

**Section 2.44** Supplemental Plat. "Supplemental Plat" means any land survey plat which is recorded by Declarant for the purpose of annexing the real property described therein to the Common Interest Community, and any recorded amendments to such Supplemental Plat. A Supplemental Plat may include a Final Plat of a Phase of River Valley Ranch, if such Supplemental Plat includes all or part of the Annexable Property and such Annexable Property is made subject in this Declaration by Supplemental Declaration.

**Section 2.45** Town. "Town" means the Town of Carbondale, Colorado.

### ARTICLE 3.

#### GENERAL RESTRICTIONS APPLICABLE TO THE COMMON INTEREST COMMUNITY

It is the intention of Declarant to establish and impose a common and general plan for the improvement, development, use and occupancy of the Common Interest Community, all in order to enhance the value, desirability, and attractiveness of the Common Interest Community and to promote the marketing, development and enjoyment thereof. Accordingly, Declarant hereby declares that the entire Common Interest Community, including but not limited to all Lots, shall be owned, held, used, occupied, improved, altered, maintained, conveyed, leased, encumbered and enjoyed subject to the following covenants, conditions, restrictions, reservations, easements, rights and other provisions, and to the further requirements and restrictions set forth in the Development Standards.

**Section 3.1** Development Control. No Improvements shall be made, done, permitted, located, altered or removed within the Common Interest Community without the prior written approval of the Development Review Committee, except as otherwise expressly provided in this Declaration. No residence, building, structure, fence, wall, landscaping or other Improvement shall be commenced, erected, improved, altered, made or removed without the prior written approval of the Development Review Committee. All subsequent additions to or changes or alterations in any residence, building, structure, fence, wall, landscaping or other Improvement, including exterior color scheme, and all changes in the grade of Lots, shall also be subject to the prior written approval of the Development Review Committee. No changes or deviations in or from the plans and specifications approved by the Development Review Committee shall be made without the prior written approval of the Development Review Committee. Notwithstanding the foregoing, in the event of an emergency or the sudden occurrence of unanticipated conditions which threaten the health, safety or physical well-being of Persons or property within the Common Interest Community, the Executive Board and/or the Development Review Committee shall have the authority (without the prior approvals described above), to take whatever remedial action may be necessary anywhere in the Common Interest Community to protect Persons and property until such time as applicable notice and/or approval procedures can reasonably be utilized.

**Section 3.2** Violation of Law, Insurance, Etc. No Owner, Occupant or person shall do any act or cause or permit anything to be done or kept in or upon its Lot or the Common Areas which would result in the increase of, or cancellation of, insurance maintained by the Association or would be in violation of any federal, state, town or other law, ordinance, regulation or code of any governmental body having jurisdiction, or of any Rule or Regulation promulgated by the Association, or of any provision of this Declaration .

**Section 3.3      General Maintenance of Common Interest Community.**

(a) All property within the Common Interest Community, including without limitation all Lots (including unimproved Lots, and Lots on which Improvements are under construction), Common Areas, Improvements, and landscaping, shall be kept and maintained in a clean and attractive condition and in good order, condition and repair. Except as specifically set forth in this Section 3.3, maintenance, repair, and upkeep of each Lot and the Improvements thereon shall be the responsibility of the Owner of the Lot. This maintenance obligation extends to all lands within the Lot lines, excepting areas or elements to be maintained by the Association as set forth below. Maintenance, repair, and upkeep of Common Areas, including the open space contained in Block G as shown on the Plat, and the Improvements thereon, shall be the responsibility of the Association. The individual Lot Owners and the Executive Board shall each use a reasonable standard of care in providing for the repair, management and maintenance of the properties for which they are responsible so that the entire Common Interest Community will reflect a pride of ownership. If an Owner fails to perform any of such obligations within 10 days following receipt of a written notice from the Executive Board requesting the same, the Executive Board shall have the right to enter upon the Lot of the Owner to cure the violation or otherwise to cause compliance with this provision and to levy and collect a Reimbursement Assessment upon the Owner and its Lot for the costs and expenses incurred by the Association in connection therewith. The Executive Board shall have no right to enter into the interior of a residence without the consent of the Owner except in the case of serious emergency causing imminent danger to Persons or property.

(b) Notwithstanding the foregoing, the Association shall be responsible for (i) maintaining and irrigating the front yards of all Lots in the Common Interest Community, (ii) maintaining the postal kiosks, (iii) periodically repainting or residing the exterior of all residences constructed on such Lots, and (iv) repairing when necessary and periodically replacing the roofs on such residences. Separate bids shall be let by the Association for the performance of each of such responsibilities. The appropriate times for repainting or residing and for roof replacement shall be determined by the Association in the exercise of its reasonable discretion, and in each instance the work shall be performed in a good and workmanlike manner. By its acceptance of a deed therefor, each Owner of a Lot in the Common Interest Community shall be deemed to have granted the Association full right and authority to perform the above-described responsibilities, and a perpetual non-exclusive easement to enter upon the Owner's Lot and the residence thereon from time to time in order to accomplish the same. Said easement is hereby granted and reserved for the benefit of the Association.

**Section 3.4      Residential Use and Occupancy.** Each Lot shall be improved, occupied and used only for single-family residential purposes. Single family occupancy shall mean and shall be strictly limited to occupancy of the residence on a Lot by a family comprised of (a) no more than 2 principal adults, (b) the children of one or both of said principal adults, (c) no more than 2 additional family members (adults or children) who are related by blood to said principal adults, and occasional guests. For purposes hereof, "related by blood" shall mean the following relationships, but no others: Grandparents, parents, brothers and sisters, aunts and uncles, and nephews and nieces.

No structures whatsoever, other than those permitted by the P.U.D. for River Valley Ranch or by other applicable Town of Carbondale zoning regulations and approved in writing by the Development Review Committee, shall be erected, placed or permitted to remain on any Lot. No business, professional or other non-residential or commercial use shall be made of any Lot, or conducted in any residence constructed on a Lot, excepting in-home businesses or occupations which do not involve (i) more than one non-Owner, non-resident employee, (ii) the solicitation or invitation of the general public, or the servicing of customers, and which activities are conducted entirely within the residence, and (iii) do not cause any additional traffic or parking within the Common Interest Community or otherwise create a nuisance for neighboring Lots or the Common Interest Community. No equipment or materials incident to any business or occupation (whether conducted within the residence or elsewhere) shall be kept or stored on any Lot except within the residence, garage, or other outbuilding approved by the Development Review Committee.

**Section 3.5 New Construction Required; No Temporary Buildings or Occupancy.** All Improvements constructed within or placed upon the Common Interest Community shall be new except as provided herein. No used or temporary house, structure, or non-permanent out-building shall ever be placed, erected or allowed to remain within the Common Interest Community except temporary structures or construction trailers used for construction purposes during the construction of a residence, which temporary facilities shall be removed immediately following completion of construction and in any event no later than 18 months following commencement of construction or remodeling unless a written extension is granted by the Development Review Committee. No trailer, incomplete residence or other structure other than a residence completed in accordance with approved plans, shall ever be used or occupied at any time for residential purposes, either temporarily or permanently. No completed residence on a Lot shall be occupied in any manner until all provisions of this Declaration and of the Development Standards and all conditions of development approval have been complied with, and a Certificate of Compliance has been issued pursuant to Section 4.15 below. The work of constructing, altering or remodeling any residence on a Lot or any other Improvement within the Common Interest Community shall be prosecuted diligently from the commencement thereof until the completion thereof.

Notwithstanding the foregoing, used materials and/or structures may be permitted on a Lot if (a) the Owner makes a specific written request to the Development Review Committee for approval of such used materials and/or structures, and (b) the Development Review Committee determines that the criteria set forth in Section 4.9 hereof have been met and specifically approves such request in writing.

**Section 3.6 Building Envelopes.** See the above definition of this term for the general restrictions applicable to Building Envelopes.

**Section 3.7 Development Standards.** All construction and landscaping activities within the Common Interest Community shall be strictly governed by the procedures, standards, guidelines, restrictions and requirements set forth in the Development Standards. A violation of the Development Standards shall constitute a violation of this Declaration and may be enforced in accordance with the terms hereof.

**Section 3.8 Annoying Light, Sound or Odor.** All exterior lighting installed or maintained on any Improvement located on a Lot shall be placed so that the light source is screened or shielded from the residence on any other Lot and from the Common Areas. No

light shall be emitted from any part of the Common Interest Community (including any Lot) which is unreasonably bright or causes unreasonable glare. Without limiting the generality of the foregoing, no spotlights, floodlights or other high-intensity lights shall be permitted within the Common Interest Community without the prior written approval of the Development Review Committee. The Development Standards may contain standards for exterior lighting including, without limitation, standards for hue and intensity.

No sounds shall be emitted from any part of the Common Interest Community (including any Lot) which are unreasonably loud or annoying, and no odor shall be emitted from any part of the Common Interest Community (including any Lot) which is noxious or unreasonably offensive. Again without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells (excepting chimes), or other sound devices, other than security devices used exclusively for security purposes, shall be located or used within the Common Interest Community except with the prior written approval of the Development Review Committee.

The Executive Board, in its sole discretion, shall have the right and authority to determine the existence of any violation of this Section 3.8 including the reasonableness of any light, sound or odor.

**Section 3.9**      **Noxious or Offensive Activities; Nuisances; Construction Activities; Pesticides.** No noxious or offensive activity shall occur or be allowed at any time within the Common Interest Community, nor shall anything be done or placed therein which is or may become a nuisance or cause an unreasonable embarrassment, disturbance, or annoyance to Owners, Occupants, Declarant, the Association, or any other part of the P.U.D. for River Valley Ranch, or which interferes with the peaceful enjoyment or possession and proper use of the Common Interest Community, or any part thereof, by Owners or Occupants, or which interferes with the peaceful enjoyment or possession and proper use of any other part of the P.U.D. for River Valley Ranch by the Owners or Occupants thereof. As used herein, the term "nuisance" shall not apply to any activities of Declarant which are reasonably necessary or appropriate to the development, improvement, maintenance, marketing and/or sale of the Common Interest Community or any part thereof or any other part of the P.U.D. for River Valley Ranch. The Executive Board, in its sole discretion, shall have the right and authority to determine the existence of any nuisance or unreasonable annoyance under this Section 3.9.

Each Owner shall comply with the Rules and Regulations and the requirements of all health authorities and other governmental authorities having jurisdiction over the Common Interest Community. Normal construction activities and parking in connection with the building of Improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration unless they are in violation of the Development Standards or other requirements of the Development Review Committee, but Lots and Common Areas shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved by the Development Review Committee. In addition, construction equipment and building materials may only be stored or kept within the Common Interest Community during and in connection with the construction of Improvements thereon, and then may be kept only in areas approved by the Development Review Committee, which also may require screening of the storage areas. All such equipment and materials shall be removed immediately following completion of construction.

Construction activities in connection with the construction or alteration of Improvements on a Lot shall only be conducted between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, between the hours of 8:00 a.m. and 6:00 p.m. on Saturdays and national holidays, and between the hours of 12:00 noon and 6:00 p.m. on Sundays.

Before the Association or any Lot Owner or Occupant broadcasts or sprays any non-prohibited pesticides or herbicides within the Common Interest Community, at least 48 hours advance notice thereof must be conspicuously posted on the property area to be treated and such notice shall remain posted 14 days after such spraying. A list of pesticides and herbicides that are permitted for residential use within the Common Interest Community will be maintained and posted by the Development Review Committee. The Development Review Committee shall from time to time revise the list periodically to ensure that the list is based on current information regarding pesticides and herbicides.

**Section 3.10 No Hazardous or Unsafe Activities.** No activity shall be conducted on, and no Improvement shall be constructed on, any property within the Common Interest Community which is or might be unsafe or hazardous to any Person or property. Without limiting the generality of the foregoing, and except as allowed below, no explosives, gasoline, or other volatile and/or incendiary materials or devices or any materials deemed hazardous substances under applicable environmental laws, rules, or regulations shall ever be kept, stored, permitted to remain or be released on any Lot or elsewhere within the Common Interest Community. Gasoline or fuel for an Owner's lawn mower, snowblower, and the like may be maintained on an incidental basis on a Lot in an amount not to exceed ten (10) gallons. Similarly, gasoline, fuel and other products necessary in connection with the maintenance of the Common Areas may be stored in enclosed structures on the Common Areas.

**Section 3.11 Outside Burning; Fire Hazards.** No exterior fires shall be lighted or permitted within the Common Interest Community except in a contained barbecue unit while attended and in use for cooking purposes. No Lot Owner shall cause or permit any condition on his Lot which creates a fire hazard or is in violation of fire prevention regulations, or which would increase insurance rates for the Common Areas or for other Lot Owners.

**Section 3.12 No Firearms or Hunting.** The discharge of firearms on any part of the Common Interest Community (including the Lots) is expressly prohibited. Hunting on any part of the Common Interest Community (including the Lots) is expressly prohibited.

**Section 3.13 No Obstruction.** There shall be no obstruction of any easements or drainage, irrigation or water feature systems located upon any Lot or the Common Areas, or any interference with the free use thereof, except such obstruction or interference as may be reasonably required in connection with the construction, maintenance or repair thereof. The Association shall promptly take such action as may be necessary to abate or enjoin any such obstruction or interference, and shall have the right to enter upon a Lot for purposes of removing the same, and any costs incurred by the Association in connection with such abatement, injunctive or corrective activities shall be assessed to the responsible Lot Owner or Owners in the form of a Reimbursement Assessment.

**Section 3.14 No Unsightliness; Clothes Drying; Sporting Equipment; Children's Recreational Equipment.** All unsightly structures, facilities, equipment, objects, and conditions, including sporting equipment (e.g., skis, snowboards, bikes, mountain bikes, kayaks, etc.), or snow removal, garden or maintenance equipment except when in actual use,

shall be kept in an enclosed structure or in a screened area approved by the Development Review Committee. No laundry or wash shall be dried or hung outside any residence, except on clotheslines that are effectively screened from view from other Lots and from all public areas and Common Areas including streets, bike trails, and parks.

Equipment intended for children's recreation use, such as swing sets and slides, must also be approved in advance by the Development Review Committee. Such equipment need not be screened if it is constructed of natural materials such as wood, stone, metal and natural hemp and if it is painted or stained in earthen tones (natural woods, greens, browns, black, etc.). If such equipment is constructed of non-natural materials such as plastic, or if the equipment is other than earthen tone in color, it must be effectively screened from view from other Lots and from all public areas and Common Areas including streets, bike paths, and parks. Playground equipment that is treated with hazardous preservatives, including without limitation arsenic, lead, copper, and chromium, shall be prohibited within the Common Interest Community.

**Section 3.15 Garbage and Trash and Compost Containers.** No refuse, garbage, trash, grass, shrub, or tree clippings, plant waste, scrap, rubbish, or debris of any kind shall be kept, stored, maintained or allowed to accumulate or remain on any Lot or on the Common Areas except temporarily within an enclosed structure within the Building Envelope approved by the Development Review Committee, except that any approved container containing such materials may be placed next to the street on the designated morning of garbage collection and must be returned to its enclosed structure that same day. No garbage containers, trash cans or receptacles shall be maintained in an unsanitary or unsightly condition, and except when placed for pickup they shall not be visible from another Lot or the Common Areas. All such refuse, garbage, trash, plant waste, scrap materials, rubbish and debris shall be promptly removed from the Common Interest Community and shall not be burned thereon. Compost structures and containers may be placed on a Lot or Common Areas in locations and in containers approved by the Development Review Committee, provided that no such structure or container shall be larger than 55 gallons. Garbage structures and containers and compost structures and containers shall also comply with such recommendations as may be made from time to time by the Colorado Division of Wildlife.

**Section 3.16 Vehicle Parking, Storage, Operation and Repair.**

(a) No motor vehicles of any kind and no boats, trailers, campers, motorcycles, snowmobiles, golf carts, or any other similar items shall be parked or stored on the public streets within the Common Interest Community.

(b) No boats, trailers, buses, motor homes, campers (excluding camper shells mounted on pickup trucks), motorcycles, snowmobiles, recreational vehicles, golf carts, trucks, industrial or commercial vehicles (both cabs or trailers), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excluding passenger automobiles and one ton or smaller pickup trucks) shall be parked or stored in or upon the Common Areas or upon a Lot. This restriction shall not prevent the non-commercial washing and polishing or minor routine maintenance of fully operational motor vehicles, together with activities normally incident thereto, provided such maintenance and repairs can be accomplished within one-half day or less. No more than 3 permitted vehicles (passenger automobiles and/or one ton or smaller pick-up

trucks) shall be parked at any time in the driveway of any Lot, except during special occasions and then only for the duration thereof.

(c) Notwithstanding the foregoing, vehicles may be temporarily parked on driveways on Lots and on public streets within the Common Interest Community for loading, delivery or emergency purposes, but only for the time required to accomplish such purpose, and as necessary for the construction or maintenance of Improvements within the Common Interest Community upon compliance with the Development Standards and any conditions imposed by the Development Review Committee.

(d) An "abandoned or inoperable vehicle" shall mean any motorized vehicle which does not display a current motor vehicle license or which has not been driven under its own propulsion for a period of two (2) weeks or longer (excepting otherwise permitted vehicles parked by Lot Owners or Occupants on their Lot driveways while on vacation or during a period of illness), or which does not have an operable propulsion system within the vehicle.

(e) In the event that the Executive Board or the Development Review Committee shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of this Section 3.16, a written notice of violation describing said vehicle shall be personally delivered to the vehicle owner (if such owner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the owner cannot be reasonably ascertained), and if the offending vehicle is not removed within 72 hours thereafter, the Executive Board or Development Review Committee (as the case may be) shall have the right to remove and store the offending vehicle, or cause the vehicle to be removed and stored, at the sole expense of the Owner of the Lot on which the vehicle is located, and to enter upon an Owner's Lot for such purpose, all without liability on the part of the Executive Board or the Development Review Committee.

(f) Snowmobiles, motorcycles, trail bikes, minibikes, dirt bikes, all-terrain vehicles, mopeds and similar vehicles shall not be used or operated (but may be transported on trailers) within the Common Interest Community, except that motorcycles properly licensed for operation on public roads may be used on public roads within the Common Interest Community.

**Section 3.17 Animals.** Except as specifically permitted below or by the Rules and Regulations, no animals, reptiles, primates, fish, fowl or insects of any kind shall be kept, raised, bred, maintained or boarded within or upon any part of the Common Interest Community.

Notwithstanding the foregoing, each Lot shall be entitled to a maximum of no more than two (2) dogs or cats (or one of each) and a reasonable number of other Household Pets, so long as such pets are not kept for any commercial purpose, are not kept in unreasonable numbers, do not cause an unreasonable amount of noise or odor, or do not otherwise become a nuisance to other Lot Owners or Occupants. Household Pets must be fenced or restrained at all times within the Owner's or Occupant's Lot, and shall not be permitted outside such Lot except when leashed and accompanied by the pet's owner or the owner's representative. All Household Pets shall be properly immunized and otherwise maintained and cared for as required by applicable laws.

The Owner of a Lot where a Household Pet is kept, as well as the legal owner of the pet (if not such Owner), shall be jointly and severally liable for any and all damage and destruction caused by the pet, and for any clean-up of streets, sidewalks, Common Areas or other Lots necessitated by such pet.

The Executive Board shall have, and is hereby given, the right and authority to determine in its sole discretion that Household Pets are being kept for commercial purposes, or are being kept in unreasonable numbers, or are causing an unreasonable amount of noise or odor, or are otherwise a nuisance to other Lot Owners or Occupants, or that a Lot Owner or Occupant is otherwise in violation of this Section 3.17, and to take such action or actions as it deems reasonably necessary to remedy the violation. Without limiting the generality of the foregoing, the Executive Board may require the owner or custodian of a dog that barks or howls excessively, or of a Household Pet with other offensive habits, to confine such animal indoors.

**Section 3.18 Equipment, Tanks, Antennae, Satellite Dishes, Etc.** With the exception of temporary window mounted air conditioning units, no heating, air conditioning (including swamp coolers), air movement, wind collection, or refrigeration equipment shall be placed, allowed, or maintained anywhere within the Common Interest Community other than on the ground, and then must be concealed from view and must receive the prior written approval of the Development Review Committee. Temporary window mounted air conditioning units must be placed in windows in the rear of the structure and must also receive the prior written approval of the Development Review Committee. Temporary window mounted air conditioning units shall only be used between June 1 and October 1 of each year and shall be removed from windows at the end of each such season. Window mounted air conditioning units shall be installed and maintained in such a manner so as to minimize the noise from such units on adjoining Lots. Solar power units meeting all governmental guidelines for residential uses may be incorporated into a residence if (a) the solar power unit meets the same architectural criteria as are applied to other Improvements within the Common Interest Community, and (b) the solar power unit is approved in advance by the Development Review Committee. No tanks of any kind, whether elevated or buried, shall be erected, placed or permitted to remain upon any Lot or Common Area except in compliance with applicable federal and state regulations, and then only with the prior written consent of the Development Review Committee. Any approved tank must be located underground or adequately concealed from view by fencing or screening approved by the Development Review Committee. No radio, television or other antennae of any kind or nature, and no device for the transmission or reception of audio, microwave, visual or other signals, including without limitation satellite dishes or receivers, shall be erected, placed or permitted to remain upon any Lot or Common Area except with the prior written approval of the Development Review Committee as to design and location, and then must be adequately fenced or screened in a manner approved by the Development Review Committee. The foregoing notwithstanding, satellite dishes which exceed one meter in diameter shall not be allowed within the Common Interest Community.

**Section 3.19 No Mining or Drilling.** No property within the Common Interest Community shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing water, geothermal resources, oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth, except drilling, exploring for, removing or storing underground water by Declarant or the Association. Nothing contained herein shall be construed to limit the rights of the owners of mineral interests severed from the surface of any portion of the Common Interest Community prior to the recording of this Declaration.



**Section 3.20**     **Excavations.** No excavation or other earth disturbance shall be performed or permitted within the Common Interest Community except in connection with the construction of Improvements, and then only with the prior written approval of the Development Review Committee. Upon completion of construction, openings in the ground shall be backfilled and compacted and all disturbed ground shall be graded and landscaped in accordance with the Development Standards and the requirements of the Development Review Committee.

**Section 3.21**     **No Interference with Waterways or Drainage or Irrigation Systems.** No Lot Owner shall construct, install, maintain or permit any fence or other Improvement or obstruction or plant trees or take any other action which damages or interrupts or interferes in any way with (a) the normal flow of water through and along waterways within the Common Interest Community, (b) any irrigation ditch or lateral or other water collection, storage or distribution system within or serving the Common Interest Community, or (c) normal drainage patterns within the Common Interest Community, subject always to the rights of owners of ditches and other water rights and the requirements of the Development Review Committee.

**Section 3.22**     **Fencing and Gates.** Fencing and gates may be constructed within the Common Interest Community (including the Lots) in compliance with the provisions of the Development Standards, provided the prior written approval of the Development Review Committee has been obtained.

**Section 3.23**     **Tree and Natural Shrub Preservation.** All Improvements within the Common Interest Community shall be located, designed, and constructed so as to preserve and protect trees and natural shrubs. In order to conserve the natural beauty of the area, no existing trees or natural shrubs (e.g., pine, cedar, piñon, other evergreens) may be removed or trimmed except with the prior written approval of the Development Review Committee. This restriction shall not apply to essential clearing by a Lot Owner in connection with the construction of a residence (but not other Improvements) within the Building Envelope within a Lot, provided the prior written approval of the Development Review Committee has been obtained. Any violation of this Section shall subject the offending Lot Owner to such penalties, fines and/or other conditions as the Development Review Committee considers appropriate, including without limitation the withdrawal or modification of previously granted development approvals, or the requirement that replacement trees of equivalent or different size and type be planted and maintained by the Lot Owner.

**Section 3.24**     **Easements; Utility Companies; Underground Utility Lines.** All easements shown on the Plat have been created or reserved for the purposes indicated on such Plat and/or in Article 7 below. No Lot Owner may erect any structure of any type whatsoever in such easement areas, nor may an Owner or Occupant use the surface of such easement areas for any private use, other than landscaping which will not interfere with the use of said easement by the Persons or entities for whose benefit it has been created or reserved and which receives the prior written approval of the Development Review Committee.

With respect to easements created for utility purposes either by the terms of this Declaration or any other recorded agreement or on the Plat, any and all bona fide public and private utility service companies, special utility districts, and owners of interests in ditches shall have the right of access, ingress, egress, and use of such easement areas for the

installation, operation and maintenance of ditch facilities and utility facilities serving the Common Interest Community.

Except as to special street lighting or other above-ground facilities which may be expressly required by the Town, no above-ground utility lines or facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities, and ditches and associated facilities) shall be erected or installed within the Common Interest Community, whether upon Lots, Common Areas, easements, streets, or rights-of-way of any type, either by a utility company, a Lot Owner, the Association, or any other person or entity (including but not limited to any person owning or acquiring any part of the Common Interest Community) and all utility lines and facilities (including but not limited to water, sewer, gas, electricity, telephone, and cable tv) shall be buried underground. Provided, that during the construction of a residence on a Lot the Declarant may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

**Section 3.25 Landscaping.** No landscaping shall be performed on any Lot or on the Common Area unless a landscaping plan therefor has received the prior written approval of the Development Review Committee, and all landscaping shall comply with the Development Standards. A landscaping plan for each Lot must be approved by the Development Review Committee before construction is commenced on the residence on that Lot. In each instance, an approved landscaping plan shall be fully implemented and performed within the 9-month period immediately following (a) the issuance by the Development Review Committee of a Certificate of Compliance for a residence constructed on a Lot, or (b) the approval of the landscaping plan by the Development Review Committee in all instances not involving the construction of a residence on a Lot.

Notwithstanding the foregoing, no review or approval shall be required for the replacement or replanting of the same or similar kind of trees, or plants, or flowers, or other vegetation that has been previously approved by the Development Review Committee for the Lot in question, in the previously approved location therefor. Any substantial change in the type or location of approved landscaping vegetation shall require the further approval of the Development Review Committee.

Landscaping shall be primarily indigenous plant life from a plant list to be established by the Development Review Committee. Lawns shall be of an identical or very similar insect resistant blend of rough grasses naturally occurring in the area and such grasses shall be subject to guidelines promulgated by the Development Review Committee. As provided in Section 3.3 above, the Association shall be responsible for maintaining the front yard area (including lawn) of each Lot and the costs thereof shall be a Common Expense. Irrigation of landscaped areas shall be subject to guidelines promulgated by the Development Review Committee. Except for front yards, which shall be maintained by the Association, each Owner shall diligently maintain, trim, weed, cultivate, husband, protect, preserve and otherwise keep in a healthy and attractive condition the shrubs, trees, hedges, grass, planters, gardens and other landscaping upon the Owner's Lot, including, without limitation, the removal of dead and diseased branches and brush and the performance of other tasks necessary to remove or eliminate material which constitutes or creates a fire hazard or nuisance, and shall keep the Owner's Lot free of any plants listed on the prohibited plant list attached as an Appendix to the Development Standards. Each Owner shall cooperate with the Association in its brush clearing and fire protection husbandry program for reduction of fire hazard within the Common

Interest Community. Each Owner shall also maintain all paved, concrete and other synthetically surfaced areas within the Owner's Lot, including but not limited to, driveway and parking areas, in good condition and repair.

**Section 3.26 Basketball Goals.** Basketball goals or backboards may be permitted on Lots in the Common Interest Community, provided they comply with the Development Standards and receive the prior written approval of the Development Review Committee.

**Section 3.27 Swimming Pools, Spas, and Related Equipment.** Pools, spas or hot tubs may be erected, constructed or installed on Lots within the Common Interest Community, provided they comply with the Development Standards and with Town of Carbondale regulations (including any fencing regulations) and receive the prior written consent of the Development Review Committee. Pools, spas or hot tubs, and related service equipment, may only be located in the rear yards of a Lot, and must be adequately screened from neighboring Lots and streets and from the Common Areas, as approved by the Development Review Committee.

**Section 3.28 Signs and Advertising.** No sign, poster, billboard or advertising device of any kind (including, but not limited to, signs commonly used by contractors, architects and tradesmen and signs advertising an "Open House" for sale or rent) shall be allowed or displayed upon any Lot, Common Area or postal kiosk within the Common Interest Community except: (a) such signs as may be used by the Declarant in connection with the development, marketing and sale of Lots in the Common Interest Community; (b) such signs as may be required by legal proceedings, or the prohibition of which is precluded by law; (c) such signs as may be required for traffic control and regulation of Common Areas; (d) neighborhood monuments (e.g., entrance signs) which are compatible with the architecture of the area and which receive the prior written approval of the Development Review Committee, (e) one "For Sale" or "For Rent" sign on any Lot, which sign must meet the following standards:

- (i) No larger than 10" x 14" in size;
- (ii) Supported by a redwood pole no larger than 2" x 2" in size;
- (iii) Sign face colors being: foreground beige PMS #486c, and background rust PMS #1685c.
- (iv) One-sided and installed parallel to the frontage street (i.e., as a "parallel reader");
- (v) Height no greater than 46" from natural grade to the top of the sign;
- (vi) Located approximately half way between the closest improved public way (street, sidewalk or bike trail) and the first vertical plane of the residence, or in the absence of such vertical plane, then 25 feet from the closest improved public way; and
- (vii) Approved in all other respects by the Development Review Committee;

(f) and signs promoting candidates seeking public office with pertinent information and signs relating to ballot issues with pertinent information subject to the following limitations:

- (i) The maximum sign area shall be 24 inches by 36 inches;
- (ii) Shall be located a minimum of 8 feet from the nearest public street or Common Area;
- (iii) Shall be erected no sooner than 4 weeks prior to the election or other event, and shall be removed within 48 hours after such election or other event.

**Section 3.29 Camping.** No camping shall be allowed within the Common Areas except in areas, if any, that may be designated for such purpose by Declarant or the Association.

**Section 3.30 No Individual Water Wells or Individual Sewage Disposal Systems.** No individual water wells, and no cesspools, septic tanks or other individual sewage disposal systems, shall be drilled, constructed, maintained or permitted to remain within the Common Interest Community, except such water and/or septic systems as may be installed by Declarant or Declarant's successor, assign or agent or the Association to serve the Common Interest Community.

**Section 3.31 Maintenance and Repair of Interior of Residence.** The maintenance and repair of the interior of the residence and of other structural Improvements on a Lot shall be the responsibility of the Lot Owner.

**Section 3.32 Irrigation Systems, Ditches, Laterals, Ponds, and Water Use Obligations.** Declarant hereby discloses that certain irrigation systems, ditches and ditch laterals are currently located or may be constructed within ditch and irrigation easement areas located upon certain Lots and upon Common Areas (collectively referred to as the "Irrigation System"). Declarant further discloses that as of the date of this Declaration, the ownership of any and all water rights carried or to be carried in said Irrigation System is vested in the Town, in the Declarant, or in other owners, and Declarant and the Town have no obligation to transfer ownership of any of such water rights to any Lot Owner or the Association. The water rights owned by the Declarant have been or shall be conveyed to the Town. In no event shall the Association or any Lot Owner be entitled to the right of use of the Irrigation System, or any water flowing through said Irrigation System, except pursuant to a written agreement or license with Declarant, another owner thereof, or an assignee of Declarant pursuant to an operation and maintenance agreement between the Owner of the "Golf Land" (as defined in the Master Declaration of Protective Covenants for River Valley Ranch recorded on September 27, 1996 at Reception No. 498944), pursuant to the Agreement Relating to the Annexation of the Gray Ranch Property and Sopris Ranch Property to the Town of Carbondale, Colorado, recorded on January 16, 1995, in Book 928 at Page 865, both of the Garfield County, Colorado real property records, or as provided in this Declaration or in such other agreement authorized in the above-referenced documents. Furthermore, except as specifically provided below, in no event shall any Lot Owner be entitled to install irrigation facilities, to divert water from the Irrigation System or to make modifications to the Irrigation System for diversion purposes without the prior written approval of the Association. In addition, in no event shall any Lot Owner or the Association obstruct or impede the flow of water through the Irrigation System.

An untreated water Irrigation System shall be designed and built within the Common Interest Community by Declarant for irrigation of Common Interest Community irrigable lands,

including a system for the irrigation of the front yard of each Lot, and shall be transferred to and owned and maintained by the Association.

The Association shall be responsible for irrigating the Common Areas, the roadway shoulders, and the front yard of each Lot, and for maintaining the portion of the Irrigation System that is owned or operated by the Association. All such irrigation shall be accomplished with untreated water from the Irrigation System. Each Lot Owner shall be responsible for the purchase, installation, operation, maintenance, repair, and replacement of the individual irrigation system that serves the side and rear yards on the Owner's Lot, which system shall be owned by the Lot Owner. As part of its maintenance obligation, the Association shall operate and manage the irrigation of each front yard within the Common Interest Community, using the untreated water furnished to each Lot Owner.

Subject to the provisions hereof, the Association shall cause to be made available untreated water for the irrigation of 100% of those portions of each Lot that are not developed and built upon, and each Owner is obligated to irrigate the undeveloped portions of the Owner's Lot (excepting the front yard) with said untreated water. As stated above, the Association will utilize a portion of such water to irrigate the front yard of each Owner's Lot, and the Owner shall irrigate the remainder of the Lot. No outside watering or irrigation shall occur using treated water from the Carbondale municipal water system. The Association shall charge the individual Lot Owners for untreated water used on Lots (including the front yards), as indicated on the water meter for each Lot. Provided, the Association may bill each Lot Owner for a minimum amount of monthly untreated water use (whether or not in fact used) in order to encourage performance of the Owner's irrigation obligation.

The Association shall pay River Valley Ranch Master Association for water usage within the Common Interest Community (excepting the Annexable Property, if annexed to the Common Interest Community), as indicated on a master meter to be located where the Irrigation System enters Block G, such fee to be based on criteria set forth in that certain Water Rights Operating Agreement recorded September 27, 1996 in Book 994 at Page 01 in the Office of the Clerk and Recorder of Garfield County, Colorado.

There will be conservation and use restrictions imposed upon Lot Owners and the Association. Such conservation and use restrictions shall include, without limitation, the following: The hours of irrigation are restricted as follows:

6:00 A.M. to 2:00 P.M. - Open Spaces and odd addresses, and  
2:00 P.M. to 10:00 P.M. - Open Spaces and even addresses.

During years of limited availability of untreated water for irrigation purposes, additional conservation measures may be imposed on all untreated water use if necessary.

All Owners hereby assume any risk involved with respect to the Irrigation System and hereby acknowledge that the Association, the Declarant, the Owner of the "Golf Land", and the Town shall not have any responsibility or liability of any kind to any Owner who incurs any loss, damage, cost or expense arising from or relating to said Irrigation System, including, but not limited to, any loss or damage caused by flooding or the failure to deliver water. In accordance with the foregoing, such Owners, on behalf of themselves and their Occupants, successors and assigns, by acceptance of a deed acknowledge their assent to the provisions

hereof, and hereby release Declarant, the Association, the Owner of the "Golf Land", and the Town, and each of their officers, directors, partners, trustees, members, agents, employees, stockholders, and contractors, from and against any and all obligations, claims, demands, liabilities, costs, expenses, attorneys' fees, or causes of action of any kind whatsoever, whether arising prior or subsequent to the date hereof, whether known or unknown, based upon, arising out of, or in any manner related to the Irrigation System.

**Section 3.33     Restoration of Improvements in the Event of Damage or Destruction.** In the event of damage to or destruction of any Improvement on any Lot, the Owner thereof shall cause the damaged or destroyed Improvement to be promptly restored or replaced to its original condition or such other condition as may be approved in writing by the Development Review Committee, or the Owner shall cause the damaged or destroyed Improvement to be promptly demolished and the Lot to be suitably landscaped, subject to the approval of the Development Review Committee, so as to present a pleasing and attractive appearance. Such Improvements shall be repaired, restored or otherwise demolished and suitably landscaped within such reasonable time frame as may be established by the Development Review Committee.

**Section 3.34     Leases.** All Leases of residences on Lots shall be in writing and shall contain the following terms and conditions:

(a)     The Lease term shall not be less than 3 months, except for one shorter tenancy per calendar year which shall be permitted, and the Lease must cover the entire Lot (i.e. no Leases of bedrooms alone or otherwise covering less than all of the Lot shall be permitted).

(b)     All Leases shall be subject to any rental rate restrictions established by the Executive Board of the Association.

(c)     All Leases shall provide (i) that the terms of the Lease and the tenant's (Occupant's) use of the Lot shall be subject in all respects to the provisions of this Declaration, and the Articles, the Bylaws, and the Rules and Regulations, and the Development Standards, (ii) that the Occupant has received and reviewed copies of said documents, and (iii) that any failure by the Occupant to comply with any of the aforesaid documents, in any respect, shall be a default by Occupant under the Lease and a default by Occupant and Owner under said documents which may be enforced against Occupant and/or Owner by the Executive Board.

(d)     Without limiting the generality of the foregoing, each Lease shall contain a summary of (i) the maximum number of persons that may occupy a residence, as set forth in Section 3.4 hereof, (ii) the rules regarding permitted animals, as set forth in Section 3.17 hereof, and (iii) the rules regarding storage of sporting equipment, as set forth in Section 3.14 hereof.

(e)     Each Owner shall notify the Association immediately upon the leasing of his Lot, and shall provide the Association with a copy of the Lease and with the name and mailing address of the Occupant and the mailing address (if changed) of the Owner.

(f)     Each Owner who leases a Lot shall be responsible for assuring compliance by the Occupant with all of the provisions of this Declaration, the Articles,

the Bylaws, the Rules and Regulations, and the Development Standards, and shall be jointly and severally responsible with the Occupant for any violations thereof by the Occupant.

(g) Each Lease shall expressly provide that the Association (via the Executive Board) shall have the right to give the Occupant written notice that the Occupant is in violation of one or more of the documents listed in subsection (f) above, which notice shall specify a period of time (at least 5 days) in which the Occupant may cure the violation.

**Section 3.35** **Right of Entry.** During reasonable hours and upon reasonable written notice to the Owner or Occupant of a Lot any member of the Development Review Committee, any member of the Executive Board, and any authorized representative of either of them, shall have the right to enter upon and inspect any Lot and the Improvements thereon, except for the interior portions of any occupied residence, for the purpose of ascertaining whether or not the provisions of the Declaration and of the Development Standards have been or are being complied with and such individuals shall not be deemed guilty of trespass by reason of such entry.

**Section 3.36** **Damage by Owners During Construction.** Each Owner is responsible for any damage caused to roads, streets, ditches, fences, trails, natural drainage courses, utilities, Common Areas, or to other Lots, Improvements thereon, during the construction or alteration of Improvements upon the Owner's Lot, including without limitation damage caused by any construction vehicles using the roads or streets within the Common Areas. Damage shall include any degradation in the appearance or condition of such Common Areas or other Lots or Improvements. The responsible Owner shall promptly repair and clean up any such damage, at its sole expense. Each Owner shall also be responsible for any damage caused by utility cuts in roads, washouts and runoff damage caused by failure to properly install culverts, and to promptly repair any such damage. If the Owner fails to repair any such damage within 10 days following receipt of a written notice from the Executive Board requesting the same, the Executive Board shall have the right to perform such repairs on behalf of the Owner, and to levy a Reimbursement Assessment upon the Owner and its Lot to recover the costs thereof.

**Section 3.37** **Restrictions on Resubdivision, Property Restrictions, and Rezoning.** Except as expressly permitted in this Declaration, (i) no Lot shall ever be further subdivided by an Owner into smaller lots or parcels, (ii) no portion less than all of any such Lot, nor any easement or divided interest therein, shall be conveyed, transferred or encumbered by the Owner, and (iii) no Lot may be combined with any other Lot nor the boundary lines adjusted between any two Lots.

(a) Declarant reserves the right to subdivide a Lot, or to subdivide a duplex Lot, or to combine two (2) Lots owned by Declarant, or to adjust or remove boundary lines between Lots owned by Declarant, provided any necessary Town approvals are obtained, all Declaration and Plat amendments required by the Act and/or local land use laws are prepared, executed and Recorded, and the necessary reallocation of Allocated Interests of the Owners is accomplished. The specific requirements for subdividing a duplex Lot are set forth in subsection (b) below. In the case of the subdivision of a duplex Lot into two (2) Lots, each Lot created thereby shall constitute a Lot for purposes of reallocation of Common Expense liability and voting interests. In the case

of the combination of two (2) Lots, such interests shall be reallocated to reflect the fact that two (2) Lots have been eliminated and one (1) Lot created in its place. All costs relating to the foregoing activities shall be the sole responsibility and obligation of Declarant. Declarant's rights under this subsection (a) shall terminate upon the first to occur of (i) the date which is 30 years after the Recording of this Declaration, or (ii) Declarant's relinquishing of these rights by a Recorded instrument.

(b) Subdivision of a duplex Lot (the "Duplex") shall be accomplished by the recording of a Plat Amendment signed by the Town and the Declarant that subdivides the Lot into two Lots along the center of the common wall in the Duplex, and a Duplex Declaration signed by the Declarant (and approved by any lienholder of record) which (i) establishes the Lot designations for the two new Lots created by the Plat Amendment (e.g., Lots 5A and 5B, Block G) and amends the Allocated Interests to reflect the creation of two Lots in place of one Lot, (ii) establishes the respective rights and obligations of the Lot Owners with respect to the insuring, use, maintenance, repair and replacement of common structural elements and utility systems of the Duplex and of exterior surfaces, yard areas and landscaping, (iii) provides for a reasonable allocation between the Lot Owners of the common costs and expenses associated with the Duplex, and (iv) establishes a procedure for billing and paying such common expenses and for collecting the same (including interest) from a delinquent Owner. Master Association Regular and Special Assessments shall, of course, be allocated in accordance with the Allocated Interests.

(c) The boundaries between adjoining Lots may be adjusted by the Owner(s) thereof other than Declarant, if (i) the written consent of the Executive Board is first obtained, in the sole discretion of the Executive Board, (ii) the written consent of the River Valley Ranch Master Association is obtained, (iii) all applicable regulations and codes are complied with and all necessary Town approvals are obtained, (iv) the proposed adjustment does not violate the terms of any document evidencing a security interest in the subject Lots, and (v) all Declaration and Plat amendments required by the Act and/or local land use laws are prepared, executed and recorded. All costs relating to such activity (including the attorneys' fees and costs incurred by the Executive Board in reviewing and acting upon the matter) shall be the sole responsibility and obligation of the Owner(s) applying for the same.

(d) No Owner of a Lot shall grant or convey any easement rights affecting any portion of the Lot without the prior written consent of the Executive Board.

(e) No further covenants, conditions, restrictions or easements shall be recorded by any Owner (except Declarant in the exercise of its reserved rights) or other Person against any Lot without the provisions thereof having been first approved in writing by the Executive Board for consistency with the Declaration and the general plan of development for the Common Interest Community. Any covenants, conditions, restrictions or easements recorded without such approvals being evidenced thereon shall be null and void. This provision does not apply to Mortgages.

(f) No application for rezoning of any Lot, and no application for any variance or special use permit for any Lot (except as may be required by a Plat note), shall be filed with any governmental authority by any Owner (except Declarant in the exercise of any reserved rights) unless the proposed use of the Lot has first been



approved in writing by the Executive Board and the proposed use otherwise complies with the Declaration.

**Section 3.38**     **Health, Safety and Welfare.** In the event any uses, activities, and facilities within the Common Interest Community are deemed by the Executive Board to be an unreasonable annoyance or nuisance, or to adversely affect the health, safety or welfare of Owners or Occupants, the Executive Board may amend the Rules and Regulations in order to appropriately restrict and regulate such uses, activities or facilities within the Common Interest Community. Such rules shall be consistent with the purposes and provisions of this Declaration.

**Section 3.39**     **Municipal Water Service.** Municipal water service is provided by the Town. Municipal water shall not be used for outdoor irrigation uses. Only untreated, non-potable water through the secondary Irrigation System shall be used for irrigation consistent with the provisions of Section 3.32. This provision shall not be subject to amendment by Declarant, its assigns, the Association, or the Owners without the prior written consent of the Town.

**Section 3.40**     **Rules and Regulations; Variances.** The Executive Board may implement the restrictions set forth in this Article 3, or otherwise restrict and regulate the use and occupancy of the Common Interest Community and the Lots by reasonable Rules and Regulations of general application adopted by the Executive Board from time to time. The Executive Board may, in its sole discretion and in extenuating circumstances, grant variances from any of the restrictions set forth in this Article 3 (excepting any such restrictions with respect to which the Development Review Committee has the authority to grant variances under Section 4.17 below), if the Executive Board determines, in its discretion, (a) either (i) that a particular restriction creates a substantial hardship or burden on an Owner or Occupant, which hardship or burden was not caused by said Owner or Occupant, or (ii) that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete, and (b) that the activity permitted under the variance, in the judgment of the Executive Board, will not have any material adverse effect on the Owners and Occupants of the Common Interest Community (including neighboring Lots) and of River Valley Ranch and is consistent with the high quality of living intended to be promoted hereby throughout the Common Interest Community.

When an Owner applies for a variance, the Board must give at least ten (10) days advance written notice of the variance hearing, and of the nature of the variance requested, postage prepaid, by certified mail, return receipt requested, to all Owners of Lots that are situated within a radius of two hundred (200) feet from the center of the Building Envelope for which the variance is sought, at the current address for such Owners reflected in the Master Association files. The applying Owner must provide the Committee with an accurate list of the Owners to be so notified. If the foregoing notice requirements are complied with, it is not necessary that the Owners actually receive the notice that is mailed to them. In addition, at least 10 days advance written notice of the variance hearing must also be given to the River Valley Ranch Master Association.

No variance shall conflict with ordinances or regulations of the Town. If a variance from Town laws or regulations is also required in connection with a matter for which a variance is desired hereunder, it shall be the Owner's responsibility to obtain such Town variance before submitting a variance application to the Executive Board.

**Section 3.41 Declarant Activities.** Nothing contained in this Declaration is intended or shall be construed to prevent or to restrict in any way Declarant's right and ability to develop, improve, maintain, repair, market, sell, lease or dispose of the Lots within the Common Interest Community, including the right to construct Improvements and install signs thereon, all in the complete discretion of Declarant.

**Section 3.42 Limitation of Number of Bedrooms/Persons per Bedroom.** No residence constructed on any Lot shall have more than the maximum number of bedrooms designated for that specific Lot as set forth on the Bedroom Chart attached hereto as Exhibit C. No more than two persons shall regularly sleep in any one bedroom at any time, including adults, children and infants.

#### ARTICLE 4.

##### DEVELOPMENT REVIEW COMMITTEE

**Section 4.1 Establishment of Development Review Committee.** The Association shall have a Development Review Committee, which shall consist of a minimum of three (3) members, one of whom must at all times be an Owner of a Lot in the Common Interest Community. Each of the remaining members shall either be an Owner or Occupant of a Lot in the Common Interest Community, or a local architect, landscape architect or engineer, or a member of a local affordable housing advocacy organization. All members of the Development Review Committee shall be appointed and removed from time to time by the Executive Board in its discretion. A member may be removed by the Executive Board at any time upon written notice, without cause. Subject to the 3-member minimum, the Executive Board may increase or decrease the size of the Development Review Committee from time to time in its discretion. The Executive Board may hire or appoint a secretary for the Development Review Committee, and shall provide appropriate compensation for any such secretarial services.

**Section 4.2 Establishment of Subcommittees.** The Development Review Committee shall have the right but never the obligation to establish one or more subcommittees to perform one or more of the functions of the Development Review Committee. For purposes of this Declaration, all references to the Development Review Committee shall also refer to any subcommittee established by the Development Review Committee. The procedures for establishment of subcommittees, the rights and duties thereof, and the limitations thereon may be established and adopted by the Executive Board from time to time, in its discretion.

**Section 4.3 Meetings and Action of Committee.** The Development Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Development Review Committee may from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may but need not be one of its members) to take any action or perform any duties for or on behalf of the Development Review Committee, except the granting of approval to any Improvements or Builders and the granting of variances. The action of such Committee Representative within the authority of such Committee Representative shall constitute the action of the Development Review Committee. A majority of the members of the Development Review Committee shall constitute a quorum of the Committee. Actions of the Committee may be taken (without a meeting) by the written consent of a majority of the members thereof, or at a meeting at which a quorum is