

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
  
FOR BUFFALO RIDGE ESTATES

## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BUFFALO RIDGE ESTATES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BUFFALO RIDGE ESTATES (the "Declaration") is made as of August 6, 1997, by Martin Brothers, LLC, a Colorado limited liability company (the "Declarant").

### **RECITALS**

A. Declarant is the owner of the "Property" (as such term is defined below), located in the County of Weld, State of Colorado. The Property initially subjected to this Declaration is depicted as Buffalo Ridge Estates, Phases 1-7, recorded in the real property records of Weld County, Colorado in Plat Book 1623, at Envelopes 4630 and 4631, on August 29, 1997, at Reception No. 2566278 (the "Plat"). A copy of the Plat is attached hereto as Exhibit A. The Property consists of 52 Lots, plus the streets identified therein. The identifying numbers for the Lots of the Property are attached hereto as Exhibit B.

B. The Property consists of approximately 195.472 acres and is part of the planned community commonly known as "Buffalo Ridge Estates."

C. Declarant, as a "Developer" has subdivided the Property into 52 Lots and associated Common Areas. Further, Declarant now desires to create a planned community and to establish certain mutually beneficial easements, covenants, restrictions and equitable servitudes for the cooperative development, improvement, use, operation, maintenance, repair and enjoyment of such planned community under a general plan for the purpose of enhancing and perfecting the value, desirability and attractiveness of such planned community.

### **DECLARATION**

NOW, THEREFORE, Declarant hereby declares that the Property is a planned community within the meaning of the Act and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the following covenants, conditions, restrictions and equitable servitudes in furtherance of, and the same shall constitute, a general plan for the subdivision, ownership, improvement, sale, use and occupancy of the Property and to enhance the value, desirability and attractiveness of the Property. This Declaration shall (i) run with the land and all parts thereof at law and as an equitable servitude; (ii) bind all Persons having or acquiring any interest in the Property or any part thereof; (iii) inure to the benefit of and be binding upon every part of the Property and every interest therein; and (iv) inure to the benefit of, be binding upon, and be enforceable by Declarant, its successors in interest; each Owner, their grantees, heirs and assigns and successors in interest; the Association and its successors in interest. The name of the planned community created by this Declaration is Buffalo Ridge Estates.

## ARTICLE 1

### DEFINITIONS

1.1 Definitions. Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings specified below.

1.1.1 "Act" means the Colorado Common Interest Ownership Act codified at Colorado Revised Statutes ("C.R.S.") ' ' 38-33.3-101 et seq. as amended.

1.1.2 "Additional Lands" means lands which are contiguous to the Property which is described on Exhibit A attached hereto. For the purposes of this Section, real property separated from the Property on attached Exhibit A by Common Areas, public rights-of-way and/or any other public property will be deemed to be contiguous.

1.1.3 "Architectural Review Committee" means the Committee described in Section 5 of this Declaration.

1.1.4 "Articles" means the articles of incorporation of Buffalo Ridge Estates Homeowners' Association, Inc., a Colorado nonprofit corporation, presently formed or to be formed by Declarant, which have been or will be filed in the office of the Secretary of State of the State of Colorado, as the same may from time to time be amended.

1.1.5 "Assessments" means the Regular Assessments and the Special Assessments.

1.1.6 "Association" means Buffalo Ridge Estates Homeowners' Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

1.1.7 "Association Property" means all real and personal property now or hereafter owned by, or leased to the Association.

1.1.8 "Beneficiary" means a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be.

1.1.9 "Board" means the Board of Directors of the Association.

1.1.10 "Bylaws" means the Bylaws of the Association which may be adopted by the Board, as such Bylaws may be amended from time to time.

1.1.11 "Common Area" means any portion of the Property together with all improvements thereon owned by the Association itself for the primary benefit of all Members and the Property as a whole including, without limitation, the Well System landscaped areas adjacent to public rights-of-ways, landscaped areas within island and/or median areas associated with public rights-of-ways, entrance areas, postal facilities, parking areas, trails, parks, gardens, detention or

retention facilities, Recreation Areas and other personal and real property now or hereafter owned or controlled by the Association. Common Areas are subject to the terms, limitations, rules and regulations provided in this Declaration and those established by the Board from time to time.

1.1.12 "Declarant" means Martin Brothers, LLC, a Colorado limited liability company. The term Declarant shall also include one (1) or more successors in interest which have been designated in writing (which writing shall be recorded in the Records) by the then existing Declarant as a "Declarant" and who have purchased all or substantially all of the Property then owned by the existing Declarant.

1.1.13 "Developer" means a Person, other than the Declarant, that purchases or owns a portion of the Property for purposes of subdivision, development and/or resale.

1.1.14 "Development Rights" means the rights hereby reserved by the Declarant to; (i) annex and subdivide the Additional Lands or any portion thereof, and to make them subject to this Declaration; (ii) create Lots and/or Common Areas within the Property and on the Additional Lands; (iii) further subdivide Lots or convert Lots into Common Areas; and (iv) after annexation of any portions of the Additional Lands, to withdraw portions of the then-annexed Additional Lands from the planned community for conveyance to Weld County, the State of Colorado or any other entity or individual to be used for streets, parks, utilities, water systems or for any other purpose for the benefit of the Association and/or to comply with applicable ordinances, laws, rules or regulations.

1.1.15 "First Mortgage" means any unpaid and outstanding mortgage, deed of trust or other security instrument encumbering the Property or a portion thereof recorded in the Records having priority of record over all other recorded liens except those liens made superior by statute (such as, for example, general ad valorem tax liens and special assessments, mechanic's liens and the Association's lien for Assessments).

1.1.16 "First Mortgagee" means any Person named as a mortgagee or beneficiary under any First Mortgage, or any successor to the interest of any such Person under such First Mortgage.

1.1.17 "General Common Allocation" means with respect to each Lot, the fractional number obtained by dividing one (1) by 52, which number is the initial number of Lots in the Project. The General Common Allocation shall mean, with respect to each Lot, the fractional number obtained by dividing one (1) by the number of Lots in the Project, at such time as any Additional Lands are platted and subdivided. Fifty-two (52) is the total number of Lots existing from time to time, excluding Lots which may be developed on Additional Lands.

1.1.18 "Improvement" means every structure and all appurtenances thereto of every type and kind including, but not limited to, buildings, outbuildings, fixtures, utilities, patios, tennis courts, swimming pools, garages, doghouses, mailboxes, aerials, antennas, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, water softener fixtures or

equipment, poles, pumps, wells, tanks, solar collectors, reservoirs, pipes, lines, meters, towers and other facilities used in connection with water, sewer, gas, electricity, solar energy, telephone, regular or cable television, or other utilities.

1.1.19 "Lot" means and refers to any plot of land shown upon any recorded subdivision map or plat of the Property or any portion thereof, with the exception of the Common Area, but including all appurtenances and improvements now or hereafter located thereon. The term "Lot" is synonymous with the term "unit" as defined in the Act. The total number of Lots planned for the Property by the Declarant in its sole discretion shall not exceed 52 Lots, exclusive of Lots which may be developed on Additional Lands.

1.1.20 "Member" means any Person who is a member of the Association pursuant to Section 4.2.

1.1.21 "Nondeclarant Votes" means the votes determined pursuant to Section 4.2 which are not owned or controlled by Declarant.

1.1.22 "Owner" means a Person or Persons (including Declarant or any Developer), owning a Recorded fee simple interest in a Lot from time to time. Such term shall include a contract vendee under an installment land sales contract, but shall not include (i) the vendor under such a contract; or (ii) a Person holding an interest in a Lot merely as security for the performance of an obligation (unless and until such a security holder becomes an owner in fee simple of a Lot).

1.1.23 "Period of Declarant Control" means that period commencing upon recordation of this Declaration and terminating 60 days after conveyance of 75% of the Lots that may be created to Owners other than the Declarant. Notwithstanding the foregoing, the Declarant may voluntarily (i) terminate the Period of Declarant Control, which election shall be in the sole discretion of the Declarant; and/or (ii) surrender the right to appoint and remove officers and members of the Board before termination of the Period of Declarant Control, but in that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective .

1.1.24 "Person" means a natural individual or any other entity with the legal right to hold title to real property.

1.1.25 "Plans and Specifications" means any and all documents designed to guide or control the construction of an Improvement including, but not limited to, those indicating size, shape, configuration or materials; all site plans; excavation and grading plans; foundation plans; drainage plans; landscaping and fencing plans; elevation drawings; floor plans; specifications on all building products and construction techniques; samples of exterior colors; plans for utility services and all other documentation or information relevant to the particular Improvement.

1.1.26 AProject@ means the common interest community created by this Declaration as shown on the Plat, consisting of the Property, the Units and the Common Areas.

1.1.27 "Property" means initially all of the real property in Buffalo Ridge Estates described on attached Exhibit A along with any and all Improvements now in place or hereafter constructed thereon.

1.1.28 "Records" means the official real property records of Weld County, Colorado; "to Record" means to file for recording in the Records; and "of Record" and "Recorded" means having been recorded in the Records.

1.1.29 "Recreation Areas" means all Common Areas designated by Declarant as such to be held for recreational purposes for the benefit of all Members and the benefit of the Property as a whole; provided, however, that access to any area or facility may be limited to dues-paying members, subject to fees and other charges, or otherwise conditioned or restricted, and made available to non-members, all on such terms and conditions as the Board may determine.

1.1.30 "Regular Assessments" means those Assessments levied by the Association pursuant to Section 4.8.

1.1.31 "Restrictions" means (i) this Declaration as amended from time to time; (ii) the Rules from time to time in effect; and (iii) the Articles and Bylaws of the Association from time to time in effect.

1.1.32 "Road System" means the roads within Buffalo Ridge Estates, including, but not limited to, streets, sidewalks, paths, trails, and other transportation systems, thoroughfares, and ways.

1.1.33 "Rules" means the rules adopted by the Board pursuant to Section 4.13.9, as they may be amended from time to time.

1.1.34 "Security Interest" means 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.

1.1.35 "Special Declarant Rights" means the rights hereby reserved for the benefit of Declarant to perform the following acts as specified in parts 2 and 3 of the Act and Section 7.7 of this Declaration: to complete improvements indicated on the Plat or any Map; to exercise any Development Right; to maintain sales offices, management offices, signs, advertising and marketing the Property and models; to use easements through the Common Areas for the purpose of making improvements within the Property and the Additional Lands; to make the Property subject to the Declaration; to annex Additional Lands which shall thereby become subject to this Declaration and to subdivide said Additional Lands into Lots, to dedicate and/or convey any lands which are a part of the Property or a part of the Additional Lands to Weld County or other governmental body, agency or entity or to any utility, in its discretion, to merge or consolidate a common interest community of

the same form of ownership; and to appoint or remove any officer of the Association or any member of the Board during the Period of Declarant Control.

1.1.36 "Declaration" means this instrument as it may be amended from time to time.

1.1.37 "Special Assessments" means those Assessments levied by the Association pursuant to Section 4.10.

1.1.38 "Subdivision" means a parcel of land which has been shown on a final and recorded subdivision plat approved pursuant to, and in accordance with, the laws of Weld County, State of Colorado, as the same may be amended from time to time.

1.1.39 "Total Allocated Votes" shall have the meaning set forth in Section 4.2.1.

1.1.40 "Tract" means those certain discrete areas established from time to time by Declarant in its sole discretion.

1.1.41 "Buffalo Ridge Estates Design Guidelines" means those guidelines described on Exhibit C attached hereto as the same may be modified by the Architectural Review Committee in its discretion.

1.1.42 "Well System" means any waterline, appurtenances, water wells, accessories, filtration, and pumping facilities, or portion thereof owned by the Buffalo Ridge Homeowners= Association, Inc.

1.1.43. "Septic System" shall mean the septic systems installed by the owners of Lots with the approval of the Buffalo Ridge Estates Homeowners= Association, Inc. and in compliance with all local, state, and federal laws, rules, regulations, and ordinances.

## **ARTICLE 2**

### **DEVELOPMENT OF THE PROPERTY/ ANNEXATION**

2.1 Subdivision and Development by Declarant. Declarant has subdivided the Property into Lots for single family residential development. The Declarant intends to develop some or all of such areas and, at Declarant's option, to designate areas as Common Areas, Recreation Areas, or for other purposes for the benefit of the Property, in connection with the Plat. It is contemplated that the Property will be developed pursuant to the Plat, as it may be amended or modified from time to time, as a unified planned development community in which the development of, and restrictions upon, each portion thereof will benefit each other portion and the whole thereof.

2.2 Annexation. Additional property may be annexed to the Property and subjected to the Declaration from time to time with the consent of 75% of the votes in the Association and, during the Period of Declarant Control, with the consent of the Declarant. Notwithstanding, and in addition

to the foregoing, up to and including 10 years from the date of recording of this Declaration, the Declarant may annex into the Property any portion, or all of, the Additional Lands without the consent of the individual Owners, Members (or any percentage thereof) and without the consent of any First Mortgagees, insurers or guarantors. Each such annexation shall be effected by Recording an amendment to this Declaration entitled "Declaration of Annexation" in the Records, which document shall provide for annexation to the Declaration of the property described in such document. Any purchaser of a portion of the annexed property is deemed to irrevocably consent to annexation under the purview of this Declaration and to permit development in accordance with the general plan established hereunder.

2.2.1 Upon the Recording of a Declaration of Annexation, the covenants, conditions, and restrictions contained in this Declaration shall apply to the added land in the same manner as if it had been originally subject to this Declaration; and thereafter, the rights, privileges, duties and liabilities of the Persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration. The Declaration of Annexation must comply with C.R.S. §§ 38-33.3-209 and 38-33.3-210 and must contain (i) a reference to this Declaration, which reference shall state the date of Recordation and the recording information related to this Declaration; (ii) a statement that the provisions of this Declaration shall apply to the added land as set forth herein; (iii) an adequate legal description of the added land; (iv) an amendment to the Map or, if such an amendment is not necessary, a new certification of the Plat in accordance with C.R.S. § 38-33.3-209; and (v) during the Period of Declarant Control, Declarant's written consent upon such terms as are acceptable to Declarant in its sole discretion if the Additional Lands are not then owned by Declarant.

2.2.2 All provisions of this Declaration including, but not limited to, those provisions regarding obligations to pay Assessments to the Association and any right to cast votes as Members of the Association, shall apply to annexed property (including, but not limited to, all Lots contained therein) immediately upon Recording an annexation document with respect thereto in accordance with this Section 2.2. Improvements which are constructed on any property annexed by Declarant shall be consistent, in terms of quality of construction, with Improvements constructed on the Property prior to such annexation. Portions of the annexed property are not to be deemed Recreation Areas or Common Area unless specifically so designated in the course of development or in a later Declaration of Annexation.

2.3 Conveyance and Acceptance of Common Areas. Declarant expressly reserves the right in the course of development of the Property to convey to the Association, and the Association shall accept, certain areas such as open spaces, roads and drainage ways which for any reason are not intended to be developed and/or other property or facilities which are deemed by Declarant to be most suitable as Common Areas of the Association. By way of example, but not limitation, Declarant shall, in the course of development of the Property, convey the Well System to the Association including those water rights owned by Declarant which are appurtenant to the Property and which are being utilized for operation of the Well System. Prior to transferring ownership of the first Lot in the Property or property which is annexed by Declarant as provided in Section 2.2, as the case may be, to a member of the general public (i.e., not a Developer), Declarant shall convey the

Common Area contained in the Property, or in such annexed property, as appropriate, to the Association.

2.4 Open Space/Tract A. Tract A designated as Aopen space@ shall be improved by Declarant, or its successors or assigns, with concrete picnic tables on concrete pads, and with native trees in numbers and locations to compliment the Tract, in the sole discretion of Declarant. Tables shall be located so as not to disturb or damage the vegetation, drainage or indigenous wildlife and so as not to encourage over utilization of Tract A by Members. Reasonable equestrian activities shall be permitted, access shall be by bridle paths identified on the Plat, and the use, maintenance and construction of all improvements on the Tract A shall be regulated by rules promulgated by the Home Owners= Association. No improvements, including but not limited to shrubbery and fencing, shall be constructed within the 8' bridle paths shown on the Plat. Water for Tract A useage shall be available through the Property water system.

2.5 Tract B/Speer Canal. Tract B, which includes the Speer Canal and is encumbered by an easement in favor of the Farmers Reservoir and Irrigation Company, shall be maintained by the Home Owners= Association.

### **ARTICLE 3**

#### **GENERAL RESTRICTIONS/PERMITTED USES**

3.1 General Restrictions. All of the Property shall be owned, held, conveyed, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions (collectively, "Restrictions"):

3.1.1 Residential and Common Areas. All of the Property (excluding any Common Area) shall be improved and used solely for residential use for single family homes except that any Common Areas may be improved and used for active and passive recreational purposes for the primary benefit of the Owners and occupants of Lots. In addition, Declarant (or the Board if such authority is delegated to it by Declarant) may, in its sole and absolute discretion, as to any specific residential area, permit other Improvements and uses consistent with the zoning then in effect for such specific residential area.

3.1.2 Improvements and Use. Except as provided in Section 3.1.1, no Lot shall be improved or used except as a dwelling or structure designed to accommodate no more than a single family and its servants and occasional guests, plus Accessory Buildings, a garage, fencing and such other Improvements as are necessary or customarily incident to a single-family residence. No mobile homes, manufactured homes, double-wide or other trailers shall be permitted on any Lot.

3.1.3 Residential Use; Rentals. No residence on any Lot shall be used for any purpose other than single family residential purposes. Nothing in this Declaration, however, shall prevent the rental of property within a residential area by the Owner thereof for residential purposes, on either a short or long-term basis subject to all the provisions of these Restrictions. No commune or similar type living arrangements shall be permitted anywhere on the Property.

3.1.4 Unsightly Articles. No unsightly article shall be permitted to remain on any Lot or any other portion of the Property if it is visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, mobile homes, recreation vehicles, graders, trucks (other than pickups), boats, tractors, campers, wagons, buses, sleighs, motorcycles, motor scooters, snowmobiles, snow removal equipment and garden and maintenance equipment shall be kept at all times (except when in actual use) in an enclosed structure or otherwise fully screened from view. Further, no repair or maintenance work shall be done on any of the foregoing, or on any automobile, other than minor emergency repairs, except in an enclosed garage or other structure. Refuse, garbage and trash shall be kept at all times in a covered container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any property except within an enclosed structure or appropriately screened from view; provided, however, that normal household waste can be set out up to 24 hours before a scheduled garbage pick-up. Liquid propane, gas, oil and other exterior tanks shall be kept within an enclosed structure or permanently screened from view.

3.1.5 Landscaping Requirement. At the time of, or as soon as reasonably possible following construction of a residential structure on a Lot, but in any event no later than six (6) months or one (1) growing season after substantial completion of the residential structure, such Lot(s) shall be suitably landscaped with grass, shrubs and trees all in accordance with the Buffalo Ridge Estates Design Guidelines and shall be subject to the approval of the Architectural Review Committee. Thereafter all grass, shrubs and trees shall be kept and maintained in an attractive, healthy, live and growing condition. All dead or diseased grass areas, shrubs and trees shall be promptly removed and replaced with suitable replacement landscaping. The Architectural Review Committee shall, from time to time, enact restrictions on the irrigation of grass and lawn, but in no case shall any Lot include more than 5,000 square feet of grass, lawns or other growth requiring outside irrigation, or exceed federal, state or local rules, ordinances, and regulations on the subject, whichever is most restrictive.

3.1.6 Antennas/Satellite Dishes. Except for any which may, at Declarant's option, be erected by Declarant or Declarant's designated representative, no exterior radio or television antenna, satellite dish, or aerial or other reception/receiver device shall be erected or maintained on the Property without the prior written approval of the Architectural Review Committee.

3.1.7 Insurance Rates. Nothing shall be done or kept on or at the Property which will increase the rate of insurance on any Association Property without the approval of the Board, nor shall anything be done or kept on or at the Property which would result in the cancellation of insurance on any Association Property or which would be in violation of any law.

3.1.8 No Further Subdividing. No Lot or Common Area shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Review Committee; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any

Lot or Common Area and convey any easement or other interest less than the whole, all without the approval of the Architectural Review Committee. Notwithstanding the foregoing, while Declarant is the owner thereof, Declarant may dedicate and/or convey any lands which are a part of the Property or a part of the Additional Lands to Weld County or other governmental body, agency or entity or to any utility, in its sole discretion, and without approval of the Architectural Review Committee, the Association or any owner not the Declarant. Further, nothing contained herein shall be deemed to require the approval of the Architectural Review Committee for the transfer or sale of any Lot, including Improvements thereon, to more than one (1) person to be held by them as tenants in common or joint tenants, or for the granting of any First Mortgage for the sale or transfer of any Lot or Common Area pursuant to the terms of any First Mortgage or by way of a deed in lieu of foreclosure thereof. No Owner shall have the right to partition or seek partition of the Common Area or any Lot.

3.1.9 Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Review Committee; provided, however, that if the sign is no larger than 3' x 2' it may be displayed on or from a Lot advertising such Lot (whether or not improved) for sale or lease. No flashing or moving signs shall be permitted on the Property. This Section 3.1.9 shall not apply to Declarant during the Period of Declarant Control.

3.1.10 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any part of the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. No noise or other nuisance shall be permitted to exist or operate upon any such property so as to be offensive or detrimental to any other property or to its occupants. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (other than security and emergency devices used exclusively for security and emergency purposes) shall be located, used or placed on any such property without the prior written approval of the Board.

3.1.11 Repair of Buildings. No Improvement constructed upon any land within the Property shall be permitted to fall into disrepair, and each such Improvement shall be kept at all times in good condition and repair and adequately painted or otherwise finished by the Owner (including the Association) thereof.

3.1.12 Improvements and Alterations. There shall be no construction (other than repairs pursuant to Section 3.1.11 above), excavation, alteration which in any way alters the exterior appearance of any Improvement, or removal of any Improvement without the prior approval of the Architectural Review Committee.

3.1.13 Violation of Restrictions. If any Owner or Developer or their respective family, guests, licensees, lessees, invitees, agents or employees violates these Restrictions, the Board may invoke any one (1) or more of the following remedies: (i) impose a fine upon such Developer or Owner for each violation; (ii) cause the violation to be cured and charge the cost thereof to such Developer or Owner; and/or (iii) obtain injunctive relief against the continuance of such violation. Before invoking any such remedy, the Board shall give such Developer or Owner notice (as

provided in Section 7.2) except that the Board may immediately suspend the right to use any Recreation Area and/or facility by any Developer or Owner and their respective family, guests, licensees, lessees, and invitees without notice for any period during which any Assessment owed by such Developer or Owner is past due and unpaid.

3.1.14 Drainage. There shall be no interference with the established drainage patterns over any property within the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Review Committee.

3.1.15 No Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property which are, or might be, unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe interior fireplace.

3.1.16 No Temporary Structures. No tent or shack or other temporary building, improvement or structure shall be placed upon the Property; provided, however, that temporary structures necessary and appropriate for sales activities; storage of tools, materials and equipment; restrooms; and office space for marketing personnel, architects, builders and foremen during actual construction may be maintained with the prior approval of the Architectural Review Committee, which approval shall specify the nature, size, location and permitted duration of such temporary structure.

3.1.17 No Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth; provided, however, that Declarant or the Association may, by appropriate written permit, grant, license, or easement agreement, allow the drilling of wells and the installation of infiltration galleries for the extraction of water. In addition, nothing contained herein shall be deemed to restrict or limit construction of the Well System, including the drilling of wells and installation of all appurtenances thereto by Declarant or the Association.

3.1.18 Vehicles. In addition to the provisions of Section 3.1.4, the use and storage of all vehicles including, but not limited to, gliders, trucks, automobiles, graders, boats, tractors, pickups, mobile homes, trailers, buses, campers, recreational vehicles, bicycles, motorcycles, motor scooters, wagons, sleighs and snowmobiles, shall be subject to the Association's Rules and/or the Buffalo Ridge Estates Design Guidelines, which may prohibit or limit the use thereof within specified parts of the Property, and which may also provide parking and storage regulations and adopt other rules regulating the same.

3.1.19 Construction Activities. This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by Declarant, Developer or any Owner upon the Property, provided that when completed such Improvements shall in all ways conform to this Declaration. Specifically, no such

construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities so long as such construction is (i) pursued to completion with reasonable diligence; (ii) in compliance with applicable federal, state and local laws and ordinances and any rules and regulations adopted pursuant thereto; and (iii) conforms to usual construction practices in the area. In the event of any dispute, a temporary waiver of the applicable provision including, but not limited to, any provision prohibiting temporary structures, may be granted by the Architectural Review Committee; provided that such waiver shall be limited to a reasonable period for such construction. Such waiver may, but need not, be recorded or in recordable form. No construction activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Owner or his family of the Owner's Lot.

3.1.20 Fencing. The Declarant may, but shall not be required to, construct certain entryways, fences, fence pillars or walls on or within the Property. No Owner shall modify, repair, replace, paint or otherwise obstruct any such entryways, fence, fence pillars or walls without the prior written approval of the Architectural Review Committee. The design and location of all fences shall be in accordance with the Buffalo Ridge Estates Design Guidelines and the fence plan and shall be subject to the approval of the Architectural Review Committee.

3.1.21 Animals. The Owner of each Lot may keep two (2) dogs or cats, and a reasonable number of fish or other domestic animals which are bona fide household pets so long as such pet(s) is/are (i) not kept for any commercial purpose; (ii) kept under control at all times; and (iii) not kept in such number or in such manner as to create a nuisance. Notwithstanding anything to the contrary contained in the foregoing, the Board shall have, and is hereby granted, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that any Owner is otherwise in violation of this Section and to take such action or actions as it deems necessary to correct any such violation. It is expressly understood that any Owner's right to keep household pets is coupled with a responsibility for such Owner's pet(s) and accordingly, each Owner of a household pet is financially responsible and liable for any damage caused by such pet.

Livestock shall be restricted to no more than one (1) head per acre or three (3) head per Lot, whichever is greater, and shall at all times be confined by adequate fencing approved by the Architectural Review Committee. For the purposes hereof, Livestock@ includes domestic horses and cows. No poultry, bees, llamas, pigs or other animals shall be kept on the Property.

3.1.22 Fire Protection. Fire protection shall be provided by an approved automatic sprinkler system and shall be installed under NFPA 13D standards, 1994 Edition. The system shall be installed by a state certified company. Approval shall be by a state certified inspector.

3.1.23 Soils Tests/Soil Erosion and Ground Cover. Prior to construction of any Improvements upon the Property, every developer, or builder, or their representative shall engage a licensed engineer to perform soils tests on the Lot or parcel to be developed in accordance with the then existing rules, ordinances, statutes and regulations of the state, county and/or municipality in which the Property or Lot is located and disclosure of the results thereof shall be made as required

by C.R.S. ' 6-6.5-101. Both the soils and foundation investigation report provided by the engineer, and a soil erosion and ground cover plan suited to each site shall be completed prior to construction.

3.2 Exemption of Declarant. Notwithstanding anything in this Declaration to the contrary, during the Period of Declarant Control neither Declarant nor any of Declarant's activities shall in any way be subject to the control of, or under the jurisdiction of, the Architectural Review Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to (I) excavate and grade; (ii) construct and alter drainage patterns and facilities; (iii) construct any and all other types of Improvements; (iv) maintain model homes and construction, sales and leasing offices and similar facilities of a size, and in the locations, determined by the Declarant from time to time (all real estate used for such purposes not designated as a Lot on the Plat is a part of the Common Area); and (v) post signs incidental to construction, sales and leasing, on the Common Area and/or Lots owned by Declarant. Notwithstanding anything to the contrary contained in the foregoing no such activities shall be carried on in such a way as to create a health hazard or unreasonably interfere with the use and enjoyment by any Owner or his family of the Owner's Lot; and once the Declarant ceases to be an Owner, the Declarant will cease to have any rights with regard to any real estate used as a sales office, management office, or model.

3.3 Assignment by Declarant/Transfer of Special Declarant Rights. Notwithstanding any other provision of this Declaration to the contrary, Declarant may delegate, transfer or assign in whole or in part any of its privileges, exemptions, Development Rights and duties under this Declaration (including the Special Declarant Rights) to any other Person and may permit the participation in whole or in part by any other Person in any of its privileges, exemptions, rights and duties hereunder. Without in any way limiting the generality of the preceding sentence, Declarant may in its sole discretion exempt from the control and jurisdiction of the Architectural Review Committee any Developer, or any assignee and successor in interest of all or substantially all of Declarant's interests, rights, and responsibilities in and to the Property. Any such delegation, transfer or assignment must be made in accordance with C.R.S. ' ' 38-33.3-304.

## **ARTICLE 4**

### **ASSOCIATION**

4.1 Organization. The Association is a nonprofit Colorado corporation created for the purposes, charged with the duties, and invested with the powers prescribed by law, the Act, and/or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles, Bylaws nor any Rules promulgated by the Board shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In case of conflict between the Declaration and the Articles, Bylaws and/or Rules, this Declaration shall control.

4.2 Membership and Voting.

4.2.1 Generally. Every Owner (including Declarant) shall be a Member of the Association and shall remain a Member for so long as that Person continues to be an Owner. The Association shall have only one (1) class of Members and each Member shall be entitled to one (1) vote for each Lot owned by such Member. Each Owner's Membership in the Association shall be appurtenant to and may not be separated from ownership of the Lot to which the Membership is attributable. Except as expressly provided in this Article 4, no other voting rights are created by this Declaration.

4.2.2 Multiple Owners. When an Owner consists of more than one (1) Person, while each such Person shall be a Member of the Association, only one (1) of such co-Owners shall be entitled to exercise the single vote to which the Lot is entitled. Fractional votes shall not be allowed. If only one (1) of the co-Owners of a Lot is present at a meeting of the Association, that co-Owner shall be entitled to cast the single vote allocated to that Lot. If more than one (1) of the co-Owners of a Lot are present, the single vote allocated to that Lot may be cast only in accordance with the agreement of a majority of the co-Owners of such Lot. If any one (1) of the co-Owners of a Lot casts a vote allocated to that Lot without the protests being made promptly (i.e., before the end of the meeting of the Association at which such vote was cast) by any of the co-Owners of the Lot to the director presiding over such meeting, then it shall be conclusively presumed that the vote was cast in accordance with the agreement of a majority of the co-Owners of such Lot. No change in the membership of a Member shall be effective for voting purposes until the Board receives written notice of the change together with satisfactory evidence of the change.

4.2.3 Proxies. Votes allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner. If a Lot is owned by more than one (1) Person, each such co-Owner of the Lot may vote or register protest to the casting of votes by the other co-Owners of the Lot through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates 11 months after its date, unless it provides otherwise.

4.2.4 Association Owned Lots. No votes allocated to a Lot owned by the Association may be cast.

4.3 Board of Directors. The affairs of the Association shall be governed by a "Board of Directors" (sometimes referred to as the "Board") which may, by resolution, delegate any portion of its authority to an executive committee or an officer, executive manager or director for the Association. The qualifications and number of directors, the term of office of directors, the manner in which directors shall be elected and the manner in which directors shall be replaced upon removal or resignation shall be as set forth in the Bylaws; provided, however, that the Bylaws shall contain the following provisions:

4.3.1 Subject to Section 4.3.2 of this Section, during the Period of Declarant Control, the Declarant may appoint and remove the officers and members of the executive board.

4.3.2 Not later than 60 days after conveyance of 25% of the Lots that may be created to Owners other than Declarant, at least one (1) member and not less than 25% of the members of the Board must be elected by Owners other than the Declarant. Not later than 60 days after conveyance of 50% of the Lots that may be created to Owners other than Declarant, not less than 33.3% of the members of the Board must be elected by Owners other than Declarant.

4.3.3 Except as otherwise provided in C.R.S. 38-33.3-220(5), not later than the termination of the Period of Declarant Control, the Owners shall elect a Board of at least three (3) members, at least a majority of whom must be Owners other than the Declarant or designated representatives of Owners other than the Declarant. The Board shall elect the officers. The Board members and officers shall take office upon termination of the Period of Declarant Control.

4.3.4 Notwithstanding any provision of the Declaration or Bylaws to the contrary, the Owners, by a 2/3rds vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board with or without cause, other than a member appointed by the Declarant.

4.3.5 Within 60 days after the Owners other than the Declarant elect a majority of the members of the Board, the Declarant shall deliver to the Association all property of the Owners and of the Association held by or controlled by the Declarant including, without limitation, the following items:

4.3.5.1 The original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any Rules and regulations which may have been promulgated;

4.3.5.2 An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the Period of Declarant Control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for, or charged to, the Association.

4.3.5.3 The Association funds or control thereof;

4.3.5.4 All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the Common Areas, and inventories of these properties;

4.3.5.5 A copy of any Plans and Specifications used in the construction of the improvements in the Property which were completed within two (2) years before the Declaration was recorded.

4.3.5.6 All insurance policies then in force, in which the Owners, the Association, or its directors and officers are named as insured persons.

4.3.5.7 Copies of any certificates of occupancy that may have been issued with respect to any improvements located on a portion of the Common Area;

4.3.5.8 Any other permits issued by governmental bodies applicable to Association Property and which are currently in force or which were issued within one (1) year prior to the date on which Owners other than the Declarant took control of the Association;

4.3.5.9 Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective and which relate to Association Property;

4.3.5.10 A roster of Owners and Mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;

4.3.5.11 Employment contracts in which the Association is a contracting party; and,

4.3.5.12 Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services.

4.4 Officers. The Board will select the officers of the Association, which officers may also serve as members of the Board.

4.5 Articles and Bylaws. The purposes and powers of the Association and the rights and obligations with respect to Memberships may and shall be amplified by provisions of the Articles and Bylaws of the Association. Such Articles and Bylaws may include any reasonable provisions with respect to corporate matters including provisions with respect to notices, record dates and quorums for meetings of directors and Members, but no such provisions may be inconsistent with any provision of this Declaration.

4.6 Assessments, Fines and Compliance Expenditures. Each Owner of a Lot shall be obligated to pay and shall pay to the Association, at least annually or when otherwise due and payable, (I) Assessments (including those associated with the Well System); (ii) reasonable and uniformly applied fines imposed by the Association for violation of the Restrictions and Rules adopted by the Association; and (iii) any "Compliance Expenditures" (as defined below). Each Assessment shall be a separate, distinct and personal debt and obligation of the Owner against whose Lot the same is assessed. All Assessments shall be payable in full without offset for any reason whatsoever. The obligation of each Owner to pay Assessments shall be entirely independent of any obligation of the Association to such Owner or of Declarant or any other Owner to such Owner. No

Owner may be exempt from liability for payment of any Assessment by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Lot against which the Assessments are made. Any Assessment that is not paid within 15 days after the same becomes due shall be deemed delinquent. If an Assessment is delinquent, the Association may recover all of the following (collectively, the "Compliance Expenditures"):

4.6.1 Reasonable costs incurred in collecting the delinquent Assessments including, without limitation, reasonable attorneys' fees and court costs;

4.6.2 A late charge in an amount determined from time to time by the Board, but not more than 10% of the delinquent Assessment or \$100.00, whichever is greater; and

4.6.3 Interest on (i) the delinquent Assessment, (ii) the cost of collection described in Section 4.6.1, and (iii) the late charge described in Section 4.6.2, at an annual percentage rate equal to 8% per annum over the prime interest rate charged from time to time by the Norwest Bank of Denver, N.A., adjusted on each day on which there occurs a change in such prime interest rate (provided that the interest rate shall never exceed the maximum allowed by law), commencing 15 days after the Assessment became due.

4.7 Determination of Budgets. The total amount required to be raised by Assessments shall be determined by the Board of Directors of the Association at least once a year and shall be based upon an annual budget to be approved by the Board of Directors and adopted by the Association annually showing, in reasonable detail, the various matters proposed to be covered by the budget, the estimated costs and expenses of the Association, an amount deemed necessary or desirable as a contingency reserve and the total amount required to be raised by Assessments to cover such estimated costs and expenses and contingency reserve. The budget shall cover all costs and expenses expected to be incurred by the Association in performing its functions, or in providing services required or permitted under this Declaration. The budget may be revised as necessary from time to time. Assessments may be raised or lowered by the Board of Directors as required to meet such revised budget. Without limiting the generality of the foregoing, it is expressly understood that the budget (and, accordingly, the Assessments) shall be subject to modification due to the annexation of property to the Property in accordance with the Declaration. Within 30 days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than 14 nor more than 60 days after mailing or other delivery of the summary.

Unless at that meeting a majority (i.e., more than 50%) of all Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Board. Notwithstanding the foregoing, user fees associated with the Well System may be assessed by the Association based on water usage or other reasonable standard on the periodic basis established by the Board irrespective of rejection of a proposed budget.

4.8 Amount of Regular Assessments. A Regular Assessment is defined for purposes of this Section as that sum which must be levied in the manner and against each individual Lot in order to raise the total amount for which the levy in question is being made. Subject to the provisions of this Section 4.8, each individual Regular Assessment shall be equal to each other individual Regular Assessment and, accordingly, each Lot shall be assessed its General Common Allocation (as such allocation is determined by the Board from time to time in accordance with the formulae described in Section 1.1.17). Notwithstanding anything to the contrary contained in the foregoing, it is expressly recognized and understood that owners of undeveloped Lots (i.e., those Lots upon which a single family residence has not been constructed and for which a so-called "Certificate of Occupancy" has not been issued) utilize and benefit from the Common Areas to a lesser extent than Owners of developed Lots (i.e., those Lots upon which a single-family residence has been constructed and for which a Certificate of Occupancy has been issued). In recognition of this fundamental difference and notwithstanding anything to the contrary contained in this Section 4.8, the assessment due and payable from any Owner of an undeveloped Lot shall be 75% of the Regular Assessment otherwise applicable to such Lot until such time as a Certificate of Occupancy is issued in connection with an Improvement constructed upon such Lot. The Association shall levy a Regular Assessment against each Lot effective upon recordation in the Records of the subdivision plat initially creating the applicable Lot. Until the Association levies a Regular Assessment, the Declarant shall pay all expenses of the Association. After any Assessment has been made by the Association, Assessments shall be made no less frequently than annually and shall be based on a budget adopted no less frequently than annually by the Association. In no event, however, shall Declarant have any obligation whatsoever to subsidize or otherwise contribute to a maintenance fund or other contingency reserve to be used to cover future costs and expenses. Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated, as of the date when said obligation first arose, in proportion to the amount of the assessment year or other period remaining after said date.

4.9 Well System and Road Maintenance. In addition to all other assessments (regular and special), the Association shall levy periodic assessments for the use, operation, maintenance, repair, and replacement of the water system and the road system. The Association shall have the authority to make such assessments as it deems necessary on the periodic basis selected in its discretion (i.e. monthly, quarterly, weekly, etc.). In the Association's discretion, assessments (user fees) may be levied based upon water usage or such other standard as the Association may select to ensure and safeguard the water system and its beneficial enjoyment by the Association members.

4.10 Special Assessments. The Association may levy, from time to time, one (1) or more Special Assessments for the purpose of defraying in whole or in part the cost of any construction, restoration, unexpected repair or replacement of a capital improvement or for carrying out the other responsibilities of the Association in accordance with this Declaration. Each Special Assessment shall be allocated among the Owners of Lots in accordance with the provisions of this Declaration. Each Owner shall pay all Special Assessments assessed against such Owner's Lot. The due date for any Special Assessment shall be fixed by the Board.

4.11 Other Matters Relating to Assessments. Subject to the foregoing provisions, the Board of Directors shall have the power and authority to determine all matters in connection with

Assessments including the power and authority to determine where, when and how Assessments shall be paid to the Association and each Owner shall be required to comply with all such determinations.

4.12 Lien for Assessments, Fines and Compliance Expenditures. The Association shall have a lien against each Lot to secure payment of any Assessment (including those associated with the Well System), fine, Compliance Expenditure or other amount due and owing to the Association with respect to the Owner of that Lot. The lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado. The Association shall have the right, but not the obligation, to prepare and record in the Records a "Notice of Lien" which shall set forth (I) the amount of any Assessment, fine, Compliance Expenditure or other amount due and owing to the Association; (ii) the date such amount was due and payable and from which interest accrues; (iii) all costs and expenses including reasonable attorney fees incurred in collecting the unpaid amount to the date of recording of such Notice of Lien; (iv) the Lot affected by the lien; and (v) the name or names, last known to the Association, of the Owner or Owners of the Lot. Notwithstanding anything to the contrary contained herein, the following property shall be exempt from the lien for Assessments created herein: all properties dedicated to, and accepted by, a local public authority and the Common Area.

4.13 Duties and Powers of the Association. Subject to and in accordance with this Declaration, the Association shall have all of the rights and powers conferred upon it by law, the Act, this Declaration, the Articles and the Bylaws. Without limiting the generality of the foregoing, the Association shall have the following powers and shall perform each of the following duties for the benefit of the Members of the Association:

4.13.1 Assessments. To determine, levy and collect Assessments.

4.13.2 Association Property. Subject to the provisions of C.R.S. ' 38-33.3-312, to accept, own, convey, lease, encumber, operate and maintain all Association Property (real and personal) which may be conveyed to it by Declarant (or otherwise acquired by the Association), together with all Improvements of whatever kind and for whatever purpose which may be located in said areas.

4.13.3 Title to Property Upon Dissolution. In the event of dissolution of the Association, the Common Area shall, to the extent permitted by law and where reasonably possible, be conveyed or transferred to an appropriate governmental or quasi-governmental agency or agencies, or to a nonprofit corporation, association, trust or other organization, to be used for the common benefit of the Owners for similar purposes for which the Common Area was held by the Association. To the extent the foregoing is not possible, the Common Area shall be sold or disposed of and the proceeds from the sale or disposition shall be distributed first for the payment of debts and obligations incurred by the Association and then to the Owners in an equitable manner determined by the Board (which determination will be conclusive) based upon each Owner's pro rata portion of the Property.

4.13.4 Repair and Maintenance of Association Property. To maintain in good repair and condition all lands, Improvements, and other Association Property owned, controlled or maintained by the Association.

4.13.5 Maintenance. To maintain the entrance, postal, parking and other Common Areas and Improvements thereon which shall be installed, or otherwise accepted for maintenance by Declarant and, in addition, to maintain certain designated landscaped areas located along and within certain designated primary public rights-of-way and drainage and other easements located on or benefitting the Property.

4.13.6 Maintenance of Fencing. To repair, maintain and replace as necessary any fence or pillars which shall be installed, constructed or otherwise accepted for maintenance by the Declarant on or within the Property which shall include the permanent monument and identification signage (the Association has the right of access to and utilization of utility easements for maintenance of these items).

4.13.7 Payment of Taxes. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by the Association, to the extent that such taxes and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

4.13.8 Insurance. To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount, to comply with C.R.S. ' 38-33.3-313.

4.13.9 Rules. To make, establish and promulgate, and in its discretion to amend or repeal and reenact, such rules, not in contradiction of this Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of Association Property ("Rules"). Without limiting the generality of the foregoing, such Rules may set dues and fees and establish the regulations governing the operation of Association Property and/or Common Areas. Each Member shall be entitled to examine such Rules at any time during normal working hours at the principal office of the Association.

4.13.10 Architectural Review Committee. To appoint and remove members of the Architectural Review Committee as provided in Section 5.2 hereof, and to insure that at all reasonable times there is available a duly constituted and appointed Architectural Review Committee.

4.13.11 Enforcement. To enforce, on its own behalf and on behalf of all Owners, all of the covenants, conditions and restrictions set forth in this Declaration, under an irrevocable power of attorney (hereby granted) coupled with an interest as beneficiary of said covenants, conditions and restrictions, and as assignee of Declarant, and to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of the provisions of these Restrictions or the Buffalo Ridge Estates Design Guidelines.

4.13.12 Management Company. To retain the services of a professional management company to manage some or all of the affairs of the Association provided that (I) such company

shall be licensed to do business in the State of Colorado, to the extent required by law; (ii) the term of any contract for such services shall not exceed one (1) year and shall be terminable on 30 days written notice, with or without cause, and without the payment of a termination fee; and (iii) each and every management contract made between the Association and a manager or managing agent during the Period of Declarant Control shall terminate absolutely and, in any event, no later than 30 days after the expiration of the Period of Declarant Control.

4.13.13 Borrowing. Subject to the provisions of C.R.S. ' 38-33.3-312, to borrow money and to incur indebtedness for the purposes of the Association, and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, mortgages, pledges, hypothecations or other evidences of debt and securities therefor encumbering the Common Area, or portions thereof and/or other Association Property.

4.13.14 Easements. To grant easements, leases, licenses and concessions over the Common Area to serve the Property.

4.13.15 Assignment. To assign its right to future income, including the right to receive assessments.

4.13.16 Well System Rules and Regulations. To promulgate Rules and Regulations for the use, operation, maintenance, and regulation of the Well System including, but not limited to, establishing user fees, permitting criteria, engineering standards, connection and disconnection guidelines. For the purposes hereof, the Association may retain such experts and professionals as in its discretion it deems necessary.

4.13.17 Other. To carry out all duties of the Association set forth in the Restrictions.

4.14 Non-Liability of Officials. To the fullest extent permitted by law, neither Declarant, the Board of Directors, the Architectural Review Committee, or any other committees of the Association or any member thereof, nor any officers, directors, partners, or employees of the Declarant or of the Association, shall be liable to any Owner, Developer, or to the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of Plans or Specifications (whether or not defective), course of action, act, inaction, omission, error, negligence, or the like made in good faith and which Declarant, the Board, or such committees or officers reasonably believed to be within the scope of their respective duties.

4.15 Indemnification. To the fullest extent permitted by law, Declarant, and every director, officer, committee member, partner and shareholder of the Association, the Architectural Review Committee, and of the Declarant (to the extent a claim may be brought by reason of Declarant=s appointment, removal, or control over members of the Board or its control over the Association or any committee thereof) shall be and is hereby indemnified by the Association. Every other person serving as an employee or direct agent of the Association, or otherwise acting on behalf of, or at the request of, the Association may, in the discretion of the Board, be indemnified by the Association. Any such indemnification shall be limited to all expenses and liabilities (including, without limitation, all attorneys' fees and court costs) reasonably incurred by or imposed upon such person in

connection with any proceeding to which he may be a party or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association (or in the case of such Declarant by reason of having appointed, removed, controlled or failed to control members of the Board, or controlled, or failed to control the Association), or incurred in any settlement thereof, whether or not he is a director, officer or member of a committee or serving in such other specified capacity at the time such expenses are incurred.

4.16 Non-Liability for Certain Changes and Amendments. Neither the Declarant, the Association, nor their successors or assigns shall be liable to, or subject to injunction by, any Member or Owner or to one another in the event that any change in zoning of the Property is sought or obtained, or in the event that any subdivision map amendment or change in density shall be sought and obtained including, but not limited to, any change in the Development Plan or in area or density among the various Lots shown on the subdivision maps of the Property.

4.17 Audit. The Association shall provide a financial statement (which may or may not be audited) for the immediately preceding fiscal year, free of charge to the party so requesting, to any First Mortgagee of a Lot, or any insurer or guarantor of such a First Mortgage, within a reasonable time after written request therefor by any such party.

4.18 Association Books and Records. The Association shall make available to Owners, First Mortgagees, and insurers or guarantors of any such First Mortgage, current copies of this Declaration, the Articles of Incorporation, Bylaws, Rules and regulations, books, records, and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal weekday business hours or under other reasonable circumstances.

4.19 Termination of Contracts and Leases of Declarant. The following contracts and leases, if entered into before the Board elected by the Owners pursuant to Section 4.3.3 takes office, may be terminated without penalty by the Association, at any time after the Board elected by the Owners pursuant to Section 4.3.3 takes office, upon not less than 90 days' notice to the other party:

4.19.1 Any management contract, employment contract, or lease of recreational or parking areas or facilities;

4.19.2 Any other contract or lease between the Association and Declarant or an affiliate of Declarant; or

4.19.3 Any contract or lease that is not bona fide or was unconscionable to the Owners at the time entered into under the circumstances then prevailing.

This Section does not apply to any lease the termination of which would terminate the planned community created by this Declaration or reduce its size, unless the real estate subject to that lease was included in the planned community for the purpose of avoiding the right of the Association to terminate a lease under this Section or a proprietary lease.

4.20 Surplus Funds. Any surplus funds of the Association remaining after payment of, or provision for, expenses, costs, obligations and any prepayment of or provision for reserves shall not be credited to the Owners but shall, instead, be added to any reserve accounts maintained by the Association.

## **ARTICLE 5**

### **ARCHITECTURAL REVIEW COMMITTEE**

5.1 Members of Committee. The Architectural Review Committee shall consist always of either three (3) members or five (5) members, which members need not be Members of the Association. The Board may reduce the number of members of the Committee to three (3) and increase it to five (5) as often as it wishes. Each member of the Committee shall hold office until such time as he/she has resigned and his/her successor has been appointed or has been removed, as provided herein. Members of the Committee may be removed at any time without cause.

5.2 Appointment and Removal. The Board shall have the right to appoint and remove all members of the Committee, except that during the Period of Declarant Control, Declarant may appoint and remove all members of the Committee.

5.3 Buffalo Ridge Estates Design Guidelines. The Architectural Review Committee shall have the power to and shall make, establish and promulgate, and in its discretion amend, repeal and reenact rules and/or guidelines substantially in accordance with the Buffalo Ridge Estates Design Guidelines regarding anything relevant to its functions including, but not limited to, minimum design standards, minimum landscaping standards, procedure for the submission of Plans and Specifications for approval and fines or other reasonable penalties for violation of any provision of this Article 5.

5.4 Review of Proposed Construction. Whenever in this Declaration or in any Declaration the approval of the Architectural Review Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which in its sole discretion are relevant. Except as provided in Sections 3.2 and 3.3 above, prior to commencement of any construction of any Improvement on the Property, the Plans and Specifications therefor shall be submitted to the Architectural Review Committee, and construction thereof may not commence unless and until the Committee has approved such Plans and Specifications in writing. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the respective residential area and/or the Property as a whole, and that the appearance of any structure affected thereby will be in aesthetic harmony with the surrounding structures. The Committee may condition its approval of Plans and Specifications on such changes therein as it deems appropriate, and may require

submission of additional Plans and Specifications or other information prior to approving or disapproving the material submitted. The Committee may require a reasonable fee to accompany each application for approval. The Committee may require such detail in Plans and Specifications submitted for its review and such other information as it deems proper. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for approval. Upon certified receipt and acceptance by the Committee of all required Plans and Specifications and other information, the Committee shall have 30 days in which to approve or disapprove such Plans and Specifications in writing. If the Committee fails to approve or disapprove properly submitted Plans and Specifications within such 30-day period, the submitted Plans and Specifications shall be deemed to have been disapproved.

5.5 Meetings of the Committee. The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate one (1) of its members to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 5.11. In the absence of such designation, the vote of the majority of all of the members of the Committee, or the written consent of a majority of all of the members of the Committee taken without a meeting, shall constitute an act of the Committee.

5.6 No Waiver of Future Approvals. The approval or consent of the Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different Person.

5.7 Compensation of Members. The members of the Committee shall be entitled to reasonable compensation from the Association for services rendered, together with reimbursement for expenses incurred by them in performance of their duties hereunder. Such compensation shall be determined by Declarant while it has the right to approve or disapprove the members of the Committee pursuant to Section 5.2 above and thereafter by the Board.

5.8 Inspection of Completed Work. Inspection of completed work and correction of defects therein shall proceed as follows:

5.8.1 Upon the completion of any Improvement for which approved Plans and Specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee.

5.8.2 Within such reasonable time as the Committee may designate but not to exceed 15 days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not done in strict compliance with all approved Plans and Specifications submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such noncompliance within such period, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.

5.8.3 If upon the expiration of 30 days from the date of such notification, the Owners have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. Upon notice, the Board shall determine whether the Owner has failed to comply and, if so, the nature thereof and the estimated costs of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than 45 days from the date of announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an Assessment against such Owner and the Improvement in question and the land upon which the same is situated for reimbursement and the same shall constitute a lien upon such land and Improvement and be enforced as provided in this Declaration.

5.8.4 If for any reason after receipt of such written notice of completion from the Owner, the Committee fails to notify the Owner of the noncompliance within the period provided above in Section 5.8.2 the Improvement shall be deemed to be in accordance with the approved Plans and Specifications.

5.9 Inspection of Work in Progress. The Committee may inspect all work in progress and give notice of noncompliance as provided in Section 5.8.2. If the Owner denies that such noncompliance exists, the procedures set out in Section 5.8.3 shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Board finds that such noncompliance exists.

5.10 Non-Liability of Committee Members. Neither the Committee nor any member thereof nor the Board nor any member thereof shall be liable to the Association or to any Owner or to any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its members or the Board or its members, as the case may be. Except insofar as its duties may be extended with respect to a particular area by a Declaration filed by Declarant or by Declarant and a Developer, as the case may be, the Committee shall review and approve or disapprove all Plans and Specifications submitted to it for any proposed improvement, including the construction, alteration or addition thereof or thereto, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the surrounding residential area and the Property generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building, zoning or other codes.

5.11 Variances. Subject to federal, state and local laws, ordinances, rules and regulations, the Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or the Buffalo Ridge Estates Design Guidelines including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, setbacks, building envelopes, colors,

materials, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations may, in its sole and absolute discretion, warrant. Such variances must be evidenced in writing and must be signed by at least a majority of all of the members of the Committee. If such a variance is granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of this variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the property and particular provision and in the particular instance covered by the variance. It is expressly understood that any variance of the type described in this Section 5.11 relates only to the architectural provisions of this Declaration and/or the Buffalo Ridge Estates Design Guidelines, as applicable, and does not relate to any federal, state and/or local laws, ordinances, rules and/or regulations concerning any of the matters described above.

5.12 Easement for Encroachments. If any portion of the Improvements located on a Lot or the Common Area encroaches upon a Lot or the Common Area, as applicable, including any encroachments arising or resulting from the repair or reconstruction of such an Improvement, a valid easement on the surface and for subsurface support below such surface and for the maintenance of same, so long as it stands, shall and does exist for such encroachment. The easement does not relieve an Owner of liability in case of willful misconduct nor relieve Declarant or any other person of liability for failure to adhere to the Plat.

5.13 Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, employees, and assigns upon, across, over, in, and under the Common Area and a right to make such use of the Common Area as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted or perform pursuant to this Declaration.

5.14 Utilities. There is hereby created a blanket easement upon, across, over, and under the Common Area for utilities and the installation, replacement, repair, and maintenance of utilities including, but not limited to, water, sewer, gas, telephones, electricity and cable television systems, if any. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment, appurtenances on the Property and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, and television wires, circuits, conduits and meters. In the event any utility or quasi-utility company furnishing a service covered by the general easement created herein requests a specific easement by separate recordable document, Declarant reserves and is hereby given the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area without restricting or nullifying the terms hereof; provided, however, that such right and authority shall cease and terminate upon conveyance by Declarant of the last Lot to the first Owner thereof other than Declarant. The easement provided for in this Section 5.14 shall in no way affect, avoid, extinguish, or modify any other recorded easement(s) on the Property.

5.15 Rights of Declarant Incident to Construction. An easement is hereby retained by and granted to Declarant, its successors and assigns, for access, ingress and egress over, in, upon, under, and across the Common Area including, but not limited to, the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to Declarant's construction on the Property.

5.16 Easements Deemed Created. All conveyances of portions of the Property (including Lots) hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 5, even though no specific reference to such easements or to this Article 5 appears in the instrument of such conveyance.

## **ARTICLE 6**

### **AMENDMENT**

6.1 Amendment. Subject to the provisions of Section 6.2, any amendment to this Declaration that would terminate the Declaration shall require the affirmative vote or written consent of the Members to whom at least 75% of the votes in the Association are allocated and, during the Period of Declarant Control, the written approval of Declarant. Further, any termination of this Declaration and the planned community created hereby, must be in accordance with C.R.S. ' 38-33.3-218. Except as provided in the foregoing, and subject to Section 6.2, this Declaration may be amended by the affirmative vote or written consent of the Members to whom at least 67% of the votes in the Association are allocated and, during the Period of Declarant Control, with the written approval of Declarant.

6.1.1 An amendment to this Declaration shall be effective only upon the occurrence of all of the following events:

6.1.1.1 The amendment shall have been reduced to a writing, which writing shall have been approved (by an affirmative vote or written consent) by the applicable required percentage of Members and, if applicable, Declarant and the First Mortgagees;

6.1.1.2 A written certificate, executed and acknowledged by the president or any vice president of the Association, shall be attached to the written amendment which shall state that such amendment was approved by the applicable required percentage of Members, Declarant and by all First Mortgagees, if any, who are required to approve such amendment pursuant to Section 6.2; and

6.1.1.3 The approved written amendment described in Section 6.1.1.1, and including the certificate described in Section 6.1.1.2 shall be Recorded in the Records.

6.1.2 It will be a presumption subsequent to the Recording of an Amendment to this Declaration pursuant to Section 6.1.1.2 that all votes and consents required to pass the same pursuant to this Declaration were duly obtained (at a duly-called meeting of the Association, in the case of votes). Such presumption may be rebutted by an action commenced within one (1) year from the date the amendment is Recorded; in the absence of any such action, such presumption shall thereafter become conclusive.

6.1.3 Except to the extent expressly permitted or required by the Act, no amendment made to this Declaration may create or increase Special Declarant Rights, increase the number of

Lots, or change the boundaries of any Lot or the allocated interests of a Lot, or the uses to which any Lot is restricted, in the absence of unanimous consent of the Owners.

6.2 First Mortgagee Approval. Except to the extent otherwise provided herein, the prior written consent of at least a majority (i.e., more than 50%) of the votes of the First Mortgagees (based upon one (1) vote for each Lot encumbered by a First Mortgage) must be obtained to add or amend any provisions of this Declaration, the Articles, or Bylaws of the Association, which establish, provide for, govern, or regulate any of the following: (i) voting; (ii) Assessments or Assessment liens; (iii) any provisions which are for the express benefit of First Mortgagees; or (iv) any action to terminate this Declaration. Nothing contained in this Section 6.2 may operate to (a) deny or delegate control over the general administrative affairs of the Association by the Owners or the Board; or (b) prevent the Association or the Board commencing, intervening in, or settling any solicitation or proceeding; or (c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds pursuant to C.R.S. ' 38-33.3-313.

6.3 Notice of Action. Upon written request to the Association, identifying the name and address of the First Mortgagee or insurer or guarantor of the First Mortgage and the residence address of the Lot which is subject to such First Mortgage, each such First Mortgagee of a Lot, or insurer or guarantor of such a First Mortgage, shall be entitled to timely written notice of:

6.3.1 Any condemnation or casualty loss which affects a material portion of the Property or any Lot subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or guarantor of a First Mortgage;

6.3.2 Any delinquency in the payment of Assessments or charges owed to the Association by the Owner of the Lot subject to a First Mortgage held, insured, or guaranteed by such First Mortgagee, insurer, or guarantor, or any default by such Owner in any obligation under the Declaration, Articles of Incorporation, or Bylaws of the Association and the Board of Directors of the Association has actual knowledge of such default, when such delinquency and/or default remains uncured for a period of 60 days;

6.3.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; and

6.3.4 Any proposed action which would require the consent of a specified percentage of First Mortgagees as provided in this Article 6.

6.4 Expenses. All expenses associated with preparing and recording an amendment to this Declaration shall be the sole responsibility of the Association; provided, however, that if the particular amendment is required as a result of the Declarant's exercise of its Special Declarant Rights, then all such expenses shall be the sole responsibility of the Declarant.

## **ARTICLE 7**

### **MISCELLANEOUS**

7.1 Term. This Declaration, including all of the covenants, conditions and restrictions contained herein, shall run with and bind the Property up to and including the 25th anniversary of the date of Recording of this Declaration, unless amended as herein provided. After such 25th anniversary, this Declaration, including all covenants, conditions and restrictions contained herein shall be automatically extended for successive periods of 10 years each, unless amended and extinguished by a written instrument approved by the Voting Members to whom at least 90% of the votes in the Association are allocated and recorded in the Records.

7.2 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (other than a Sunday or a legal holiday) after a copy of such notice has been deposited in the United States mail, postage prepaid, addressed to the Person at the address given by such Person to the Association for the purposes of service of notices, or to the residence of such Person if no address has been given to the Association. Such address may be changed from time to time by notice given by such Person to the Association.

7.3 Severability. In the event that any portion of this Declaration shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Declaration shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law.

#### 7.4 Condemnation.

7.4.1 In the event proceedings are initiated by any government or agency thereof, seeking to take by eminent domain the Common Area, any part thereof or any interest therein, with a value (including loss of value to the balance of the Common Area and improvements thereof), as reasonably determined by the Association in excess of Ten Thousand Dollars (\$10,000), the Association shall give prompt notice thereof, including a description of the part of or interest in the Common Area or improvement thereon sought to be so condemned, to all First Mortgagees, all Members, and to the Declarant. The Association shall have full power and authority to defend in said proceedings, and to represent the Owners in any negotiations, settlements, and agreements with a condemning authority for acquisition of the Common Area or part thereof, but the Association shall not enter into any such proceedings, settlement, or agreements, pursuant to which the Common Area or any part thereof or any interest therein, or any Improvement thereon or any part thereof or interest therein, is relinquished, without giving all First Mortgagees, all Members and Declarant at least 15 days' prior written notice thereof.

7.4.2 In the event, following such proceedings, there is such a taking in condemnation or by eminent domain of a part of all of the Common Area, the award made for such taking, if such award is sufficient to repair and restore the Common Area, shall be applied by the Association to such repair and restoration. If such award is insufficient to repair and restore the Common Area, or if the full amount of such award is not expended to repair or restore the Common Area, the Association shall disburse the net proceeds of such award to the Owners, the Owner of each Lot

receiving one (1) equal share, provided that the Association shall first pay out of the share of each Owner the amount of any unpaid liens or encumbrances on his Lot in the order of the priority of such liens or encumbrances. No provision of this Declaration or of any other document relating to the Property shall be deemed to give an Owner or any other party priority over the rights of a First Mortgagee pursuant to a First Mortgage in the case of a distribution to an owner of insurance proceeds or condemnation award for losses to or taking of Lots, Common Area, or any combination thereof.

7.4.3 If a Lot is acquired by eminent domain or part of a Lot is acquired by eminent domain leaving the Lot Owner with a remnant which may not practically or lawfully be used for any purpose permitted by the Declaration, the award must include compensation to the Owner for that Lot and its allocated interests whether or not any Common Areas are acquired. Upon acquisition, unless the decree otherwise provides, that Lot's allocated interests are automatically reallocated to the remaining Lots in proportion to the respective allocated interests of those Lots before the taking. Any remnant of a Lot remaining after part of a Lot is taken under this Section 7.4.3 is thereafter a Common Area.

7.4.4 Except as provided in Section 7.4.3, if part of a Lot is acquired by eminent domain, the award must compensate the Owner for the reduction in value of the Lot whether or not any Common Areas are acquired. Upon acquisition, unless the decree otherwise provides, that Lot's allocated interests shall not be modified; and

7.4.5 If part of the Common Areas is acquired by eminent domain, that portion of any award attributable to the Common Areas taken must be paid to the Association. For the purposes of acquisition of a part of the Common Areas, service of process on the Association shall constitute sufficient notice to all Owners, and service of process on each individual Owner shall not be necessary.

7.4.6 The court decree shall be recorded in every county in which any portion of the Property is located.

7.4.7 The reallocations of allocated interests pursuant to this Section shall be confirmed by an amendment to the Declaration prepared, executed, and recorded by the Association.

7.5 Governing Law. This Declaration shall be governed by, and construed under, the laws of the State of Colorado in existence as of the date of Recording of this Declaration in the Records.

7.6 Exhibits. All exhibits and riders attached hereto shall be deemed incorporated herein by this reference.

7.7 Development Rights and Special Declarant Rights. The Declarant expressly reserves the Development Rights and the other Special Declarant Rights for the maximum time limit allowed by law. Unless sooner terminated by a recorded instrument signed by the Declarant, any Development Right or Special Declarant Right may be exercised by the Declarant for the period of time specified in the Act. The Declarant shall exercise such Development Rights and Special Declarant Rights in accordance with the provisions of the Act including, without limitation, C.R.S. ' 38-33.3-210.

7.8 Rural Covenant. Weld County is one of the most productive agricultural counties in the United States. The rural areas of Weld County may be open and spacious, but they are intensively used for agriculture. Persons moving into a rural area must recognize there are drawbacks, including conflicts with longstanding agricultural practices and a lower level of services than in town.

Agricultural users of the land should not be expected to change their long established agricultural practices to accommodate the intrusions of urban users into a rural area. Well run agricultural activities will generate offsite impacts, including noise from tractors and equipment, dust from animal pens, field work, harvest, and gravel roads, odor from animal confinement, silage and manure, smoke from ditch burning, flies and mosquitoes, the use of pesticides and fertilizers in the fields, including the use of aerial spraying. Ditches and reservoirs cannot simply be moved Aout of the way@ of residential development without threatening the efficient delivery of irrigation to fields which is essential to farm production.

Weld County covers a land area of over 4,000 square miles in size (twice the size of the State of Delaware), with more than 3,700 miles of state and county roads outside of municipalities. The sheer magnitude of the area to be served stretches available resources. Law enforcement is based on responses to complaints more than on patrols of the county and the distances which must be traveled may delay all emergency responses, including law enforcement, ambulance, and fire. Fire protection is usually provided by volunteers who must leave their jobs and families to respond to emergencies. County gravel roads, no matter how often they are bladed, will not provide the same kind of surface expected from a paved road. Snow removal priorities mean that roads from subdivisions to arterials may not be cleared for several days after a major snowstorm. Snow removal for roads within subdivisions are of the lowest priority for public works or may be the private responsibility of the homeowners. Services in rural areas, in many cases, will not be equivalent to municipal services.

Children are exposed to different hazards in the county than in an urban or suburban setting. Farm equipment and oilfield equipment, ponds and irrigation ditches, electrical power for pumps and center pivot operations, high speed traffic, sand burs, puncture vines, territorial farm dogs, and livestock present real threats to children. Controlling children=s activities is important, not only for their safety, but also for the protection of the farmer=s livelihood.

Parents must be responsible for their children.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

MARTIN BROTHERS, LLC

BY: \_\_\_\_\_

Clara Lee Martin, Manager

STATE OF COLORADO                    }  
  } ss.  
COUNTY OF                            }

The foregoing Declaration of Covenants, Conditions and Restrictions for Buffalo Ridge Estates was acknowledged before me this 6th day of August, 1997, by Clara Lee Martin, as manager of Martin Brothers, LLC.

WITNESS MY HAND AND OFFICIAL SEAL:

(S E A L)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR BUFFALO RIDGE ESTATES

EXHIBIT AB@

Identifying Number / Addresses for the Property

Block 1:

- Lot 1.....\_\_\_\_\_ Falcon Drive
- Lot 2.....\_\_\_\_\_ Falcon Drive
- Lot 3.....\_\_\_\_\_ Falcon Drive
- Lot 4.....\_\_\_\_\_ Falcon Drive
- Lot 5.....\_\_\_\_\_ Falcon Drive
- Lot 6.....\_\_\_\_\_ Falcon Drive
- Lot 7.....\_\_\_\_\_ Falcon Drive
- Lot 8.....\_\_\_\_\_ Falcon Drive
- Lot 9.....\_\_\_\_\_ Falcon Drive
- Lot 10.....\_\_\_\_\_ Falcon Drive
- Lot 11.....\_\_\_\_\_ Falcon Drive
- Lot 12.....\_\_\_\_\_ Falcon Drive
- Lot 13.....\_\_\_\_\_ Falcon Drive
- Lot 14.....\_\_\_\_\_ Falcon Drive

Block 2:

- Lot 1.....\_\_\_\_\_ Falcon Drive
- Lot 2.....\_\_\_\_\_ Falcon Drive

- Lot 3..... Falcon Drive
- Lot 4..... Falcon Drive
- Lot 5..... Falcon Drive
- Lot 6..... Meadow Lark Road
- Lot 7..... Pheasant Circle
- Lot 8..... Pheasant Circle
- Lot 9..... Falcon Drive
- Lot 10..... Wren Circle
- Lot 11..... Pheasant Circle
- Lot 12..... Meadow Lark Drive
- Lot 13..... Wren Circle
- Lot 14..... Wren Circle
- Lot 15 ..... Eagle Street
- Lot 16..... Eagle Street
- Lot 17..... Eagle Street

Block 3:

- Lot 1..... Meadow Lark Road
- Lot 2..... Meadow Lark Road
- Lot 3..... Meadow Lark Road
- Lot 4..... Meadow Lark Road
- Lot 5..... Meadow Lark Road
- Lot 6..... Meadow Lark Road

Lot 7..... Meadow Lark Road  
Lot 8..... Dove Circle  
Lot 9..... Dove Circle  
Lot 10..... Dove Circle  
Lot 11..... Dove Circle  
Lot 12..... Meadow Lark Road

Block 4:

Lot 1..... Meadow Lark Road  
Lot 2..... Meadow Lark Road

Block 5:

Lot 1..... Meadow Lark Road  
Lot 2..... Meadow Lark Road  
Lot 3..... Meadow Lark Road  
Lot 4..... Meadow Lark Road  
Lot 5..... Meadow Lark Road  
Lot 6..... Meadow Lark Road  
Lot 7..... Meadow Lark Road

**FIRST AMENDMENT OF THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR BUFFALO RIDGE ESTATES**

Pursuant to Article 6, Section 6.1.1.2 of the Declaration of Covenants, Conditions and Restriction of Buffalo Ridge Estates originally recorded at Reception No. \_\_\_\_\_, in the office of the Clerk and Recorder, Weld County, Colorado, the Declaration of Covenants, Conditions and Restrictions for Buffalo Ridge Estates, are hereby amended as follows:

1. Section 3.1.21 of the Declaration of Covenants, Conditions and Restrictions for Buffalo Ridge Estates shall be replaced in its entirety with the following section:

3.1.21 Animals. The owner of each lot may keep a combination of dogs (no wolves or wolf breeds shall be permitted) and cats such that the total number of such animals shall not exceed five (5) and, of that total, there shall be no more than three (3) dogs or three (3) cats. In addition, the owner of each lot may keep a reasonable number of fish or other domestic animals which are bonafide household pets so long as such pets is/are (i) not kept for any commercial purpose; (ii) kept under control at all times; and (iii) not kept in such number or in such manner as to create a nuisance. Notwithstanding anything to the contrary contained in the foregoing, the Board shall have, and is hereby granted, the right and authority to determine in its sole discretion that dogs, cats or other household pets are being kept for commercial purposes, or are being kept in such number or in such manner as to be unreasonable or to create a nuisance, or that any owner is otherwise in violation of this section and to take such action or actions as it deems necessary to correct any such violation.

Livestock shall be restricted to no more than one (1) head per acre, or three (3) head per lot, whichever is greater, and shall at all times be confined by adequate fencing approved by the Architectural Review Committee. For purposes hereof, Livestock includes domestic horses and cows. No poultry, bees, llamas, pigs or other animals shall be kept on any owner's lot and, under of these Covenants, pot-bellied pigs, snakes, monkeys, exotic breeds or other mammals, reptiles, birds or amphibians deemed inappropriate by the Board in its sole discretion shall not be considered domestic animals or livestock and are prohibited under these Covenants.

If any pet(s) and/or Livestock demonstrates any aggression towards others, or is consistently permitted to run outside of the owner's lot, the Board shall have the authority to require that the owner restrict the animal(s) by placing the same in an approved, fenced run or pen or, in the case of household pets, to restrict the pet(s) to the interior of the home or buildings on the lot. With respect to a first violation hereof, the Board shall provide the owner (by regular mail), with written notice of the violations by pet(s) and/or Livestock (including any tendency to aggression), and the Board's intention to take legal action if the requirements contained in the Board's written notice are not complied with within thirty (30) days of the date of the mailing of the written notice. Upon any failure to fully comply within the notice period, the Board may file the appropriate action in Court and, in any such action, shall be entitled to an order from the Court directing the owner to permanently remove the pet(s) and/or Livestock from the lot, and for an award of the Board's attorney fees and costs incurred in any such action. An owner shall not be entitled to a thirty (30) day written notice from the Board more than one (1) time in any calendar year.

All animals shall be kept within the confines of the lot at all times except, with respect to dogs, cats, horses or cows, when on a leash (or appropriate restraint), and accompanied by the owner of the lot or representative of the owner. It is expressly understood that any owner's right to keep horses or cows, pets and/or Livestock is coupled with the responsibility for such owner's pets and/or Livestock and, accordingly, each owner of a pet and/or Livestock is financially responsible and liable for any damage caused by such animal.

2. Section 3.1.2 of the Declaration of Covenants, Conditions and Restrictions for Buffalo Ridge Estates shall be replaced in its entirety with the following section:

3.2.1 Improvements and Use. Except as provided in Section 3.1.1, no lot shall be improved or used except as a dwelling or structure designed to accommodate no more than a single family and its servants and occasional guests, plus Accessory Buildings, a garage, fencing and such other Improvements as are necessary or customarily incident to a single-family residence. No mobile homes, manufactured homes, double-wide or other trailers shall permitted on any Lot. Notwithstanding the foregoing, factory built homes which comply with all of the requirements set forth in the First Revised Architectural Design Guidelines shall be permitted.

Except as set forth herein, the Declaration of Covenants, Conditions and Restrictions for Buffalo Ridge Estates remains unaltered and effective.

DATED this \_\_\_\_\_ day of March, 1999.

**DECLARANT**  
MARTIN BROTHERS, LLC

By: \_\_\_\_\_  
Clara Lee Martin, Manager

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_                )

The above document is hereby acknowledged before me by Clara Lee Martin, as Manager of Martin Brothers, LLC on this \_\_\_\_\_ day of March, 1999.

Witness my hand and official seal.

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_