled to reimbursement from the Association for all costs incurred by Declarant, such reimbursement to be due within thirty (30) days after receipt by the Association of an invoice from Declarant itemizing the costs incurred. After expiration of the thirty (30) day period allowed for payment, Declarant may collect interest on the amount due at the rate of twelve percent (12%) per annum, plus any costs incurred in collecting same (including, without limitation, reasonable attorneys' fees).

6.6 Additional Common Elements. The Common Elements within the Community may consist of such additional Common Elements as shall be acquired by or conveyed to the Association whether or not in connection with any real property which may be added to the Community pursuant to Article 15 hereinafter. The Common Elements shall also include any subsequently acquired access easements; drainage and utility easements; pedestrian easements; and sign, landscape and entrance easements acquired by the Association, including, but not limited to, any additions to the "Access Easement," "Drainage and Utility Easements," or "Entrance Easement" as defined in Section 6.2, above, or any access easements to public or private lands.

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

(a) The right of the Association to promulgate and publish reasonable Rules and Regulations as provided in this Declaration.

(b) The right of the Association to suspend voting rights and the right to use Common Elements by a Owner for any period during which any Assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days from any infraction of it published Rules and Regulations.

(c) The right of the Association to dedicate or transfer any part of the Common Elements, to any public agency, authority, utility or other entity for such purposes and subject to such conditions as may be agreed upon by the Members, provided that no such dedication or transfer shall be effective unless the Owners entitled to cast at least sixty-seven percent (67%) of the votes of the Association, including sixty-seven percent (67%) of the votes allocated to Lots not owned by the Declarant, agree to such dedication, transfer, purpose or condition. Written notice of the proposed agreement and action thereof shall be sent to every Owner at least thirty (30) days in advance of any action taken. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause. An agreement to dedicate, transfer or convey all or any part of the Common Elements must be evidenced by execution and recordation of an agreement or ratification thereof, in the same manner as a deed by the requisite number of Owners. Such agreement must specify a date after which the agreement will be void unless recorded before that date.

(d) The right of the Association to close or limit use of the Common Elements while maintaining, repairing and making replacements in the Common Elements, provided that the Association shall attempt to minimize any interference with access to Lots within the Property.

6.7 Easements for Encroachment. To the extent that any Common Roads or utilities, now or hereafter, encroach upon any area outside of its designated easement area, a valid easement shall be deemed to exist for the encroachment and for the maintenance of the same so long as such Improvement shall exist.

6.8 Emergency Easement. An easement for ingress, egress and access is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon the Property in the performance of their duties.

6.9 Easement Grant by Owner. Notwithstanding any provision herein to the contrary, an Owner may not create, grant or convey an easement, right of way or other interest in his or her Lot for purposes of access or utility service to an adjacent Lot except with and upon receiving prior written approval from the Association.

6.10 Delegation of Use. Subject to such reasonable Rules and Regulations as shall be promulgated by the Association, a Owner may delegate his or her right of enjoyment in the Common Elements to the members of his or her family, tenants, and a reasonable number of guests or invitees of such Owner.

6.11 Title to Common Elements. Title to the Common Elements shall be transferred to the Association no later than the conveyance of the first Lot within the Community; subject, however, to the provisions of Article 6 of this Declaration. Upon transfer of title to the Association, the Association shall be deemed to have fully accepted the Common Elements, in its their present condition, and the Association shall thereafter be responsible for due and proper operation, repair and maintenance of same.

6.12 Limited Common Elements. A "Limited Common Element" means a portion of the Common Elements, designated in this Declaration, or on any Plat, for the exclusive use of one (1) or more but fewer than all of the Lots. The Board may designate parts of the Common Elements from time to time for use by less than all of the Owners or by nonowners for specified periods of time or by only those persons paying fees or satisfying other reasonable conditions for use as may be established by the Board. Any such designation by the Board shall not be a sale or disposition of such portions of the Common Elements.

#### ARTICLE 7. COVENANT FOR ASSESSMENTS

7.1 Creation of Lien and Personal Obligation of Assessments and Special Assessments. The Declarant, for each Lot within the Property, shall be deemed to covenant and agree, and each Owner of a Lot, by accepting a deed therefor, whether or not it shall be expressed in the deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all Assessments and Fines, together with interest thereon and costs of collection thereof as provided in this Declaration. Assessments, Fines, interest and costs of collection, including reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or Fine is made. Such Assessments and Fines, including reasonable attorneys' fees, shall be the obligation of Owner of such Lot at the time when the Assessment or Fine fell due. The obligation for any delinquent Assessment or Fine shall not pass to any successor in title unless expressly assumed by the successor(s). No Owner may become exempt from liability for payment of Assessments or Fines by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which Assessments are made.

7.2 Purpose of Assessments. The Assessments levied by the Association through its Board shall be used exclusively for the benefit of the Owners, the Community and its residents, for the maintenance and repair of the Common Elements and for any other maintenance obligations or common services which may be deemed necessary by the Association for the benefit of the Owners, or the maintenance of property values, or for the payment of expenses which may be incurred by virtue of an agreement with or requirement of any city, county or other local government authority, and to provide for all other expenses incurred by the Association in performing its duties under this Declaration. The Assessments shall further be used to provide adequate insurance of various types, and in such amounts deemed necessary by the Board. Further, the Assessments may provide a reserve fund for replacements on a periodic basis as the Board determines necessary to adequately provide for such replacements as may be required by this Declaration.

7.3 Annual Common Expense Assessments and Extended Service Expense Assessments.

7.3.1 The total annual Common Expense Assessment against all Lots shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during each Common Expense Assessment year, which estimates may include, among other things:

- (a) Expenses of maintaining the Association and providing management for the Community;
- (b) Premiums for all insurance which the Association is required or permitted to maintain;
- (c) Repairs and maintenance to or replacement of the Common Elements, including the Common Roads;
- (d) Snow removal from the Common Roads;
- (e) Wages for Association employees, if any;
- (f) Legal, accounting and property management fees;
- (g) Any deficit remaining from a previous Assessment year;
- (h) The creation of reasonable, replacement or contingency reserves, working capital and/or sinking funds; and
- (i) Any other costs, expenses and fees, which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

7.3.2 Common Expense Assessments shall commence upon the sale of the first Lot to an Owner. The first Common Expense Assessment shall be prorated according to the number of days remaining in the Assessment period established by the Board. The Common Expense Assessment will commence for Lots contained in each phase incorporated into the Community on the day following the recording of the instrument incorporating the phase into the Community and will be prorated according to the number of days remaining in the calendar year. The Board shall fix the amount of the annual Common Expense Assessment against each Lot at least yearly. Written notice of the Common Expense Assessment shall be sent to every Owner. Common Expense Assessments shall be collected at such intervals and in such installments as the Board shall determine. The due dates shall be established by the Board. After the first budget year of the Association, within thirty (30) days after adoption of a proposed budget for the Community, the Board shall provide a summary of the budget to each Owner and shall set a date for a meeting of the Owners to consider ratification of the budget. The meeting shall be not less than fourteen (14) nor more than fifty-nine (59) days after the mailing of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget shall be ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners shall continue until the Owners ratify a new budget proposed by the Board.

7.3.3 The total annual Extended Service Expense Assessment against the Lots in each Extended Service Area shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of services provided, which may include, among other things:

- (a) Repairs and maintenance to or replacement of property in the Extended Service Area;
- (b) Snow removal;
- (c) Wages for Association employees, if any;
- (d) Any deficit remaining from a previous Assessment year;
- (e) The creation of reasonable, replacement or contingency reserves, working capital and/or sinking funds; and
- (f) Any other costs, expenses and fees, which may be incurred or may reasonably be expected to be incurred by the Association for the benefit of the Owners in the Extended Service Area or by reason of this Declaration.

7.3.4 Extended Service Expense Assessments shall commence upon the sale of the first Lot in the Extended Service Area to an Owner. The first Extended Service Expense Assessment shall be prorated according to the number of days remaining in the Assessment period established by the Board. The Extended Service Expense Assessment will commence for Lots contained in each phase incorporated into the Community on the day following the recording of the instrument incorporating the phase into the Community and will be prorated according to the number of

days remaining in the calendar year. The Board shall fix the amount of the annual Extended Service Expense Assessment against each Lot in each Extended Service Area at least yearly. Written notice of the Extended Service Expense Assessment shall be sent to every Owner. Extended Service Expense Assessments shall be collected at such intervals and in such installments as the Board shall determine. The due dates shall be established by the Board. After the first budget year of the Association, within thirty (30) days after adoption of a proposed budget for the Community, the Board shall provide a summary of the budget to each Owner of a lot in each Extended Service Area and shall set a date for a meeting of the Owners of Lots in each Extended Service Area to consider ratification of the budget. The meeting shall be not less than fourteen (14) nor more than fifty-nine (59) days after the mailing of the summary. Unless at that meeting a majority of all Owners reject the budget, the budget shall be ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the Owners shall continue until the Owners ratify a new budget proposed by the Board.

#### 7.4 Special Assessments.

7.4.1 In addition to the Common Expense Assessments authorized above, the Association may at any time, from time to time, determine, levy and assess a Special Assessment for the purpose of defraying in whole or in part, payments for any operating deficit and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement or maintenance of the Common Elements or for "Capital Improvements" or "Capital Acquisitions." Any such Special Assessment made by the Board must be approved by not less than sixty-seven percent (67%) of the Members who are voting in person or by proxy at a meeting duly called for that purpose. No Special Assessment for legal action pursued by the Association shall be required of the Declarant without the written Approval of the Declarant. The amounts determined, levied and assessed pursuant hereto shall be assessed equally against each Lot.

7.4.2 "Capital Improvements," as used herein, shall mean the construction, erection or installation of substantial structure(s) or other improvement(s) to the Common Elements in the Community, but shall not include Common Elements which may hereafter be constructed, erected or installed on the Property by the Declarant in its development of the Community.

7.4.3 "Capital Acquisitions" as used herein, shall mean the purchase, lease or other acquisition of real property interests in and about the Community, including, but not limited to, access to private and/or public lands in the vicinity of the Community or other property interests which will benefit and enhance the use and enjoyment of the Community by the Owners thereof but shall not include any capital acquisitions hereafter made by the Declarant in its development of the Community.

7.4.4 Notice in writing setting forth the amount of such Special Assessment per Lot and the due date for payment thereof shall be given to the Owners not less than sixty (60) days prior to such due date.

7.4.5 Written notice of any meeting called for the purpose of taking any action authorized under this section shall be sent to all Members not less than ten (10) nor more than fifty-nine (59) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies, if permitted, entitled to cast fifty percent (50%) of all votes of the membership shall constitute a quorum. If the required quorum is not present, the meeting shall be continued to another date to be decided by the voting Members at the first meeting, and it will be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be twenty-five percent (25%) of all votes of the membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

7.5 Rate of Assessment. Except as otherwise provided in this Section 7.5 and in Section 7.13, each Owner shall be responsible for a fraction, the numerator of which shall be 1 and the denominator of which shall be equal to the number of Lots in the Community, of all Common Expense Assessments, plus any Special Assessments which shall be allocated to each Lot. Notwithstanding the foregoing, any Common Expense Assessments or Special Assessments which benefit fewer than all Owners shall be assessed exclusively against the Lots benefited.

7.7 Association Lien and Effect of Non-Payment of Assessments. The Assessments, charges, fees, Fines,

impositions, interest, costs, late charges, expenses and reasonable attorneys' fees which may arise under the provisions of this Declaration, shall be burdens running with, and perpetual liens in favor of the Association upon the specific Lot to which such Assessments apply. Recording of the Declaration constitutes record notice and perfection of the Association's lien. Further recording of a claim of lien for an Assessment under this section is not required. Any Assessment, charge or fee provided for in this Declaration, or any installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the Default Rate from the due date, and the Association may assess a late charge thereon. In the event of default in which any Owner does not make payment of any Assessment levied against his or her Lot within ten (10) days of the due date, the Board shall have the right to declare all unpaid Assessments for the pertinent fiscal year immediately due and payable. 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 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 a Owner to recover a money judgment for unpaid Assessments, charges or fees, or installments thereof, may be commenced and pursued by the Association without foreclosing or in any way waiving, the Association's lien therefor. In the event that any such Assessment, charge or fee, or installment thereof, is not fully paid when due and the Association shall commence such action (or shall counterclaim or crossclaim for such relief in any action) against any Owner personally obligated to pay the same, or shall proceed to foreclose its lien against the particular Lot, then all unpaid Assessments, charges and fees, and all unpaid installments thereof, and any and all late charges and accrued interest under this section, the Association's costs, expenses and reasonable attorneys' fees incurred in preparing and recording any lien notice, and the Association's costs of suit, expenses and reasonable attorneys' fees incurred for any such action and/or foreclosure proceedings shall be taxed by the court as a part of the cost of any such action or foreclosure proceeding and shall be recoverable by the Association from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Lot. 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, charge or fee, or installment thereof, which is 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, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership thereof, convey or otherwise deal with the same. A lien for an unpaid Assessment is extinguished unless proceedings to enforce the lien are instituted within six (6) years after the full amount of Assessments becomes due, except that if an Owner of a Lot subject to a lien under this section filed a petition for relief under the United States Bankruptcy Code, the time period for instituting proceedings to enforce the Association's lien shall be tolled until ninety (90) days after the automatic stay of proceedings under § 362 of the Bankruptcy Code is lifted. In any action by the Association to collect Assessments or to foreclose a lien for unpaid Assessments, the court may appoint a receiver for the Lot to collect all sums alleged to be due from the Owner or a tenant of the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Assessments, based on a periodic budget adopted by the Association.

7.8 Subordination of Lien to Security Interests. A lien under this section is prior to all other liens and encumbrances on a Lot except:

- (a) Liens and encumbrances recorded before the recordation of this Declaration;
- (b) A First Security Interest on the Lot recorded before the date on which the Assessment sought to be enforced became delinquent; and
- (c) Liens for real estate taxes and other governmental assessments or charges against the Lot.

A lien under this section is also prior to all Security Interests to the extent that the Assessments are based on the periodic budget adopted by the Association and which would have become due, in the absence of acceleration, during the six (6) months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest, and statutory liens recognized under Wyoming law. If a holder of a First Security Interest in a Lot forecloses that Security Interest, the Purchaser at the foreclosure sale is not liable for any unpaid Assessments against the Lot which became due before the sale, other than the Assessments which are prior to the Security Interest under this section of the Declaration. Any unpaid Assessments not satisfied from the proceeds of sale become Common Expenses

collectible from all Owners, including the Purchaser. Sale or transfer of any Lot shall not affect the lien for said Assessment charges except that a sale or transfer of any Lot pursuant to foreclosure of any First Security Interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture of any such executory land sales contracts shall only extinguish the lien of Assessment charges which become due more than six (6) months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest, and statutory liens recognized under Wyoming law. No such sale, transfer, foreclosure or other proceeding in lieu thereof, including deed in lieu of foreclosure, shall relieve any Lot from liability for any Assessment charges thereafter becoming due, nor from the lien thereof. This section does not affect the priority of mechanics' or materialmen's liens.

7.9 Record of Receipts and Expenditures. The Association shall keep detailed and accurate records in chronological order of all of its receipts and expenditures, specifying and itemizing the maintenance and repair of expenses of the Common Elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available on request for examination by the Owners and others with an interest, such as prospective lenders.

7.10 Notice to Security Interest. Upon the request of a holder of a First Security Interest on a Lot, and upon payment of reasonable compensation therefor, the Association shall report to such party any unpaid Assessment or other defaults under the terms of this Declaration which are not cured by the Owner within thirty (30) days.

7.11 Certificate of Status of Assessments. The Association, upon written request to the Association's registered agent, personally delivered or delivered by certified mail, first class postage prepaid, return receipt requested, and upon payment of a reasonable fee, but in no event less than Ten Dollars (\$10.00), shall furnish to a Owner or such Owner's designee or to a holder of a Security Interest or its designee, a statement, in recordable form, setting out the amount of the unpaid Assessments against the Lot. The statement must be furnished within fourteen (14) business days after receipt of the request and is binding on the Association, the Board and each Owner. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance. Omission or failure to fix an Assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification or release of a Owner from his or her obligation to pay the same.

7.12 Homestead. The lien of the Association Assessments shall be superior to any homestead exemption as is now or may hereafter be provided by Wyoming or federal law. The acceptance of a deed to land subject to this Declaration shall constitute a waiver of the homestead exemption as against said lien.

7.13 Common Expenses Attributable to Fewer than All Lots.

7.13.1 An Assessment to pay a judgment against the Association may be made only against the Lots in the Community at the time the judgment was entered, in proportion to their Common Expense Liabilities.

7.13.2 If a Common Expense is caused by the misconduct of a Owner, the Association may assess that expense exclusively against that Owner's Lot as more fully provided in Section 4.5, above.

7.13.3 Fees, charges, taxes, impositions, late charges, Fines, collection costs and interest charged against a Owner pursuant to the Documents are enforceable as Common Expense Assessments.

7.13.4 Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element, if any shall exist, shall be assessed against the Lot(s) to which that Limited Common Element is assigned or appurtenant, equally, or in any other proportion determined by the Board after considering the relative size and value that said Limited Common Element bears to all Limited Common Elements and the Units being assessed.

7.13.5 Any Common Expense or portion thereof benefiting fewer than all of the Lots must be assessed exclusively against all the Lots benefited in the proportions determined by the Board after considering the relative size and value that the Lots being benefited bear to all Lots benefited.

**ARTICLE 8. DESIGN REVIEW COMMITTEE**

8.1 Committee and Guidelines. There is hereby established a Design Review Committee, which shall be responsible for the establishment and administration of Design Guidelines to facilitate the purposes and intent of this Declaration. The DRC may amend, vary, repeal and augment the Design Guidelines from time to time, in the DRC's sole discretion based on concerns for good planning and design, the aesthetic, architectural and environmental harmony of the Community or other factors as necessary or desirable to fulfill the intent of the Design Guidelines. The Design Guidelines shall be binding on all Owners and other persons governed by this Declaration. The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

8.1.1 Standards establishing an architectural theme and requirements pertaining to building style and design, construction materials and site planning.

8.1.2 Procedures and fees for making application to the DRC for design review approval, including the documents to be submitted and the time limits in which the DRC must act to approve or disapprove any submission.

8.1.3 Time limitations for the completion, within specified periods after Approval, of the Improvements for which Approval is required under the Design Guidelines.

8.1.4 Establishment and designation of a Building Envelope on a Lot.

8.1.5 Minimum and maximum square foot areas of living space that may be developed on any Lot.

8.1.6 Limitations on the height of any Dwelling Unit or other Improvement.

8.1.7 Specifications for the location, dimensions and appearance or screening of any fences, accessory structures, antennae or other Improvements.

8.1.8 Landscaping regulations, including limitations and restrictions prohibiting the removal or requiring the replacement of existing trees; guidelines encouraging the use of plants indigenous to the locale and compatible with the design theme for the Community; and other practices benefiting the protection of the environment, aesthetics and architectural harmony of the Community.

8.1.9 General instructions for the construction, reconstruction, refinishing or alteration of any Improvement, including any plan to excavate, fill or make any other temporary or permanent change in the natural or existing surface contour or drainage or any installation of utility lines or conduits upon a Lot, addressing matters such as loading areas, waste storage, trash removal, equipment and materials storage, grading, transformers and meters.

8.2 DRC Membership and Organization. Except during the Period of Declarant Control or after the earlier waiver by Declarant of its rights under this section by notice to the Association recorded in the office of the Clerk and Recorder of Albany County, Wyoming, the DRC shall be composed of not less than three (3) nor more than five (5) persons and need not include any Member of the Association. During the Period of Declarant Control, the number of members shall be determined by the Declarant, and all members of the DRC shall be appointed, removed and replaced by the Declarant, in its sole discretion. Upon expiration of the Period of Declarant Control or Declarant's waiver of its rights under this Section, the Board shall succeed to the Declarant's right to designate the number of and to appoint, remove or replace the members of the DRC.

8.3 Purpose and General Authority. The DRC shall review and either approve or reject proposed Improvements on the Property, all in compliance with this Declaration and as further set forth in the Design Guidelines and such rules and regulations as the DRC may establish from time to time to govern its proceedings. No Improvement shall be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor shall any construction, repair or reconstruction be commenced until plans for the Improvements shall have been approved by the DRC; provided, however, that Improvements that are completely within a building may be undertaken without such Approval. All Improvements shall be constructed only in accordance with approved plans.

8.3.1 DRC Discretion. The DRC shall exercise its best judgment to see that all Improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, location on the Lot, height, grade and finished ground elevation, and the schemes and aesthetic considerations set forth in the Design Guidelines and the other Documents. The DRC, in its sole discretion based on concerns for good planning and design, the aesthetic, architectural and environmental interests of the Community, or other factors as necessary or desirable to fulfill the intent of the Design Guidelines, may excuse compliance with such requirements in

specific situations and may permit compliance with different or alternative requirements.

8.3.2 Binding Effect. The actions of the DRC in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties.

#### 8.4 Organization and Operation of DRC.

8.4.1 Term. The term of office of each member of the DRC, subject to Section 8.2, shall be one (1) year, commencing January 1 of each year, and continuing until his or her successor shall have been appointed. Should a DRC member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 8.2.

8.4.2 Chairman. So long as the Declarant appoints the DRC, the Declarant shall appoint the chairman. At such time as the DRC is appointed by the Board, the chairman shall be elected annually from among the members of the DRC by a majority vote of the members. In the absence of a chairman, the party responsible for appointing or electing the chairman may appoint or elect a successor, or if the absence is temporary, an interim chairman.

8.4.3 Operations. The DRC chairman shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the DRC prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any member.

8.4.4 Voting. The affirmative vote of a majority of the members of the DRC shall govern its actions and be the act of the DRC.

8.4.5 Expert Consultation. The DRC may avail itself of other technical and professional advice and consultants as it deems appropriate, and the DRC may delegate its plan review responsibilities, except final review and approval, to one (1) or more of its members or to consultants retained by the DRC. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant shall be equivalent to approval or disapproval by the entire DRC.

8.5 Submission. Each application for approval shall include, in addition to any other requirements imposed by the Design Guidelines, plans and specifications in sufficient detail to fairly apprise the DRC of the action proposed to be taken, which shall include, as appropriate or as requested by the DRC: a copy of a site plan of the Lot; finished elevations of the Dwelling Units, outbuildings or other improvements, with a sufficient detail to determine roof form, window locations, siding material, door placement and a description of the type and color of all materials to be used; the building footprint with dimensions from the front, rear, and side property lines of the Lot, plus the total square footage for each level of any Dwelling Unit or other structure; driveways and walkways located on the Lot; any existing structures on the Lot; Location of improvements with respect to the utility lines and facilities; and the color of any paint or stain to be applied to the improvements.

The Design Review Committee shall consider and act upon any and all requests submitted for its approval. The Design Review Committee shall approve plans and specifications submitted to it only if it determines that the construction, alteration, and additions contemplated thereby, and in the location as indicated, will comply with this Declaration; will serve to preserve and enhance the value of the Lots within the Community; will be consistent with the spirit and intent of this Declaration; and will maintain a harmonious relationship among structures and topography within the Community. The Design Review Committee shall consider the quality of workmanship, type of materials, and harmony of exterior design with other Dwelling Units located within the Community. Should the Design Review Committee fail to approve or disapprove the plans and specifications submitted to it by an Owner of a Lot within thirty (30) days after complete submission of all required documents, the plans shall be resubmitted to the Design Review Committee by certified mail, return receipt requested, with a copy to the Declarant, by certified mail, return receipt requested, and, in the event that the Design Review Committee fails to approve or disapprove any plans and specifications as herein provided within thirty (30) days after such resubmission to the Design Review Committee and the Declarant by