

**FIRST AMENDMENT
TO THE
NEIGHBORHOOD CHARTER
FOR THE
CARRIAGE HOMES AT STAPLETON**

WHEREAS, McStain Enterprises, Inc. ("Founder") recorded the Neighborhood Charter for The Carriage Homes At Stapleton in the real property records of the City and County of Denver, State of Colorado on July 26, 2005, at Reception No. 2005124939 (the "Charter");

WHEREAS, Section 17.2 of the Charter allows the Founder to unilaterally amend the Charter to comply with the requirements, standards, or guidelines of any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans;

WHEREAS, Section 3.1 of the Charter states that ownership of a Home (as defined in the Charter) includes fee simple ownership of the condominium unit involved, together with an undivided ownership interest in the Common Area within the Neighborhood (as those terms are defined in the Charter);

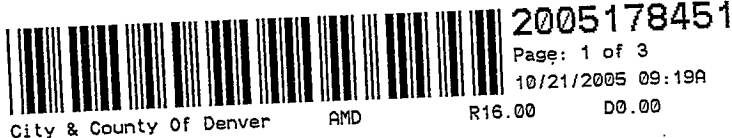
WHEREAS, the Federal Home Loan Mortgage Corporation requires that the Charter set forth the specific undivided interest of each Home in the Common Areas;

THEREFORE, the first paragraph of Section 3.1 of the Charter is hereby amended to read as follows:

Homes. Each condominium unit identified in a recorded condominium map for a portion of the Neighborhood that is intended for separate ownership or occupancy as a residence for a single family is referred to in the Governing Documents as a "Home." Ownership of a Home includes fee simple ownership of the condominium unit involved, together with an equal undivided ownership interest in the Common Area within the Neighborhood. The undivided interest of each Home currently included in the Neighborhood is set forth in Exhibit E attached hereto. Each Home shall be identified by a unique number on a recorded Condominium Map that creates a condominium unit and related Common Areas."

Attached to this First Amendment is the Exhibit E referenced above, setting forth the current undivided interest in the Common Areas of each Home currently included in the Neighborhood.

Please return original to
Catherine Hartings
McStain Neighborhoods
400 Centennial Parkway Ste 2
Louisville, CO 80027



Executed this 17 day of October, 2005.

THE FOUNDER:

McSTAIN ENTERPRISES, INC.,
a Colorado corporation

By: *[Signature]*
Eric A. Wittenberg, President

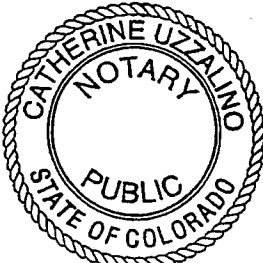
STATE OF COLORADO)
) SS.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 17 day of October, 2005, by Eric A. Wittenberg, as President of McStain Enterprises, Inc., a Colorado corporation.

WITNESS my hand and official seal.

My commission expires: 02/04/2008

[Signature]
Notary Public



My Commission Expires 02/04/2008

EXHIBIT F

UNDIVIDED INTERESTS

<u>Unit Number</u>	<u>Allocated Interest*</u>
8506	1/26th
8526	1/26th
8536	1/26th
8546	1/26th
8626	1/26th
8606	1/26th
8636	1/26th
8646	1/26th
8696	1/26th
8686	1/26th
2301	1/26th
2311	1/26th
2321	1/26th
2331	1/26th
2341	1/26th
2351	1/26 th
2609	1/26 th
2607	1/26 th
9833	1/26 th
9831	1/26 th
9821	1/26 th
9823	1/26 th
9813	1/26 th
9811	1/26 th
9801	1/26 th
<u>9803</u>	<u>1/26th</u>
26 Units	1/26th undivided interest

*The undivided interests attributed to each Home are subject to change as more fully provided in the Charter as new Homes are added to the Neighborhood.



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City & County Of Denver

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NEIGHBORHOOD CHARTER

FOR THE

CARRIAGE HOMES AT STAPLETON



Upon recording, please return to:

Catherine Uzzalino
400 Centennial Parkway
Suite 200
Louisville, CO 80027

Indexing Note: Please index in grantee's index under "Carriage Homes At Stapleton" and "Carriage Homes at Stapleton Association" and in grantor's index under "McStain Enterprises, Inc."

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NEIGHBORHOOD CHARTER

FOR THE

CARRIAGE HOMES AT STAPLETON

PREAMBLE

This Neighborhood Charter ("Charter" or "Neighborhood Charter") establishes a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance, and preservation of the Carriage Homes at Stapleton (the "Neighborhood") within the Stapleton Development located in the City of Denver, Colorado ("Stapleton Community"). An integral part of the development plan is the formation of the Carriage Homes at Stapleton Association ("Association"), a nonprofit corporation, to administer and enforce this Charter and the other Governing Documents referenced in this Charter.

MISSION

The mission of this Charter and the Association is to promote long term value of the Neighborhood and promote harmony and social interaction for the greater good of the Neighborhood.

All those involved in the Neighborhood (including the Founder, Board members, Owners, and those involved in the management of the neighborhood and community) are expected to further this mission by:

- *Treating each other with respect and integrity.*
- *Being in a sustainable partnership with the natural environment.*
- *Being a good neighbor within the broader community.*
- *Maintaining and improving the neighborhood property over time in conjunction with the desires of the residents.*
- *Communicating and sustaining the vision for the neighborhood.*
- *Allowing innovation and evolution to meet the changing needs of the residents of the neighborhood in the context of the original vision of the Founder.*
- *Building community by promoting social interaction.*
- *Being fiscally responsible.*
- *Being organized and communicating in a clear, friendly and positive manner.*
- *Enabling ongoing education for board members, residents, and others involved in the management and operation of the neighborhood.*
- *Encouraging involvement of all residents in community affairs.*
- *Embracing an ongoing relationship between the Founder, the Association, the Owners, and the broader community on community issues.*

DECLARATION

McStain Enterprises, Inc., a Colorado corporation (the "**Founder**"), as the owner of the property described on Exhibit "A," declares that the property described on Exhibit "A" and any additional property made subject to this Charter by supplement or amendment, shall constitute the Neighborhood referred to in this Charter. This Charter shall encumber the title to such property, shall govern the development and use of such property, and shall be binding upon the Founder and the future owners of any portion of such property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter holds any legal, equitable, or beneficial interest in any portion of such property. This Charter shall also be binding upon Association.

PART ONE: INTRODUCTION TO THE COMMUNITY

To accomplish great things, we must not only act, but also dream; not only plan, but also believe.

Anatole France

Chapter 1

Governing Documents

A neighborhood is guided and governed by certain principles that each owner and resident, by choosing to own property or reside in the neighborhood, agrees to uphold. Those principles are set forth in the neighborhood's governing documents, which bind the community together, give it structure, and provide guidance to all who participate in its growth and evolution.

1.1. Scope and Applicability

The Neighborhood is governed by various documents that the Association primarily is responsible for administering and enforcing. These documents are referred to in this Charter as the "**Governing Documents**," which include this Charter and the other documents described in the following Table, as they may be amended. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

GOVERNING DOCUMENTS OF THE ASSOCIATION	
Charter: (recorded)	This Neighborhood Charter, which creates obligations that are binding upon the Association and all present and future owners of property within the Neighborhood.
Supplement: (recorded)	A recorded amendment to this Charter, which submits additional property to this Charter, creates easements over such property, imposes additional obligations or restrictions on property described in the Supplement, designates special areas as described in Chapter 3, or any of the foregoing
Articles of Incorporation or Articles: (filed with Secretary of State)	The Articles of Incorporation of the Association, as they may be amended, which establish the Association as a nonprofit corporation under Colorado law
By-Laws: (Board adopts)	The By-Laws of the Association, adopted by its Board of Directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc.
Rules and Regulations: (initial set attached as Exhibit "C")	The rules of the Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within the neighborhood
Board Resolutions: (Board adopts)	The resolutions which the Association's Board of Directors adopts to establish rules, guidelines, policies, and procedures for internal governance and Association activities and to regulate the operation and use of the property which the Association owns or controls
Condominium Maps:	The condominium maps recorded from time to time establishing the boundaries of the individual condominium units, General Common Areas and Limited Common Areas within the Neighborhood

Governing Documents

The Neighborhood is also subject to the Master Declaration, guidelines and rules and applicable federal, state, and local laws and by the various documents identified in the following Table.

MASTER DOCUMENTS AND APPLICABLE LAWS	
Colorado Laws:	All applicable state and local laws and regulations, including the Colorado Common Interest Ownership Act, the Colorado Non-profit Corporation Act, and the Denver Municipal Code
Master Declaration	The First Amended and Restated Community Declaration for the Project Area within the former Stapleton International Airport, recorded at reception number 2002086362.
Subdivision Plats	The subdivision plats recorded from time to time affecting the Neighborhood, which describe and dedicate various streets, utility easements, and other aspects of the Neighborhood.
Master Guidelines	The design standards, architectural and aesthetics guidelines adopted pursuant to the Master Declarations and within the recorded Amended and Restated Design and Architectural Declaration reception number 2003085598, as they may be amended, which govern new construction and modifications to property in the Stapleton Community, including structures, landscaping and other items.
Master Rules	Any rules adopted by the Master Association pursuant to the Master declaration, which regulate use of property, activities and conduct within the Stapleton Community.
Metro District Agreements	Any agreements now or hereafter entered into between any metropolitan district, the Founder, the developer of the Stapleton Community or the Association that involve property within the Neighborhood

The Master Guidelines and Metro District Agreements are sometimes collectively referred to in this Charter as the "**Master Documents**". The Neighborhood is a "condominium" as defined in the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101, et seq. (the "Act"), and is subject to the provisions of that Act in addition to the provisions of this Charter.

1.2. Conflicts and Ambiguities

If there are conflicts between any of the Governing Documents or the Master Documents and applicable federal, state, or local laws, the applicable laws shall control. If there is a conflict

between any of the Governing Documents and the Master Documents, the Master Documents shall control; provided, the Governing Documents may contain more restrictive provisions and not be in conflict with the Master Documents. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Neighborhood (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents shall control.

Governing Documents

The Governing Documents use diagrams, tables, and keynotes to illustrate concepts and assist the reader. If there is a conflict between any diagram and the text of the Governing Documents, the text shall control.

Space has been set aside throughout this Charter to allow the reader to make notes. Any such notes are not part of this Charter and have no legal or binding effect.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

The Board may, by resolution, resolve any ambiguities in the Governing Documents, and any reasonable interpretation of an ambiguous provision shall be determinative.

1.3. Definitions

Certain terms are defined in this Charter. These terms shall have the meaning described in the paragraph where they first appear in bold print. An index to defined terms is found following the table of contents to this Charter.

1.4. Interpretation of Certain References

Consent or Approval. All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval which, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

Discretion and Determination. All references in the Governing Documents to "**discretion**" or to the right to "**determine**" any matter shall mean the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, any one authorized in the Governing Documents to exercise its discretion or make a

determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

Person. References in the Governing Documents to a "**Person**" or "**Persons**" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

Recording. All references in the Governing Documents to a "**recorded**" legal instrument, or to "**recordation**" or the "**recording**" of a legal instrument, shall refer to an instrument filed or recorded, or the filing or recording of a legal instrument, in the official records of the City and County of Denver, Colorado.

NOTES

Chapter 2

Neighborhood Administration

Vibrant communities depend upon all of their stakeholders working together to uphold the Neighborhood standards and achieve the vision and goals for the community. The Founder, the Association, the owners, and others have a role in the functioning of the Neighborhood and in helping to fulfill that vision. This chapter identifies these stakeholders and describes their roles in administering the Neighborhood.

2.1. The Founder

The Founder has established the vision for the Neighborhood and, through the Governing Documents, has set forth the founding principles that will guide the Neighborhood. The Founder plays an integral part in the Neighborhood during the "**Development and Sale Period**," which is the period of time during which the Founder owns real property in the Neighborhood or has an unexpired option to expand the Neighborhood pursuant to Chapter 14.

The Founder also reserves the right during the "**Founder Transition Period**," to appoint a majority of the members of the Association's board of directors ("**Board**") and to retain a non-voting, advisory seat on the Board for a period of 10 years following the end of the Founder Transition Period, as described in the By-Laws. The Founder Transition period is described in Section 14.3.

2.2. The Association

The Founder has established the Association as the primary entity responsible for administering the Neighborhood in accordance with the Governing Documents. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limits the Board's ability to act with-

out the approval of the Association's members. Unless the Governing Documents or Colorado law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership. A summary of the matters requiring a vote of the membership is contained in Section 4.3.

The Association may exercise all rights and powers that the Governing Documents and Colorado law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

2.3. The Board

The Board shall serve the same role as the board of directors of a nonprofit corporation pursuant to Colorado corporate law and as the "executive board" as defined by the Act. In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances) and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in this Charter and the By-Laws.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Board is not legally obligated to file a lawsuit or institute any other proceeding on behalf of or in

Community Administration

the name of the Association or its members under any circumstances and may exercise its business judgment in deciding whether to take any such action.

2.4. The Owners

Each Person that holds record title to a Home, as defined in Chapter 3, is referred to in the Governing Documents as an "Owner." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Home is sold under a recorded contract of sale and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Home has more than one Owner, all Co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the Neighborhood standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Neighborhood through membership in the Association and through service to the Neighborhood in various committee and leadership roles.

2.5. Secured Lenders

If a Home is made subject to a deed of trust, mortgage, or other form of security instrument ("Deed of Trust"), then the holder or beneficiary of that Deed of Trust ("Secured Lender") also has an interest in the administration of the Neighborhood. The Governing Documents contain various provisions for the protection of Secured Lenders, including those set forth in Chapter 13.

2.6. Master Association

The Association and all Owners are subject to the terms, provision, covenants, restriction of the Master Declaration in addition to this Charter. As provided in the Master Declaration, each owner is automatically a member of the Master Community Association ("**Master Association**"). The Association and all owners shall be subject to the jurisdiction of the Master Association, including, but not limited to, obligation to contribute to Master Association's common expenses and the rights of the Master Association to enforce the Master Declaration.

2.7. Metro District

The Stapleton Metropolitan District (the, "**Metro District**") has been established by the overall developer of the Stapleton Community to provide certain services to the Stapleton Community and the Neighborhood, including maintenance and repair of certain improvements. Those portions of the Neighborhood that will be maintained by the Metro District are set forth in Exhibit "D" attached to this Charter. In order to finance its operations, all Homes are obligated to pay certain assessments levied by the Metro District which will appear on the Owners' real property tax notices.

2.8. Management Company.

The Board is authorized to hire a management company to assist in the management of the Association, on terms and conditions and for such consideration as the Board determines is appropriate.

NOTES

Chapter 3

Neighborhood Structure and Organization

The Neighborhood consists of parcels of property, referred to as Homes, which are intended for the exclusive use of the Owner and other occupants of such parcel, as well as property that is intended for common use. Homes may be assigned to Service Areas to permit the Association to provide special services and benefits to particular areas of the Neighborhood.

3.1. Designations of Properties Comprising the Neighborhood

Homes. Each condominium unit identified in a recorded condominium map for a portion of the Neighborhood that is intended for separate ownership or occupancy as a residence for a single family is referred to in the Governing Documents as a "**Home.**" Ownership of a Home includes fee simple ownership of the condominium unit involved, together with an undivided ownership interest in the Common Area within the Neighborhood. Each Home shall be identified by a unique number on a recorded Condominium Map that creates a condominium units and related Common Areas.

The vertical and horizontal boundaries of each condominium unit are set forth and described in the Condominium Map affecting the Home and, except as inconsistent with the applicable Condominium Map, as set forth in C.R.S. 38-33.3-202. The Common Areas are also set forth on the Condominium Maps affecting the Property. **Common Area.**

Common Area. All property included in a Condominium Map affecting the Neighborhood that is not identified on such map or other Governing Documents as a condominium unit shall be part of the "**Common Areas.**" Portions of the Common Areas may be identified in the Governing Documents as a "**Limited Common Area,**" "**Limited Common Element,**" "**LCE**" or "**LCA**" (collectively, "**Limited Common**

Areas"). Limited Common Areas are portions of the Common Area that are allocated by the Governing Documents for the exclusive use of one or more, but less than all, of the condominium units. The portions of the Common Areas that are not Limited Common Areas are sometimes referred to in the Governing Documents as the "**General Common Area,**" "**GCA,**" "**General Common Elements,**" or "**GCE**" (collectively, "**General Common Areas**").

Area of Common Responsibility. All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, regardless of ownership, are collectively referred to in the Governing Documents as the "**Area of Common Responsibility.**" The Area of Common Responsibility includes the General Common Area, any other portions of the condominium buildings for which the Association has maintenance responsibility under this Charter, and property dedicated to the public, such as public rights-of-way, for which the Association provides landscape maintenance. The Condominium Map(s) will depict the Limited Common Elements and General Common Elements for the portion of the Property involved. Limited Common Elements are appurtenant to, and cannot be separated from, the condominium unit bearing the same number.

Garage Units. The Condominium Map(s) will also depict any garage units within the portion of the Property involved. A garage unit having the same number as a condominium unit is appurtenant to, and cannot be separated from, that condominium unit. Such a garage unit cannot be conveyed or encumbered separate and apart from the condominium unit to which it is appurtenant. Any garage units not bearing a

Community Structure and Organization

number identical to a condominium unit are limited common areas that may be subsequently assigned by the Founder to any other Home within the Neighborhood.

3.2. Creation of Service Areas

Homes may be grouped into "Service Areas." The Homes within a Service Area may receive benefits or services that the Association does not provide to all Homes within the Neighborhood and may be charged a separate Service Area Assessment (as defined in Chapter 11) to pay for such benefits and services.

The Founder may initially designate Service Areas (by name or other identifying designation) and assign Homes to a particular Service Area either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to change Service Area boundaries.

An instrument recorded for the purpose of designating, enlarging, or otherwise revising, Service Area boundaries shall not constitute an amendment to this Charter as defined in the Act, and no consent or approval of any Person shall be required except as specifically stated in this section.

NOTES

Chapter 4

Association Membership and Voting Rights

The Association is a mechanism by which each Owner can participate in the governance and administration of the Neighborhood. While many powers and responsibilities are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in the Owners allow the Owners to participate in administration of the Neighborhood and influence the outcome of major decisions.

4.1. Membership

Any Person holding a membership in the Association is sometimes referred to in this Charter as a "Member." Every Owner, including the Founder, is automatically a member of the Association. However, there shall be only one membership per Home. Thus, if a Home has more than one Owner, all co-Owners of the Home share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws.

4.2. Voting

Each Home is assigned one equal vote, subject to any limitations on voting set forth in this Charter, the By-Laws, and the other Governing Documents.

4.3. Matters Requiring Vote of Members

The Board is the primary entity responsible for managing the Neighborhood and generally may exercise the Association's rights and powers without a vote of the membership. However, the following actions require a vote of the Members;

- Ratification of the Association budget as described in Section 11.2 (e);

- Approval of any Special Assessment as described in Section 11.3;
- Election of the Board and as described in the Bylaws;
- Initial of certain litigation by the Association as described in Section 15.3;
- Certain changes in the Common Areas described in Chapter 16;
- Termination of and certain amendments to this Charter as described in Chapter 17;
- Any other matters requiring a vote of the Members as set forth in the Act, the Governing Documents or the Master Documents.

4.4. Representative Voting and Voting Delegates

The Governing Documents allow for the creation of a representative system of voting whereby a "Voting Delegate" is elected by a Voting District to cast the votes allocated to Homes in that Voting District. The Board may decide at any time, in the exercise of its discretion, to implement the representational voting system. However, implementing the system is not required, and until such time as the Board first calls for election of a Voting Delegate for a particular Voting District, each Owner of a Home shall be considered a "Voting Delegate" under the Governing Documents and may personally cast the vote allocated to such Owner's Home on any issue requiring a vote of the Voting Delegates.

If a Voting Delegate is elected from a Voting District, he or she represents and is responsible for casting all votes allocated to Homes in such Voting District on any matters as to which Voting Delegates are entitled to vote under the Governing Documents. A Voting Delegate may vote all votes it is entitled to cast in its discretion and

Association Membership and Voting Rights

may, but need not, poll the Owners of Homes in the Voting District which he or she represents prior to voting. On any matter, other than election of directors, for which a Voting Delegate is entitled to cast more than one vote, the Voting Delegate may cast all such votes as a block or split them but shall not be entitled to fractionalize any single vote.

Voting Delegates are not Board members and are subordinate to the Board. A Voting Delegate's responsibility and authority does not extend to policymaking or supervising Association governance. Voting Delegates are elected to vote on matters for which Voting Delegates are permitted to vote under the Governing Documents. Voting Delegates, if elected, also are encouraged to attend Board meetings and to communicate to the Board matters of particular concern to the Owners within the Voting District they represent.

4.5. Creation of Voting Districts

The Founder may establish Voting Districts at any time prior to the expiration of the Founder Transition Period by filing with the Association and recording a Supplement identifying the boundaries of each Voting District. The Founder may change the boundaries of any Voting District so created at any time prior to the expiration of the Founder Transition Period by recording an amendment to any previous Supplement setting forth the boundaries of the revised Voting District.

After expiration of the Founder Transition Period the Board, with the approval of Voting Delegates representing a majority of the total votes in the Association, may create one or more Voting Districts, or change the boundaries of existing Voting Districts, by recording a Supplement or amending a previous Supplement

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PART TWO: COMMUNITY STANDARDS

A people that values its privileges above its principles soon loses both.

Dwight D. Eisenhower

Chapter 5

Architecture, Landscaping, and Aesthetic Standards

The Neighborhood derives its unique character from a mix of compatible architectural styles and from the cooperation of all Owners in upholding minimum design, landscaping and aesthetic standards. This chapter explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction and exterior modifications to improvements on the Homes.

5.1. General

All site work, landscaping, structures, improvements, and other items within the Neighborhood which are visible from outside of structures ("**Improvements**") are subject to standards for design, landscaping and aesthetics adopted pursuant to this chapter ("**Design Guidelines**") and the approval procedures set forth in this chapter, except as this chapter or the Design Guidelines may otherwise specify. Any action that penetrates the exterior boundary of a Home or makes any changes to the exterior surface of a building containing a Home is deemed an Improvement for purposes of this Charter and requires pre-approval under this Chapter 5.

Landscaping throughout the Neighborhood is an important unifying element of the Neighborhood. Accordingly, no Owner may alter the nature or character of any landscaping in the Neighborhood that was originally installed by the Founder without obtaining pre-approval under this Chapter 5.

No prior approval is necessary to repaint the exterior of existing Homes using the most recently approved color scheme or to rebuild or restore any damaged structures in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a Home; however, modifications to the interior of screened porches, patios, and any

other portions of a structure visible from outside of the structure do require prior approval.

Approval under this chapter is not a substitute for any approvals or reviews required by the City of Denver or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters.

This chapter shall not apply to the Founder's design and construction activities or to the Association's design and construction activities during the Founder Transition Period, or to the Association's maintenance or repair of any portion of the Area of Common Responsibility.

The review and approval requirements set forth in this chapter are in addition to, and not in lieu of, architectural review and approval requirements set forth in the Master Declaration.

5.2. Design Review Authority

(a) **Founder.** The Founder shall have exclusive authority to review and act upon all applications for review of proposed Improvements until the later of (i) the expiration of the Development and Sale Period, or (ii) such time as a certificate of occupancy has been issued for all Homes planned for the property described in Exhibits "A" and "B". The Founder may designate one or more persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, the Founder and its designee act solely in the Founder's interest and owe no duty to any other Person.

From time to time, the Founder may delegate any or all of its rights under this chapter to other Persons or committees, including the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Founder's right to

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revoke such delegation at any time and reassume its prior control, and (ii) the Founder's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable. So long as the Founder has any rights under this chapter, the jurisdiction of others shall be limited to such matters as the Founder specifically delegates.

(b) *Design Review Committee.* Upon the Founder's delegation of authority pursuant to Section 5.2(a), or upon expiration or termination of the Founder's rights under this chapter, the Board shall appoint a Design Review Committee ("**Design Review Committee**" or "**DRC**") to assume jurisdiction over matters within the scope of the delegated authority or this chapter, respectively. The DRC shall consist of at least three, but not more than seven, persons, who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. The Association may compensate DRC members in such manner and amount, if any, as the Board may determine appropriate.

Until expiration of the Founder's rights under this chapter, the DRC shall notify the Founder in writing within three business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this chapter. A copy of the application and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the DRC.

Unless and until such time as the Founder delegates all or a portion of its reserved rights to the DRC or the Founder's rights under this chapter terminate, the Association shall have no jurisdiction over architectural matters.

(c) *Reviewer.* For purposes of this chapter, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer.**"



Initially, the Founder reviews applications for proposed Improvements. Thereafter, the Board of Directors will appoint a Design Review Committee to review applications for proposed improvements. The Founder or the Design Review Committee is referred to as the "Reviewer."

5.3. Guidelines and Procedures

(a) *Design Guidelines.* The Founder may prepare the initial Design Guidelines, which may contain general provisions applicable to the entire Neighborhood as well as specific provisions that vary among uses or locations within the Neighborhood. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Founder shall have sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2(a). The Founder's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the DRC, unless the Founder also delegates the power to amend to the DRC. Upon termination or delegation of the Founder's right to amend, the DRC may amend the Design Guidelines with the Board's consent.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall

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be no limitation on the scope of amendments to the Design Guidelines, and such amendments may eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and their contractors upon request and may charge a reasonable fee to cover costs of printing or reproduction. In the Founder's discretion, such Design Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Unless the Design Guidelines provide otherwise, no activities within the scope of this chapter (as described in Section 5.1) may begin on any portion of the Neighborhood until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to review so long as they are made in good faith and in accordance with required procedures.

The Reviewer shall make a determination on each application after receipt of a completed ap-

plication with all required information. The Reviewer may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Reviewer may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application no later than 45 days after its receipt of a completed application and all required submissions; however, with respect to any DRC determination subject to the Founder's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 60 days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

No approval shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.5.

As part of any approval, the Reviewer may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer, in its discretion, grants an extension in writing.

The Reviewer may exempt certain activities from the application and approval requirements of this chapter, if such activities are undertaken in

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compliance with the Design Guidelines and the Community-Wide Standard.

5.4. No Waiver of Future Approvals

The people reviewing applications under this chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may elect not to require changes to objectionable features. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.5. Variances

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or justify a variance; however, the Reviewer is not obligated to grant a variance under any circumstances. No variance shall (a) be effective unless in writing; or (b) prevent the Reviewer from denying a variance in other circumstances. A variance requires the Founder's written consent during the Development and Sale Period.



When unusual circumstances exist that make it difficult to comply with a particular requirement of the Design Guidelines, the Owner may file a request with the Reviewer to be excused from complying with such requirement. The Reviewer has the discretion to determine when a variance is appropriate.

5.6. Limitation of Liability

This chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Neighborhood; they do not create any duty to any Person. Review and approval of any application pursuant to this chapter may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Founder, the Association, its officers, the Board, any committee, and any member of any of the foregoing, shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Founder has approved or featured such contractor as a builder in the Neighborhood; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Home. In all matters, the Association shall defend and indemnify the Board, the DRC, and the members of each, as provided in the By-Laws.

5.7. Certificate of Compliance

Any Owner may request in writing that the Reviewer issue a certificate of compliance certifying that there are no known violations of this chapter or the Design Guidelines. The Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association

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from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

5.8. Master Design Guidelines.

The requirements of this Chapter 5 are in addition to the requirements set forth in the design standards, architectural and aesthetics guidelines adopted pursuant to the Master Declarations and within the Master Guidelines. The Master Guidelines which govern new construction and modifications to property in the Stapleton Community, including structures, landscaping and other items. Each Owner is obligated to obtain any approvals required from the Master Association Residential, Renovation, Remodeling Committee pursuant to the Master Guidelines, in addition the approval from the DRC required under this Chapter 5. Approval by the DRC does not insure approval under the Master Guidelines.

NOTES

Chapter 6

Maintenance, Repair, and Replacement

One of the benefits of owning property in a planned community is the commitment among neighbors to maintain their property in a neat, attractive, and well-landscaped condition to enhance the overall beauty and aesthetic appeal of the Neighborhood. One of the benefits of the Association is to provide a means to maintain the Area of Common Responsibility so as to relieve individual Owners from such responsibilities. This chapter describes the responsibilities of the Owners, Association, Master Association, Metro District and the City for maintenance and repair of various portions of the Neighborhood.

6.1. Community-Wide Standard

All property and improvements within the Neighborhood shall be maintained to the "**Community-Wide Standard.**" The Community-Wide Standard is the highest of: (a) the standard of use, conduct, maintenance, architecture, landscaping, or aesthetic matters generally prevailing in the Neighborhood, (b) the minimum standards described in this Charter, the Rules and Regulation, and Board resolutions, or (c) the minimum standards established in accordance with the Master Documents.

The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the Board's discretion. The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as the Neighborhood matures.

6.2. Allocation of Maintenance Responsibilities

The responsibility for maintaining property within the Neighborhood is allocated among and between the Owners, the Association, the Metro

District, the Master Association, the City and County of Denver and third parties in the manner set forth in Exhibit "D" attached to this Charter, as such Exhibit may be modified from time to time. The Board may modify Exhibit "D" from time to time by a unanimous vote of the directors, which modification may, but need not be recorded to be effective. Such changes shall not be deemed an amendment of this Charter for purposes of the Act. Any such amendment that affects the City or County of Denver, the Metro District or the Master Association also requires their consent, and the consent of the Founder must be obtained in writing during the Development and Sale Period. Any such modification to Exhibit "D" shall not be deemed an amendment to this Charter under the Act, nor require a vote of the Owners.

Except as otherwise specifically provided, and subject to compliance with the Community-Wide Standard, the Board may decide upon the parameters of any maintenance for which it is responsible (*i.e.*, how often a particular service is provided; the order of priority of areas served; etc.).

In addition to property for which it is allocated maintenance responsibility under Exhibit "D", the Association may maintain other property it does not own if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

For a 10-year period following the end of the Founder Transition Period, the Association shall prepare and provide to the Founder a bi-annual

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maintenance report describing the general state of the Areas of Common Responsibility, any major repair items from the previous year, and any maintenance charges or unusual maintenance items anticipated for the coming year.

6.3. Maintenance and Repair of Party Walls and Similar Structures

(a) Each wall, fence, driveway, or similar structure built as part of the original construction on the Homes that serves and/or separates any two adjoining Homes shall be considered a party structure. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who use the party structure.

(b) If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, the Owner of any Home served or separated by such structure may restore it and seek contribution for restoration costs in equal proportions from the Owners of other Home so served or separated. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(c) Any Owner's right to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(d) To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute concerning a party structure shall be subject to the provisions of Chapter 15.

6.4. Snow Removal

The respective areas for which the Association, the Owners, the City of Denver, the Master

and the Metro District are responsible for snow removal are set forth on the maintenance chart attached hereto as Exhibit "D". The Board shall have discretion to determine how often and under what conditions snow will be removed from the areas for which the Association has snow removal responsibility. No Owner may bring an action for damages or personal injury against the Association, the Board, or any director based on the failure of the Association to properly remove snow from the areas assigned to the Association for snow removal.

6.5. Responsibility for Repair and Replacement

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

In the event of damage to or destruction of any portion of the Neighborhood, including any portion of a Home, for which the Association has insurance responsibility under Chapter 10, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged improvements for which it has insurance responsibility, and utilize insurance proceeds for such purpose, unless

(a) the Neighborhood is terminated as provided in the Act;

(b) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety; or

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(c) 67% of the Owners and every Owner of a Home that will not be rebuilt vote not to rebuild.

No Secured Lender shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed, except that prior to the conveyance of any Home to an Owner other than the Founder, the Association need not repair or reconstruct if the Secured Lender of the damaged portion of the Neighborhood rightfully demands all or a substantial part of the insurance proceeds.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain and place in a capital improvements account for the benefit of all Owners any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. Any insurance proceeds attributable to Homes that are not rebuilt must be distributed to the Owners of such Homes, or to Secured Lenders, as their interests may appear. This is a covenant for the benefit of Secured Lenders and may be enforced by the Secured Lender of any affected Home.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Owners, levy Special Assessments to cover the shortfall either, in the Board's discretion, against all Owners responsible for the premiums for the applicable insurance coverage under Section 10.4, or only against the Owners of those Homes being repaired or reconstructed.

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Chapter 7

Use and Conduct

In order to maintain an environment that encourages respect for and courtesy among neighbors and minimizes the potential for disputes, this chapter sets forth basic standards regarding use, occupancy and transfer of interests in the Neighborhood. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct and activities within the Neighborhood to address particular needs and desires of the Neighborhood over time.

7.1. Use, Occupancy, and Transfer of Interests in Homes

(a) Residential and Related Uses. Homes may be used only for residential and related purposes, except as the Founder may otherwise authorize with respect to construction, marketing and sale activities of the Founder and its designees. A business activity shall be considered "related" to a residential use and thus permitted under this Section only if conducted by a person or persons residing in the Home and only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve regular visitation of the Home by employees who do not reside in the Home, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Neighborhood; and

(iv) is consistent with the residential character of the Neighborhood and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

(b) Leasing. Leasing a Home for residential purposes shall not be considered a "business" within the meaning of this subsection, provided that the Owner and any other Owners with whom such Owner is affiliated do not collectively lease or offer for lease more than two Homes at any time. This provision shall not preclude an institutional lender from leasing one or more Homes upon taking title following foreclosure of its security interest in the Home or upon acceptance of a deed in lieu of foreclosure. For purposes of this Charter, the terms "Lease" and "Leasing" shall refer to the regular, exclusive occupancy of a Home by any Person other than the Owner, for which the Owner receives any consideration or benefit.

Any Home that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a Home may not be separately leased.

All leases shall be in writing, shall be for a minimum term of 30 days, and shall disclose that the tenants and all occupants of the leased Home are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

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Within 10 days of a lease being signed, the Owner of the leased Home shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner must give the tenant copies of the Governing Documents. In addition to, but consistent with this subsection, the Association or the Board may adopt Rules and Regulations governing leasing and sub-leasing.

(c) *Transfer of Title.* Any Owner desiring to sell or otherwise transfer title to his or her Home shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

(d) *Subdivision and Combination of Homes.* No Person other than the Founder and Persons specifically authorized by the Founder shall subdivide any lot or change the boundary lines of any lot or combine Homes without the Board's prior written approval. Any subdivision shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Home(s). In the absence of such recorded instrument, adjacent Homes owned by the same Owner shall continue to be treated as separate Homes for purposes of voting and assessment, and the Owner of such adjacent Homes shall be responsible for separate assessments for each such Homes.

(e) *Timesharing.* No Home shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Home rotates among participants

in the program on a fixed or floating time schedule over a period of years.

7.2. Rules and Regulations; Authority and Procedures for Change

The Governing Documents establish a framework of covenants and conditions that govern the Neighborhood. The initial Rules and Regulations attached as Exhibit "C" are a part of that framework. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Neighborhood. Therefore, the Board and the Owners are authorized to change the Rules and Regulations in accordance with the following procedures, subject to the limitations set forth in Section 7.3. Such changes to Exhibit "C" shall not be deemed an amendment of this Charter for purposes of the Act.

(a) *Board Authority.* Subject to the notice requirements in Section 7.2(c) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its Members, the Board may adopt new Rules and Regulations and modify or rescind existing Rules and Regulations by a two-thirds vote of the directors at any Board meeting.

(b) *Membership Authority.* Subject to the notice requirements in Section 7.2(c), Voting Delegates representing two-thirds of the votes in the Association may also adopt new Rules and Regulations and modify or rescind existing Rules and Regulations at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rules or Regulation was adopted. However, during the Development and Sale Period, any such action shall also be subject to the Founder's approval.

(d) *Effective Date.* A change to the Rules and Regulations adopted under this Section shall take effect 30 days after the date on which written notice of the change is given to the Owners.

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(e) *Conflicts.* No action taken under this Section shall have the effect of modifying or repealing any provision of this Charter other than the Rules and Regulations. In the event of a conflict between the Rules and Regulations and any provision of this Charter (exclusive of the Rules and Regulations), the Charter shall control.



Since it is impossible to foresee all potential situations and problems that may arise within the community, the Board and the Owners have the authority to adopt and modify rules as needed to address these changing circumstances.

7.3. Protection of Owners and Others

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules and Regulations set forth in Exhibit "C," all Rules and Regulations shall comply with the following provisions:

(a) *Similar Treatment.* Similarly situated Homes shall be treated similarly.

(b) *Displays.* No Rule or Regulation shall prohibit an Owner or occupant of a Home from displaying political, religious, or holiday symbols and decorations on his or her Home of the kinds normally displayed in residential neighborhoods, nor regulate the content of political signs except content or graphics which the Board deems to be obscene, vulgar, or similarly disturbing to the average person. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from outside the Homes, including reasonable limitations on size and number.

(c) *Household Composition.* No Rule or Regulation shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Home size and facilities and its fair share use of the Common Area.

(d) *Activities Within Homes.* No Rule or Regulation shall interfere with the activities carried on within a Home, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Home, or that are an unreasonable source of annoyance.

(e) *Allocation of Burdens and Benefits.* No Rules or Regulation shall alter the allocation of financial burdens among the various Homes or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. This provision does not affect the right to increase the amount of assessments as provided in Chapter 11.

(f) *Leasing and Transfer of Homes.* No Rules or Regulation shall prohibit leasing or transfer of any Home or require approval prior to leasing or transferring a Home. The Rules and Regulations may require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

(g) *Abridging Existing Rights.* No Rule or Regulation shall require the disposal of personal property kept in or on a Home in compliance with the Rules and Regulations in effect at the time such personal property was brought onto the Home. This exemption shall apply only during the period of such Owner's ownership of the Home and shall not apply to subsequent Owners who take title to the Home after adoption of the Rule or Regulation.

(h) *Reasonable Rights to Develop.* No Rule or Regulation may unreasonably interfere

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with the Founder's ability to develop market and sell property in the Neighborhood.

(i) *Interference with Easements.* No Rule or Regulation may unreasonably interfere with the exercise of any easement.

(j) *Compliance with Laws.* No Rule or Regulation shall violate the provisions of any applicable state, federal or local laws, including but not limited to the provisions of the Act and Senate Bill 05-100.

7.4. Owners' Acknowledgment and Notice to Purchasers

By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Home is limited and affected by the Rules and Regulations, which may change from time to time. All Home purchasers are hereby notified that the Association may have adopted changes to the Rules and Regulations and that such changes may not be set forth in a recorded document. A copy of the current Rules and Regulations and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

7.5. Changes in Development Plan

Each Owner acknowledges that the development of the Neighborhood is likely to extend over many years, and agrees that the Association shall not engage in, or use Association funds to support, any protest, challenge, or other form of objection to changes in uses or density of property within the Neighborhood, without the Founder's prior written consent.

7.6. View Impairment

Neither the Founder nor the Association guarantee or represent that any view over and across any property within or outside of the Neighborhood will be preserved without impairment. Neither the Founder nor the Association shall have any obligation to relocate, prune,

or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Association shall have the right to add trees and other landscaping to the Common Area. There shall be no express or implied easements for view purposes or for the passage of light and air.

NOTES

Chapter 8

Compliance and Enforcement

The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Neighborhood. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Neighborhood to comply with them, and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This chapter sets forth the obligation to comply and the remedies available to the Association for noncompliance.

8.1. Compliance

Every Owner, occupant, and visitor to a Home must comply with the Governing Documents and shall be subject to sanctions for violations as described in this chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants of or visitors to their Homes and for any damage to the Areas of Common Responsibility that such occupants or visitors cause.



All Owners are required to abide by the Governing Documents. If an Owner fails or refuses to obey the Governing Documents the Owner may be subject to various penalties including fines and the loss of the right to use the Common Area.

8.2. Remedies for Non-Compliance

Subject to the dispute resolution procedures required under Chapter 15, the Association and the Founder shall have the right to file a suit in law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those listed below and any others described elsewhere in the Governing Documents.

(a) Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may:

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Home. In the event that any occupant, guest, or invitee of a Home violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(ii) suspend an Owner's right to vote (except that no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Base or Special Assessment);

(iii) suspend services the Association provides (except that no notice or hearing is required if the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association);

(iv) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

(v) without liability to any Person, preclude any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Governing Documents or Master Documents from continuing or performing any further activities in the Neighborhood;

(vi) levy Specific Assessments to cover costs the Association incurs in bringing a Home

into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(vii) record a notice of violation with respect to any Home on which a violation exists.

(b) Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation on a Home in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Home that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner fails to take action as required pursuant to Section 8.2(b)(iii) within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(v) bring a suit at law for monetary damages or in equity to stop or prevent any violation, or both.

8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4. Attorneys Fees and Costs

In any action to enforce the Governing Documents, the prevailing party, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action, subject to the provisions of the Act.

8.5. Enforcement of Ordinances.

The Association may, but shall have no obligation to, enforce applicable city and county ordinances.

PART THREE: ASSOCIATION OPERATIONS

Do what you can, with what you have, where you are.

Theodore Roosevelt

Chapter 9

Property Management and Other Services

The Association is responsible for maintaining and operating property and facilities for the common benefit of the Owners and residents within the Neighborhood. In addition, the Association is a vehicle for providing a variety of services for the benefit of the Neighborhood and Service Areas. This chapter discusses the Association's obligations and rights in this regard.

9.1. Acceptance and Control of Association Property

(a) *Transfers and Conveyances by Founder.* The Founder or its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Neighborhood, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests.

Upon the Founder's written request, the Association shall reconvey to the Founder, or any designee, any real property that the Founder originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

(b) *Management and Control.* The Association is responsible for management, operation, and control of any General Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the General Common Area, for payment or no payment, as the Board deems appropriate.

9.2. Maintenance of Area of Common Responsibility

The Association shall maintain the General Common Area and any other Area of Common Responsibility in accordance with the Community-Wide Standard, as provided in Chapter 6.

9.3. Maintenance of Limited Common Areas

The responsibility for maintenance and repair of the various Limited Common Areas is as set forth on the Maintenance Chart attached hereto as Exhibit D. Any Limited Common Areas not included in the Maintenance Chart shall be maintained by the Association. If a particular Owner or Owners, however, are determined by the Board to have negligently or intentionally caused damage to any Limited Common Area, the Association may levy a Specific Assessment against such Owner and such Owner's Home pursuant to Section 11.4 below to recover some or all of the costs of repairing such damage.

9.4. Cooperation with Metro District

The Association may contract with any Metro District with respect to their respective maintenance and repair obligations, or to provide services to any property within the Neighborhood.

9.5. Provision of Services to Homes

The Association may arrange for or provide services to Owners and their Homes, directly or through contracts with the Founder or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to all Homes, or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, security,

Property Management and Other Services

trash collection, landscape maintenance, pest control, caretaker services and technology services.

Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Home, may result in termination of services provided to such Home. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Home as a Common Expense pursuant to Chapter 11.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

9.6. Service Area Services

The Association shall provide services and benefits to Homes included in any Service Area in accordance with the provision of any Supplement or other document by which such Service Area was established. The costs and expenses so incurred by the Association shall be Service Area Expenses and not Common Expenses.

9.7. Community Education and Training

Owners and other Neighborhood residents who are well informed regarding the Neighborhood's governance structure and development goals, and their rights and responsibilities in the community, have greater capacity to participate in civic life and in the affairs of the community. Educating Owners about ownership rights, voting privileges, property use restrictions, assess-

ment responsibility, community development, developer transition, community activities, etc., should be an ongoing innovative process geared toward all residents.

To achieve the goal of educating stakeholders about how their Neighborhood operates, the Association shall establish education, training, and orientation programs, including "continuing" education programs, for everyone in the Neighborhood. The Association also may require, or otherwise make available, training for directors. The Association may cover such topics as board election procedures, director responsibilities and duties, officers' duties and responsibilities, and committee service guidelines and training.

The Association may utilize any appropriate method to achieve these education goals, including a Neighborhood intranet; and classes regarding community structure and governance. The Association's expenses of training, education, or orientation, or contracts for such services from third parties, shall be Common Expenses. The Association shall also have the power to reimburse any Board member's reasonable expenses incurred in attending educational meetings and seminars on responsible governance of associations, as provided in the Act.

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Chapter 10

Association Insurance

The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This chapter describes the minimum types and amounts of coverage that the Association must obtain the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.

10.1. Required Coverages

Commencing not later than the time of the first conveyance of a Home to a Person other than the Founder, the Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for the full insurable replacement cost of all (i) all improvements within the Common Area, regardless of ownership, and (ii) all buildings containing Homes, less a reasonable deductible, exclusive of land, excavations, foundations, and other items normally excluded from property policies.

The Association's property insurance shall cover, without limitation, building structures, including fixtures, improvements, and alterations that are a part of the exterior of Homes or structures located on the Common Area. Unless the Board provides otherwise by resolution, fixtures, contents, and appliances (*e.g.*, those used for refrigerating, ventilating, cooking, dishwashing, laundering, security, or housekeeping) within the interior of any Home shall be excluded from the Association's insurance policy. In addition, the Association's insurance policy may exclude any improvements and betterments made by the Owner and may exclude the interior, finished

surfaces of perimeter and partition walls, floors, and ceilings within dwellings (*i.e.*, paint, wallpaper, paneling, other wall covering, tile, carpet, and any floor covering).

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

(b) Commercial general liability insurance on the Areas of Common Responsibility, insuring the Association and its Members against claims and liabilities in connection with the ownership, existence, use, management, and/or maintenance of such property. If generally available at reasonable cost, such coverage shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverage or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage; and

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-fourth of

Association Insurance

the annual Base Assessments on all Homes plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this Section requires.

10.2. Deductibles

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 10.1. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Homes as a Specific Assessment.



Persons who cause damage in the Neighborhood may be held responsible for the insurance deductible payable on any insurance claim related to such damage.

10.3. Policy Requirements

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Colorado that satisfies the requirements of the Federal National Deed of Trust Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Secured Lenders individually;

(d) contain an inflation guard endorsement;

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insured and provide:

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

Association Insurance

(b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses. However, Secured Lenders having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

10.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, unless otherwise provided in a Supplement or if the Board reasonably determines that premiums for property insurance on Homes within a particular Service Area shall be a Service Area Expense.

10.5. Owner Insurance

Each Owner is responsible for obtaining insurance covering those portions of his or her Home, including all personal property not insured by policies maintained by the Association. Specifically the property insurance coverage maintained by each Owner shall include but is not limited to, contents, appliances (e.g. those used for refrigerating, ventilating, cooking, dishwashing, laundering, security, or housekeeping), and any improvements or fixtures installed by the Owner, and furnishings, carpeting and other floor coverings, draperies, wallpaper and other wall coverings. In a loss, Association insurance will only cover to a level of livability from the walls out, including the base level of cabinets and counters originally installed by the Founder for the Home.

In addition, to the extent not insured by policies the Association maintains or to the extent insurable losses result in the payment of deductibles under the Association's policies, every Owner shall obtain and maintain at all times insurance covering consequential damages to any other Home due to occurrences originating within the Owner's Home and caused by the Owner's negligence, the Owner's failure to maintain his or her Home, or any other casualty within the Home which causes damage to another Home or any Common Element.

NOTES

Chapter 11

Association Finances

This chapter provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments which this chapter authorizes the Association to levy against the Home and collect from the Owner of each Home.

11.1. Association Expenses

(a) **Common Expenses.** Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Areas of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "**Common Expenses.**" Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Areas of Common Responsibility as the Board finds necessary or appropriate.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements. The Common Expenses shall not include any Service Area Expenses.

(b) **Service Area Expenses.** All expenses that the Association incurs or expects to incur in connection with providing benefits and services specific to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "**Service Area Expenses.**" Service Area Expenses may include a reasonable administrative charge in such

amount, as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Home among all Service Areas receiving the same service.

11.2. Budgeting for and Allocating Association Expenses

(a) **Preparation of Common Expense Budget.** Prior to the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

Each Association budget shall clearly set forth the significant assumptions upon which budget calculations are made.

Until the Association first levies assessments, the Founder shall be responsible for all Common Expenses. Thereafter, assessments for Common Expenses shall be levied at least annually in accordance with this Chapter.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair, replacement, improvement or construction of any capital items to be maintained as a Common Expense. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected needs by annual contributions over the useful life of the asset.

Association Finances

The Association shall have a capital reserve study done by a third party (which may be the Association's management company) at least once every two years. The reserve study shall take into account the factors referenced in the above paragraph. The Board and the Founder may rely on the results of any such reserve study in factoring the appropriate level of reserves required for the Neighborhood. So long as the Board acts consistently with any such reserve study in determining the amount or necessity of the reserve fund, the amount shall be considered adequate.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Homes, and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to Sections 11.2(b) and (c).

(b) Calculation of Base Assessments. The total budgeted Common Expenses, less any surplus in the Common Expense budget from prior years and any income anticipated from sources other than assessments against the Homes, shall be allocated among all Homes subject to assessment and levied as a "**Base Assessment.**" Base Assessments shall be levied at a uniform rate per Home.

The Founder may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under Section 11.6(c)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years,

unless otherwise provided in a written agreement between the Association and the Founder.

(c) Calculation of Service Area Assessments. The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area budget from prior years, shall be allocated among all Homes in the Service Area that are subject to assessment and levied as a "**Service Area Assessment.**" Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Home in the Service Area.

All amounts the Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Notice of Budgets and Assessment; Right to Disapprove. Within 30 days after the Board adopts any budget, the Board shall send a summary of the budget, together with notice of the amount of the Base Assessment or any Service Area Assessment to be levied pursuant to such budget, to the Owner of each Home responsible for a share of the expenses covered by such budget. The notices shall announce the date set for a meeting of the Owners to consider such budgets. The date of the meeting shall be not less than 14 or more than 60 days after the date of mailing or other delivery of the summaries of the budgets.

The Common Expense budget adopted by the Board shall automatically become effective unless vetoed at the meeting, whether or not a quorum is present, by Owners representing at least 67% of the total votes in the Association. Each Service Area budget shall automatically become effective unless vetoed at the meeting, whether or not a quorum is present, by Owners of at least 67% of the Homes within the Service Area.

Association Finances

If any proposed budget is disapproved or the Board fail for any reason to determine their budget for any year, then the budget most recently in effect shall continue in effect until a new budget takes effect in accordance with the above procedures without veto by the members.

(e) *Budget Revisions.* The Board may revise the Common Expense budget and adjust the Base Assessment or any Service Area Assessment at any time during the year, subject to the same notice requirements and veto procedures set forth in Section 11.2(d).

(f) *Surplus Funds.* Any surplus funds of the Association remaining after payment of or provision for all Association Common Expenses and any prepayment of or provision for reserves shall be taken into account in the income portion of the budget pursuant to which the funds were collected, in order to reduce the assessments that would otherwise be levied pursuant to that budget in the succeeding year or be used for capital improvements at the discretion of the board.

11.3. Special Assessments

The Association may levy "Special Assessments" to cover Common Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Except as otherwise specifically provided in this Charter, any Special Assessment for Common Expenses shall require the affirmative vote or written consent of Voting Delegates representing more than 50% of the votes attributable to Homes subject to assessment. Such Special Assessments shall be allocated equally among all such Homes. Any Special Assessment for Service Area Assessments shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Homes in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 11.2(c).

In addition, during the Development and Sale Period, any Special Assessment shall also be subject to the Founder's written consent.

Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

11.4. Specific Assessments

The Association may levy "Specific Assessments" against a particular Home as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to a Home or Homes upon request of the Owner(s) thereof pursuant to any menu of optional services which the Association may offer (which might include the items identified in Section 9.4). Specific Assessments for optional services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Homes into compliance with the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the home, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Home Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws before levying any Specific Assessment under this subsection.

11.5. Authority to Assess Owners; Time of Payment

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Home at such time as the Association's first budget becomes effective and assessments are levied in accordance with such budget. The first annual Base

Association Finances

and Service Area Assessment levied on each Home shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Home.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Home and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Home, the Board may require the outstanding balance on all assessments to be paid in full immediately.

The Board may, but is not obligated, to offer discounts for payment of any Base or Special Assessments that are paid in advance of their due date.

11.6. Obligation for Assessments

(a) *Personal Obligation.* By accepting a deed or entering into a recorded contract to purchase any Home, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 12% per annum or such higher rate as the Board may establish, subject to the limitations of Colorado law), late charges as determined by Board resolution, costs, and reasonable attorneys fees, shall be the personal obligation of each Owner and a lien upon each Home until paid in full. Upon a transfer of title to a Home, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver,

modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Home, or non-use of services provided to all Homes. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.



By buying a Home each Owner agrees to pay all assessments levied against his or her Home. If the Owner does not pay on time, the Owner will be charged late fees and interest on all past due amounts. Owners may not reduce their assessments because of any action or inaction by the Association.

(b) *Assessment Statement.* Upon written request of any Owner, Secured Lender, prospective Secured Lender, or prospective purchaser of a Home, delivered personally or sent by certified mail, first-class postage prepaid, return receipt requested to the Association's registered agent or designee, the Association shall issue a written statement setting forth the amount of any unpaid assessments with respect to such Home, the amount of current periodic assessments and the date on which such assessment becomes or became due, and any credit for advanced payments or prepaid items. Such statement shall be delivered personally or by certified mail, first-class postage prepaid, return receipt requested.

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The Association may require the payment of a reasonable processing fee for issuance of such statement. Such statement shall be binding upon the Association as to Persons who rely thereon in good faith. Provided such request is made in writing, if the request for a statement of account is not processed within 14 days of receipt of the request, all unpaid assessments that become due before the date of such request shall be subordinate to the lien of a Secured Lender that acquired its interest after requesting such statement.

(c) *Founder's Financial Obligations to Association.* The Founder shall be liable for assessments on any Home it owns that are subject to assessment under this Chapter. The Founder's obligations hereunder may be satisfied in the form of cash or by "in-kind" contributions of services or materials, or by a combination of these. Such "in-kind" contributions shall abate or reduce the Founder's assessment obligation by the commercially reasonable value of such contributions, as determined in the Board's reasonable discretion. After termination of the Founder Transition Period, the Founder shall pay Base Assessments on any Home it owns in the same manner as any other Owner liable for such assessments.

11.7. Lien for Assessments

In accordance with §38-33.3-316 of the Act, the Association shall have a statutory lien against each Home to secure payment of assessments, as well as interest, late charges (subject to the limitations of Colorado law), and costs of collection (including attorneys fees and expenses). Such lien shall be superior to all other liens, except as provided in §38-33.3-316 of the Act.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Home the amount of the delinquent sums due to the Association at the time such document is executed and the fact that a lien exists to secure the

repayment thereof. However, the Association's failure to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

(a) *Enforcement of Lien.* The Association may bid for the Home at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Home. While a Home is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Home shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Home had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(b) *Effect of Sale or Transfer.* Sale or transfer of any Home shall not affect the assessment lien or relieve such Home from the lien for any subsequent assessments. However, the sale or transfer of any Home pursuant to foreclosure of a first Deed of Trust having priority over the Association's lien shall extinguish the lien as to any installments of such assessments due more than six months prior to the Secured Lender's foreclosure. The subsequent Owner of the foreclosed Home shall not be personally liable for assessments on such Home due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Homes subject to assessment, including such acquirer, its successors and assigns.

Association Finances



In order to insure that each Owner pays its share of Association expenses, the Association has a lien against each Home. If an Owner does not pay his or her assessments on time, the Association may foreclose the lien on such Owner's Home, causing it to be sold to pay the past due assessments. Alternatively, the Association may sue an Owner in court to recover past due assessments.

11.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments and Special Assessments:

- (a) All Common Area; and
- (b) Any property dedicated to and accepted by any governmental authority, public utility, or Metro District.

In addition, both the Founder and the Association shall have the right, but not the obligation, to grant exemptions to schools, houses of worship, hospitals, police or fire stations (or other similar public service uses), or Homes owned by Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code and used by such Persons for purposes listed in Section 501(c) of the Internal Revenue Code. Exemptions granted by the Founder shall be binding on the Association.

11.9. Capitalization of Association

The first Owner of each Home other than the Founder shall make a contribution to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Home for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment levied on the Home and shall not be considered an advance payment of such assessments. This amount shall be due and payable to the Association immediately upon transfer of title, for its use in covering initial start-up ex-

penses, operating expenses and other expenses which it incurs pursuant to this Charter and the By-Laws.

11.10. Use and Consumption Fees

The Association may offer services or facilities for which it does not recover its costs through assessments under this chapter. The Board may charge use and consumption fees to any Person who chooses to use or participate in such services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

11.11. Audits

The books and records of the Association shall be subject to an audit using generally accepted auditing standards, or a review using statements on standard for accounting and review services, at least once every two years by a person selected by the Board. Such person need not be a certified public accountant except in the case of an audit. An audit is required under this Section 11.11 only if the Association has annual revenues or expenditures of at least \$250,000, and the audit is requested by Owners of at least one-third of the Homes. Copies of any such audit or review shall be made available upon request to any Owner beginning no later than thirty days after its completion and to the Founder during and for a period of ten years following the end of the Founder Transition Period.

NOTES

**PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE
THE NEIGHBORHOOD**

You don't get harmony when everybody sings the same note.

Doug Floyd

Chapter 12

Easements

The easements created in this chapter establish the rights of Owners, the Founder, the Association, and others over property within the Neighborhood. Some of these rights are related to development and construction within the Neighborhood and on adjacent property, while others relate to the rights of Association to come upon property of others to fulfill its responsibilities and the interrelationships between the Neighborhood and the owners of adjacent property.

12.1. Easements in Common Area

The Founder grants to each Owner a non-exclusive right and easement of use, access, and enjoyment in and to any General Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Board's right to adopt rules regulating General Common Area use and enjoyment.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her entire Home shall be deemed to have assigned all such rights to the lessee of such Home for the period of the lease.

12.2. Easements of Encroachment

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Home and any adjacent Common Area and between adjacent Homes. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of not more than one foot, as

measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.



An encroachment occurs when a person's Home, fence, or other structure extends onto his or her neighbor's property. This section permits minor, unintentional encroachments to remain.

12.3. Easements for Utilities and Other Infrastructure

(a) *Installation and Maintenance.* The Founder reserves for itself, its successors, assigns, and designees, perpetual non-exclusive easements throughout the Neighborhood (but not through a structure) for the purpose of:

- (i) installing utilities and other infrastructure, security and similar systems, and drainage systems to serve the Neighborhood;
- (ii) installing sidewalks, street lights, and signage on property the Founder or the Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;
- (iii) inspecting, maintaining, repairing, and replace the utilities, infrastructure, and other improvements described above; and
- (iv) access to read, maintain, and repair utility meters.

The Founder reserves the right to deny access to any utility or service provider, to the extent permitted by law, and to condition such access on negotiated terms.

(b) Right to Grant Specific Easements.

The Founder also reserves the right and power to grant and record such specific easements, consistent with Section 12.3(a), as it deems necessary or appropriate to develop the property described in Exhibits "A" and "B." The location of the specific easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference.

All work associated with the exercise of the easements described Sections 12.3(a) and (b) shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Home, nor shall it unreasonably interfere with the use of any Home. Except in an emergency, entry onto any Home shall be made only after reasonable notice to the Owner or occupant.

12.4. Easement for Landscape And Other Maintenance by Association.

The Common Areas are subject to an easement hereby reserved to the Association and its contractors to enter upon such portions of the Common Areas as may be necessary or useful to perform the landscape, concrete, and other maintenance for which the Association has responsibility under this Charter.

12.5. Easements to Serve Additional Property

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and Secured Lenders, an easement over the General

Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the General Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the General Common Area as a result of their actions in connection with development of such property.

If the above easement grants permanent access to any property that is not submitted to this Charter, the Founder, or its successors or assigns, shall enter into a reasonable agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

12.7. Easements Emergency and Enforcement

By this Charter, the Founder grants to the Association easements over the Neighborhood as necessary to enable the Association to fulfill its enforcement rights under Section 8.2. The Association shall also have the right, but not the obligation, to enter upon any Home for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

NOTES

Chapter 13

Rights of Lenders

In order to enhance each Owner's ability to obtain financing for the purchase of his or her Home, this chapter sets forth various provisions for the benefit of lenders who make mortgage loans and for the benefit of those agencies that guarantee and insure mortgage loans made by institutional lenders.

The following provisions are for the benefit of holders of first Deeds of Trust on Homes. The provisions of this Paragraph apply to both this Charter and to the By-Laws, notwithstanding any other provisions contained therein.

(a) *Notices of Action.* An institutional holder, insurer, or guarantor of a first Deed of Trust who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Home to which its Deed of Trust relates), thereby becoming an "Interested Secured Lender," will be entitled to timely written notice of:

(i) any condemnation loss or any casualty loss which affects a material portion of the Neighborhood or which affects any Home on which there is a first Deed of Trust held, insured, or guaranteed by such Interested Secured Lender;

(ii) any delinquency in the payment of assessments or charges owed on a Home subject to the Deed of Trust of such Interested Secured Lender, where such delinquency has continued for a period of 60 days, or any other violation of this Charter or By-Laws relating to such Home or the Owner or occupant thereof which is not cured within 60 days;

(iii) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(iv) any proposed action which would require the consent of a specified percentage of Interested Secured Lenders.

(b) *Actions Requiring Approval of Interested Secured Lenders.* To the extent required by the Federal Home Loan Mortgage Corporation and/or the Federal National Mortgage Association:

(i) any restoration or repair of the Neighborhood after a partial condemnation or damage due to an insurable hazard shall be substantially rendered or repaired in accordance with this Charter and the original plans and specifications unless otherwise approved by the Interested Secured Lenders of first Deeds of Trust on Homes to which at least 51% of the votes of Homes subject to Deeds of Trust held by Interested Secured Lenders are allocated.

(ii) any election to terminate the Neighborhood as a condominium and the Association after substantial destruction or a substantial taking in condemnation shall require the approval of Owners representing at least 67% of the total Association vote and the approval of the Interested Secured Lenders of first Deeds of Trust on Homes to which at least 51% of the votes of Homes subject to Deeds of Trust held by Interested Secured Lenders are allocated.

(iii) any election to terminate the Neighborhood as a condominium and the Association under circumstances other than substantial destruction or a substantial taking in condemnation shall require the consent of Owners representing at least 80% of the total Association vote and of the Founder, so long as it owns any land subject to this Charter, and the approval of the Interested Secured Lenders holding first Deeds of Trust on Homes to which at least 67% of the votes of

Rights of Lenders

Homes subject to Deeds of Trust held by Interested Secured Lenders are allocated.

(iv) In addition to the approval of Owners required under Paragraph 20, the approval of Interested Secured Lenders holding Deeds of Trust on at least 51% of the Homes that are subject to a Deed of Trust held by an Interested Secured Lender shall be required to materially amend or add any provision to this Charter, the By-Laws, or the Articles of Incorporation governing any of the following, except where such amendment is otherwise specifically authorized by this Charter or the Act:

- (A) voting rights;
- (B) liability for assessments, assessment liens, or subordination of such liens;
- (C) reductions in reserves for maintenance, repair, and replacement of the Common Areas;
- (D) responsibility for maintenance and repair of the Neighborhood;
- (E) reallocation of interests in or rights to use the Common Areas or Limited Common Areas;
- (F) redefinition of any Home boundaries;
- (G) hazard insurance or fidelity bonds;
- (H) imposition of restrictions on leasing of Homes;
- (I) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Home;
- (J) establishment of self-management by the Association where professional manage-

ment has been required by an Interested Secured Lender;

(K) restoration or repair of the Neighborhood after damage or partial condemnation; and

(L) any provisions included in this Charter, the By-Laws, or the Articles of Incorporation that are for the express benefit of holders, guarantors, or insurers of first Deeds of Trust on Homes.

(v) Notwithstanding the above, the prior consent of any Interested Secured Lender to any matter referenced in Paragraph 16(b) shall not unreasonably be withheld.

(c) *Additional Requirements.* So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Without the prior consent of at least 67% of the first Secured Lenders or Owners representing at least 67% of the total Association votes entitled to be cast, the Association shall not:

(i) by act or omission seek to abandon, partition, or subdivide, all or any portion of the real property comprising the Common Areas, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this subparagraph);

(ii) change the method of determining the obligations, assessments, dues, or other charges which may be levied against a Home Owner (a change which is specifically contemplated and authorized by this Charter (e.g., the addition of Homes to the Neighborhood and the reallocation of liability for Common Expenses related thereto) shall not be subject to this provision);

Rights of Lenders

(iii) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Homes and Common Areas (including Limited Common Areas) (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(iv) fail to maintain insurance, as required by this Charter; or

(v) use hazard insurance proceeds for losses other than those relating to the repair, replacement, or reconstruction of the Neighborhood.

First Secured Lenders may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against the Common Areas and may pay overdue premiums on property insurance policies or secure new property insurance coverage upon the lapse of an Association policy, and first Secured Lenders making such payments shall be entitled to immediate reimbursement from the Association.

Notwithstanding the above, the prior consent of any Secured Lender to any matter referenced in subparagraph shall not unreasonably be withheld.

(d) *No Priority.* No provision of this Charter or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Secured Lender of any Home in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.

(e) *Notice to Association.* Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of

any Deed of Trust encumbering such Owner's Home.

(f) *Amendment by Board.* Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation hereafter eliminate any of their respective requirements which necessitate the provisions of this Paragraph or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Paragraph to be recorded to reflect such changes.

(g) *Applicability of Chapter 16.* Nothing contained in this Paragraph shall be construed to reduce the percentage vote that must otherwise be obtained under this Charter, By-Laws, or Colorado law for any of the acts set out in this Paragraph.

(h) *Failure of Secured Lender to Respond.* Any Secured Lender, including any insurer or guarantor of a Deed of Trust, who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Secured Lender within 30 days of the date of the Association's request, provided such request is delivered to the Secured Lender by certified or registered mail, return receipt requested.

NOTES

PART FIVE: COMMUNITY DEVELOPMENT

The rung of a ladder was never meant to rest upon, but only to hold a man's foot long enough to enable him to put the other somewhat higher.

Thomas Henry Huxley

Chapter 14

Additional Rights Reserved to the Founder

This chapter reserves various rights to the Founder, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Founder's development and sale of property in the Neighborhood, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.

14.1. Expansion by Founder

The Founder reserves the right, without the obligation, to expand the Neighborhood to include up five hundred (500) Homes within the property described on Exhibits "A" and "B." Subject to this limitation, the Founder may, from time to time, submit to the terms of this Charter all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder. The Founder shall have no obligation to develop the maximum number of Homes. The Homes within the property described in Exhibit "B", if included, may be of a different type, size or style from the Homes in the initial Neighborhood.

The Supplement shall comply with the requirements of §§38-33.3-209 and 38-33.3-210 of the Act and such other portions of the Act as may be applicable.

The Founder's right to expand the Neighborhood under this Section expires when all property described in Exhibit "B" has been submitted to this Charter or seven years after this Charter is recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any affiliate or any other Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be

described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever. The Founder may submit different parcels of property to this Charter at different times. The Founder gives no assurances as to the boundaries of the parcels that may be submitted to this Charter, or as to the order in which the Founder may submit different parcels of property to this Charter.

14.2. Additional Covenants and Easements

The Founder may impose additional covenants and easements on portions of the Neighborhood, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent.

Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to

Additional Rights Reserved to Founder

this Charter shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Charter.

During the Development and Sale Period, no one may record any additional covenants or restrictions affecting any portion of the Neighborhood without the Founder's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

14.3. Special Development Rights

In addition to the other rights described in this Chapter and elsewhere within this Charter, the Founder hereby reserves the following "special declarant rights" (as that term is defined in the Act):

(a) the right to complete any improvements indicated on plats or development plans recorded with this Charter or in the master plan for the Neighborhood;

(b) the right to exercise any of the following rights:

(i) the right to expand the Neighborhood as provided in Section 14.1;

(ii) the right to create additional Homes up to the number of Homes set forth in Section 14.1;

(iii) the right to subdivide or combine Homes it owns or to convert Homes it owns into Common Area; and

(iv) the right to reconfigure the boundaries of the Common Area;

(c) the right to maintain sales offices, management offices, and advertising signs within the Neighborhood, as set forth in Section 14.4;

(d) the right of access over the General Common Area for the purpose of making im-

provements within the property described in Exhibits "A" and "B";

(e) the right to merge or consolidate the Association with another common interest community or neighborhood of the same form of ownership; and

(f) the right to appoint and remove any director or officer of the Association during the Founder Transition Period as provided in the By-Laws. The Founder Transition Period begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

(i) 60 days after the conveyance of 75% of the maximum number of Homes (as defined in Section 14.1) that may be created and subjected to this Charter to Persons other than a "declarant" (as defined in the Act);

(ii) two years after the last conveyance of a Home by the Founder in the ordinary course of business;

(iii) two years after the Founder last exercised its unilateral right to submit additional property to this Charter pursuant to Section 14.1; or

(iv) when, in its discretion, the Founder voluntarily and expressly surrenders such right in a recorded instrument.

The foregoing rights may be exercised with respect to different portions of the Neighborhood at different times. If a development right is exercised with respect to any portion of the Neighborhood, it need not be exercised with respect to all or any other portion of the Neighborhood. No assurances are made as to the boundaries of the Neighborhood or with respect to the order in which such development rights may be exercised.

In addition, the Founder reserves the right to amend this Charter or any Supplement to with-

Additional Rights Reserved to Founder

draw unimproved property from the Neighborhood and the coverage of this Charter. The Founder may separately exercise such right as to each portion of the Neighborhood that is the subject of a separately recorded condominium map or plat; however, the Founder may not exercise such right with respect to any property on a particular condominium map or plat after a Home shown on such map or plat has been conveyed to a Person other than a builder purchasing such Home for development and resale in the ordinary course of its business. "Unimproved" means that no permanent structure has yet been completed on the property. Any such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

14.4. Marketing and Sales Activities

Notwithstanding anything in the Governing Documents to the contrary, during the Development and Sale Period the Founder and its designees or assigns may construct, use, and maintain upon portions of the General Common Area and other property they own, such facilities and activities as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Homes. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, the Founder and its employees, agents, and designees may park vehicles in designated parking areas, including within courtyards enclosed by building frontages or in parking courts.

14.5. Access for Development Purposes

During the Development and Sale Period, the Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the General

Common Area and roadways within the Neighborhood for the purpose of:

(a) exercising any rights reserved to the Founder pursuant to this Charter, including the rights set forth in Section 14.3; and

(b) making, constructing, and installing any improvements indicated on recorded subdivision maps or plats of the Neighborhood and such other improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

14.6. Right to Approve Changes in Standards

During the Development and Sale Period, no amendment to or modification of any Rule or Regulation or the Community-Wide Standard shall be effective without prior notice to and the written approval of the Founder.

14.7. Exclusive Rights to Use Name of Development

No Person other than the Founder or its designees shall use the name "Carriage Homes at Stapleton" or any derivative of such name or any logo or depiction associated with the Neighborhood in any printed or promotional material without the Founder's prior written consent. However, Owners may use such names in printed or promotional matter where such terms are used solely to specify that particular property is located within the Neighborhood.

14.8. Easement to Inspect and Right to Correct

The Founder reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition that may exist on any portion of the property within the Neighborhood, including Homes, and a perpetual nonexclusive easement of access throughout the Neighborhood to the extent reasonably necessary to exercise such right. Except in an emergency, entry into a Home shall be only after

Additional Rights Reserved to Founder

reasonable notice to the Owner and the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Home.



The Founder, or someone it designates, may enter any Owner's property to inspect and correct problems with the Home. The Founder must give the Owner of the Home prior notice, and if it necessary to enter an enclosed structure on the Home, obtain the Owner's prior consent, unless it is an emergency.

14.9. Right to Notice of Design or Construction Claims

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Neighborhood in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection. The Founder and any builder involved in the design or construction shall have the right to be present during any inspection or testing by an expert retained by an Owner, to observe all tests being done and to take the same or similar samples or photographs as the expert.

14.10. Right to Transfer or Assign the Founder's Rights

Any or all of the Founder's special rights and obligations set forth in this Charter or the By-Laws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation or enlarge a right beyond that which Founder has under this Charter or the By-Laws. No such transfer or assignment

shall be effective unless it is in a recorded instrument the Founder signs. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence the Founder's consent to such exercise.

14.11. Termination of Rights

The Founder may exercise any and all of the rights reserved to the Founder under this Charter with respect to different portions of the Neighborhood at different times. If a Development Right is exercised with respect to any portion of the Neighborhood, it need not be exercised with respect to all or any other portion of the Neighborhood. No assurances are made as to the boundaries of any property as to which the Founder may exercise such rights or as to the order in which different portions of the Neighborhood may be subjected to the exercise of such rights. Except as otherwise specified above, the rights reserved to the Founder in this Chapter shall terminate on the earlier of (a) termination of the Development and Sale Period; or (b) the Founder's recording of a written statement that all sales activity has ceased.

NOTES

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

There are many ways of going forward, but only one way of standing still.

Franklin D. Roosevelt

Chapter 15

Dispute Resolution and Limitation on Litigation

From time to time, disputes may arise between owners or between an owner and the Association, the Founder, or others involved in the Neighborhood. This chapter commits the parties to any such dispute to work together in an attempt to resolve the dispute without litigation in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties

15.1. Agreement to Encourage Resolution of Disputes Without Litigation

(a) **Bound Parties.** The Founder; the Association and its officers, directors, and committee members; the Owners; any other Persons subject to this Charter; and any Person not otherwise subject to this Charter who agrees to submit to this Chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Neighborhood without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.2 in a good faith effort to resolve such Claim.

(b) **Claims.** As used in this Chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) the design or construction of improvements within the Neighborhood, other

than matters of aesthetic judgment under Chapter 5, which shall not be subject to review.

Notwithstanding the above, the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit or action that involves the protest of real property taxes;

(iii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iv) any suit that does not include the Founder or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(v) any dispute that affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 15.2; and

(vi) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Chapter.

15.2. Dispute Resolution Procedures

(a) **Notice.** The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

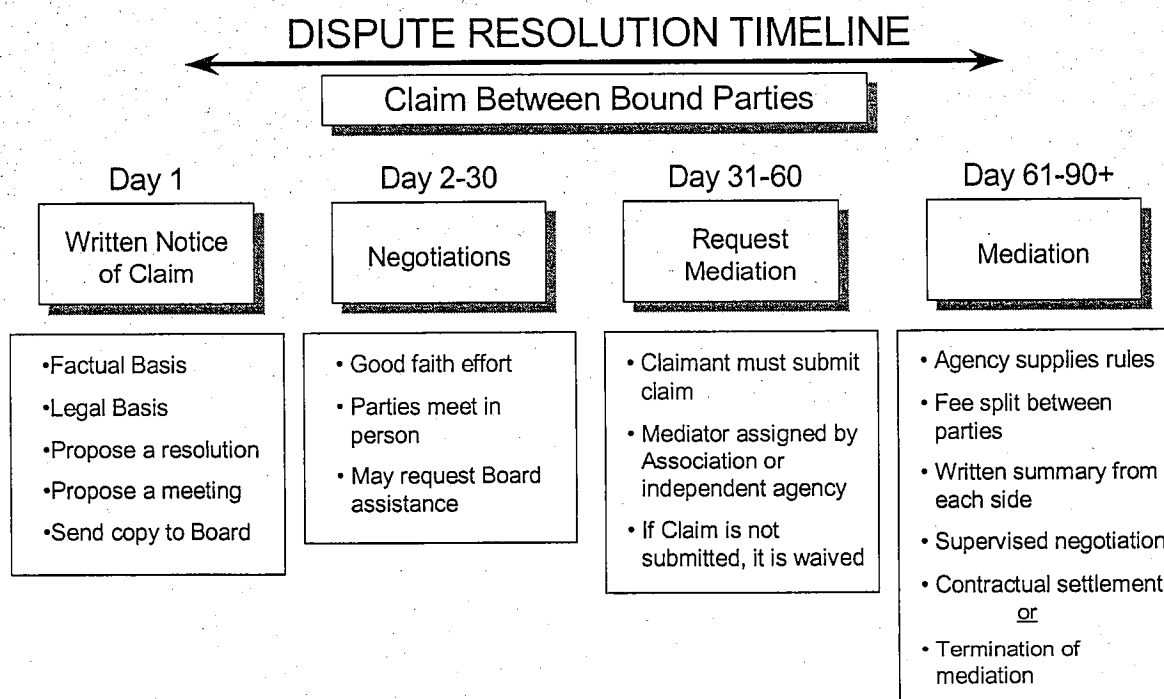
(iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If

requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim if a written request accompanied by a copy of the notice, is submitted to the Board by either Claimant or Respondent.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Denver, Colorado area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.



If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorney's fees, and each Party shall pay an equal share of the mediator's fees.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

15.3. Initiation of Litigation by Association

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Owners entitled to cast at least 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

(a) initiated during the Founder Transition Period;

(b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;

(c) initiated to challenge ad valorem taxation or condemnation proceedings;

(d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

Prior to commencing any action or proceeding as provided in this section, the Board shall mail or deliver written notice of the commencement or anticipated commencement of such action or proceeding to each Owner at the last known address described in the Association's records and shall hold a meeting of the Owners to discuss such action or proceeding. The notice shall state a general description of (i) the nature of the action and the relief sought; and (ii) the expenses and fees that the Board anticipates will be incurred in prosecuting the action. The notice also shall contain a statement informing Owners that any litigation involving the Association may have an adverse impact upon the marketability of the Homes and that an Owner desiring to sell his or her Home may be required to disclose the fact of such litigation to potential purchaser.

Any proceeds received by the Association or any Owner from the settlement or other resolution of litigation, arbitration, or other proceedings against the Founder, any affiliate of the Founder, or any builder alleging defects in the initial construction of any portion of the Neighborhood shall be applied to repair, replace, or otherwise remedy the defects claimed in such action.

To the extent permitted by law, the Association and each Owner hereby waives the right to a jury trial with respect to, and the right to puni-

tive damages arising out of, any litigation against the Founder or any Founder Affiliate.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

15.4. Disputes Between Owners

In any neighborhood, disagreements between neighbors occur. Unless otherwise required under the Governing Documents, the Association is not responsible for resolving, nor is it obligated to serve as an intermediary with respect to, disputes between Owners of Homes. Owners are encouraged to utilize the dispute resolution procedures set forth in Section 15.2 and/or to contact the appropriate public agency in an attempt to resolve disputes with other Owners.

NOTES

Chapter 16

Changes in the Common Area

Various influences and circumstances within and outside the Neighborhood may give rise to a need or desire to make changes in the ownership of, or rights to use, the Common Area. This chapter explains the procedures for dealing with matters such as changing use rights in the Common Area, partition of the Common Area, and condemnation.

16.1. Assignment and Reassignment of Limited Common Area

(a) **Limited Common Area.** The Founder may designate property as a Limited Common Area and assign it to particular Homes on the recorded Condominium Map depicting such property, in the deed conveying a Home to an Owner, or in the Supplement by which the property is submitted to the terms of this Charter. At any time during the Development and Sale Period, the Founder may assign use of the same Limited Common Area to additional Homes.

(b) **Assignment.** The Board may designate any portion of the Common Areas as a Limited Common Area upon approval of the Board, Voting Delegates representing at least 67% of the total votes in the Association, and Owners of a majority the Homes to which the Board proposes to assign such Limited Common Area, except that no such assignment shall have the effect of denying any Owner access to such Owner's Home or recreational facilities within the Common Area without such Owner's consent. During the Development and Sale Period, any such assignment shall also require the Founder's written consent.

(c) **Reassignment.** Limited Common Areas, once assigned, may be reassigned only with the consent of the Board, the Owners of the Homes affected by such reassignment, and during the Development and Sales Period, the Founder.

16.2. Condemnation



A public entity such as a town, county, or state has the power to condemn property for its own uses and generally has to pay the value of the property to do so.

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Association in lieu of and under threat of condemnation with such approval as may be required under Section 16.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Founder, during the Development and Sale Period, and Voting Delegates representing at least 67% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board.

If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 16.4.

16.3. Partition



Partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Secured Lenders. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 16.4.

16.4. Transfer, Mortgaging, or Dedication of Common Area

The Association may dedicate portions of the Common Area to the City of Denver, Colorado, the Metro District, or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if General Common Area, upon the written direction of Voting Delegates represent-

ing at least 67% of the total votes in the Association and, during the Development and Sale Period, the written consent of the Founder; or

(b) if Limited Common Area, upon written approval of Voting Delegates of at least 67% of the Homes to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of General Common Area shall be an asset of the Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Homes to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

No conveyance or encumbrances of Common Area may deprive any Home of rights of access or support.

NOTES

Chapter 17

Termination and Amendment of Neighborhood Charter

As the Neighborhood matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan, as well as changes in the needs and desires of the Neighborhood that inevitably will occur. This chapter sets out procedures by which either the Founder or the Owners as a group may amend this Charter to address such changes.

17.1. Term and Termination

This Charter shall have perpetual duration, unless terminated in the manner provided in §38-33.3-218 of the Act by agreement signed by Owners of Homes to which at least 80% of the total votes in the Association are allocated and the written consent of the Founder during the Development and Sale Period. If Colorado law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Charter shall be extended automatically at the expiration of such period for successive periods of 20 years each, unless terminated as provided above.

This section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement.

17.2. Amendment

(a) By the Founder. The Founder may unilaterally amend this Charter (i) to correct clerical, typographical, or technical errors; (ii) to comply with any applicable governmental statute, rule, regulation, or judicial determination; (iii) to comply with the requirements, standards, or guidelines of any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Deed of Trust Association or Federal home Loan Deed of Trust Corporation; (iv) to assign Common Elements as Limited Common

Elements pursuant to Section 16.1; (v) as necessary to exercise the rights reserved to the Founder under Chapter 14; (vi) in any respect as long as the Founder owns all of the property then included in the Neighborhood, or has the written consent of any third party owners; and (vii) otherwise as permitted by the Act or this Charter.

(b) By the Association. The Association may amend this Charter (i) to assign Common Elements and Limited Common Elements pursuant to Section 16.1; (ii) to subdivide a lot or relocate boundaries between Homes upon application of the Owner(s) of the affected Homes pursuant to the Act; (iii) to withdraw any portion of the Neighborhood subject to withdrawal under Section 14.3 from the coverage of this Charter upon request of the person taking title following foreclosure of a lien or encumbrance on such property; and (iv) otherwise as permitted or required by the Act or this Charter.

Any amendment pursuant to this Section shall be prepared, executed, certified, and recorded on behalf of the Association by any officer designated for such purpose or, in the absence of such designation, by the Association's President.

(c) By the Owners. Except as otherwise specifically provided above or in the Act, this Charter may be amended only by:

(i) the affirmative vote or written consent, or any combination thereof, of Voting Delegates to which at least 67% of the total votes in the Association are allocated;

(ii) the affirmative vote or written consent, or any combination thereof, of Voting Delegates to which at least 67% of the total votes held by Owners other than the Founder are allo-

Termination and Amendment of [Neighborhood or Community] Charter

cated, if the amendment creates or expands "special declarant rights," as defined in the Act, increases the number of Homes, changes the boundaries of any Home, or changes the votes or the proportional share of liability for Association expenses allocated to any home; and

(iii) during the Development and Sale Period, the Founder's written consent.

(d) *Validity and Effective Date.* Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of the Founder without the written consent of the Founder (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Charter or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Deed of Trust or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. An amendment shall be indexed in the grantee's index in the name of the Neighborhood and the Association and in the grantor's index in the name of every person executing the amendment.

No action to challenge the validity of an amendment may be brought more than one year after its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

(e) *Exhibits.* Exhibits "A", "B", "C" and "D", are incorporated by this reference. However, changes to Exhibits "C" and "D" shall not

be deemed an amendment to this Charter and may be made as set forth in Sections 7.2 and 6.2, respectively.

NOTES

In witness of the foregoing, the Founder has executed this Charter this 18 day of July, 2005.

FOUNDER:

MCSTAIN ENTERPRISES, INC., a Colorado corporation

By: [Signature]

Name: ERIC WITENBERG

Its: PRESIDENT / CEO

Attest: [Signature]

Name: HELEN VALENTE

Its: CEO

STATE OF COLORADO)

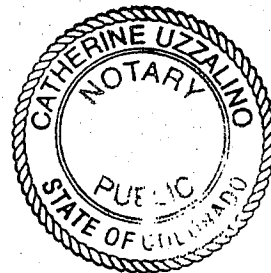
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 18 day of July, 2005
ERIC WITENBERG as CEO / PRESIDENT of McStain Enterprises, Inc., a Colorado corporation.

Witness my hand and official seal.

[Signature]
Notary Public

My Commission expires: 02/04/2008



My Commission Expires 02/04/2008

CONSENT

Pursuant to Section 1.6 (III), Section 7.8 and Section 10.2 of the Master Declaration, the undersigned Declarant under the Master Declaration hereby acknowledged and consents to the recording of this Neighborhood Charter for the Carriage Homes at Stapleton

FOREST CITY
A Colorado Corporation

By: _____

Its: Chief Operating Officer

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 30th day of June, 2005 by

John S. Lehigh as Chief Operating Officer of FOREST CITY
STAPLETON, INC.,
a Colorado corporation.

Witness my hand and official seal.

[Signature]

Notary Public

My Commission expires: 11/21/07

CONSENT OF LENDER

Keybank National Association (the "Bank") is the beneficiary under one or more recorded deeds of trust (collectively, the "Deeds of Trust") affecting the Property described in Exhibits A and B of the foregoing **NEIGHBORHOOD CHARTER FOR THE CARRIAGE HOMES AT STAPLETON** (the "Charter").

The Bank hereby consents the recording of the Charter, and agrees that any foreclosure or enforcement of any other remedy under the Deeds of Trust will not void or otherwise impair the validity of such Charter.

Dated this 21st day of July, 2005.

KEYBANK NATIONAL ASSOCIATION,
a national banking association

By: Tammy Maccarato
Name: Tammy Maccarato
Title: Assistant Vice President

STATE OF COLORADO)

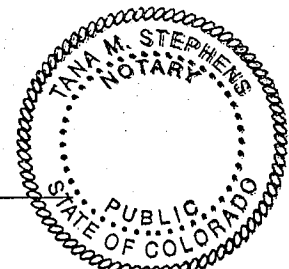
) ss.
COUNTY OF Newark)

The foregoing instrument was executed and acknowledged before me this 21st day of July, 2005 by Tammy Maccarato as Assistant Vice President of Keybank National Association, a national banking association.

Witness my hand and official seal.

Tana M. Stephens
Notary Public

My commission expires: 11-01-2006



My Commission Expires Nov. 1, 2006

EXHIBIT "A"

Land Initially Submitted

All the property known as Carriage Homes at Stapleton according to the condominium map thereof recorded in the City and County of Denver, State of Colorado at Reception No. 2005124938 on July 26, 2005 consisting of 8506, 8526, 8536, 8546, 8626, 8606, 8636, 8646, 8696, 8686 E. 25th Place, and all associated general and common elements depicted on such condominium map; such property being a portion of Lot 1, Block 18, Stapleton Filing No. 6, located in the City and County of Denver, State of Colorado.

EXHIBIT "B"

Land Subject to Annexation

All property (a) acquired by McStain Enterprises, Inc., (b) developed as condominiums, and (c) now and hereafter included in the Master Association pursuant to the First Amended and Restated Community Declaration for the Project Area Within the Former Stapleton International Airport which was recorded at reception No 2002086362 in the real property records of the City and County of Denver, Colorado and was also recorded at Reception No. C096147 of the real property records of Adams County, Colorado including such property subsequently annexed into such Declaration.

Note to clerk and title examiners:

This Charter is not intended to create an encumbrance on title to the property described in this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplement in accordance with Chapter 14.

EXHIBIT "C"

See Attached Initial Rules and Regulations

Initial Rules and Regulations
Carriage Homes at Stapleton Association

The Association's mission is to promote the long term value, harmony and social interaction for the greater good of the Neighborhood. To enable the Association to succeed in its mission, all residents of the Neighborhood must follow these Rules and Regulations. The Board may and shall create new guidelines, rules or regulations, or change an existing guideline, rule or regulation to meet the needs of the Neighborhood.

The purpose of these Rules and Regulations is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Board have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to all property subject to this Charter until such time as they are modified.

1. **General.** The property subject to the Charter shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Founder to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Association, or business offices for the Founder or the Association) consistent with this Charter and any Supplement.

2. **Restricted Activities.** Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities are prohibited within the Neighborhood:

(a) Parking commercial vehicles or equipment, mobile Homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages or other locations screened from view of adjacent property in a manner approved by the Board; provided (i) construction, service, and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Home or the Common Area; and (ii) the parking of a vehicle by an Owner on a street, driveway or guest parking area is permitted if all of the following conditions are satisfied: (A) the vehicle is required to be available at designated periods at the Owner's residence as a condition of the Owner's employment, (B) the vehicle has a gross vehicle weight of ten thousand pounds or less, (C) the Owner is a bona fide member of a voluntary fire department or is employed by an emergency service provider, (D) the vehicle bears an official emblem or other visible designation of the emergency service provider, and (E) parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other Owners to use streets and driveways within the community;

(b) Any activity that emits foul or obnoxious odors outside the Homes or creates noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Homes;

(c) Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(d) Pursuing hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures;

(e) Any noxious or offensive activity, which in the Board's reasonable determination, tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Homes;

(f) Using or discharging any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Homes, except alarm devices used exclusively for security purposes;

(g) Using and discharging firecrackers and other fireworks;

(h) Accumulating of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(i) Discharging of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(j) On-site storage of fuel, except that a reasonable amount of fuel may be stored in each home for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(k) Any activities that materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Neighborhood or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(l) Converting any carport or garage to finished space for use as an apartment or other integral part of the living area without prior approval pursuant to Chapter 5;

(m) Any modification of any thing, permanently or temporarily, on the outside portions of the Home, whether such portion is improved or unimproved, except in strict compliance with the Governing Documents. This shall include, satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-Home satellite services, that are one meter or less in diameter;

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional

television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

- (iii) an antenna that is designed to receive television broadcast signals;

shall be permitted on Homes, subject to the antenna, satellite dishes and cables from such must be contained within the structure or otherwise screened from public view or placed in the locations that are not exposed to public view to the extent feasible and so long as such placement does not substantially degrade the reception of the signal.

3. Prohibited Conditions. The following shall be prohibited in the Neighborhood:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Neighborhood; and

- (b) Structures, equipment, or other items on the exterior portions of a Home which have become rusty, dilapidated, or otherwise fallen into disrepair.

4. Parking. The primary parking space for Owners and their family within the Neighborhood shall be in their individual enclosed parking garage associated with each Home. Parking on street, in parking lot or on surface parking shall be for guest and supplemental parking only. Alley parking is prohibited. The use of a garage for storage shall not justify parking outside of the garage.

5. Trash and Recycling Receptacles/Bins. All trash and recycling receptacles/bins shall be taken out no sooner than 12 hours prior to appointed pick-up schedule and returned to garages for storage no later than 12 hours after removal to ensure that unsightly, but necessary items such as trash and recycling receptacles are in public view as minimal amount of time as possible for the overall aesthetics of the Neighborhood.

6. Basketball Hoops. Residents of the Neighborhood are required to use basketball hoops located in parks, since basketball hoops are prohibited in the alleys or on your driveway apron due to safety issues. By City Ordinance, basketball hoops are prohibited on public streets.

7. Pet Doors. Pet doors are not allowed to be installed in individual Home due to the fact there is no enclosed fenced area that maintains the animal and could cause a safety issue and an aesthetic issue.

8. Window Coverings— Appropriate window coverings, including but not limited to curtain, drapes, blinds, shades or temporary coverings shall be installed within 90 days of the purchase of your Home. Unacceptable window coverings include but not limited to bed sheets, tarps, burlap or any other material not specifically designed to act as a window covering.

9. Deck, Patio and Balcony. All decks, patios and balconies must have appropriate outdoor furniture. Unacceptable furniture include but not limited to coaches, sofas or any other material not specifically designed to act as outdoor furniture. Decks, Patios and Balconies need to

be kept in a neat, orderly appearance and can not be used for storage. Hanging or potted plants are permitted within the deck, patio or balcony as long as they are placed in containers that do not cause water to drain on the siding or into neighboring units.

10. Holiday Decorations. Holiday decorations may be placed within individual homeowner's property no earlier than 45 days prior to the holiday and need to be taken down within 45 days following the Holiday. Holiday decorations can not be placed in common areas – to include the landscaped area surrounding the townhome buildings, green space within the neighborhood, tree lawn adjacent to the townhome buildings or sidewalks within the neighborhood and adjacent to the townhome buildings - unless prior approval is received from the Association.

11. Political Flags and Signs. The display of the American flag on an Owner's property, in a window on the Owner's Home, or on a balcony adjoining an Owner's Home is permitted provided that: (a) the flag is displayed in a manner consistent with the Federal Flag Code, (b) the Association may reasonably regulate the placement and manner of display; and (c) the Association may regulate the location and size of flags and flagpoles. The display by an Owner of a service flag bearing a star denoting the service of the Owner or a member of the Owner's immediate family in the active or reserve military service during a time of war or armed conflict is permitted provided that: (a) the service flag is located on the inside of a window or door of the Owner's residence, and (b) the Association may reasonably regulate the size and manner of display, but the maximum size allowed shall be no less than 9 by 16 inches. The display of political signs by an Owner on such Owner's property to in a window of such Owner's home is permitted provided that: (a) no such signs may be placed earlier than 45 days prior to the election day involved and need to be taken down no later than seven days following the election; (b) the Association may regulate the size and number of political signs that may be placed on an Owner's property provided that such regulations are no more restrictive than the local political sign ordinance; and (c) if the locality has no political sign ordinance, the Association must permit as least one political sign per political office or ballot issue that is contested in a pending election and the maximum permitted size may not be less than 36 by 48 inches. No political signs shall be located or maintained on any Common Areas.

12. Temporary Signs. Temporary signs, to include but not limited to garage/yard sale, slow down, rental, for sale, party and birth announcement, are permitted as long as they are small in nature and are taken down within 30 days after the event has occurred .

13. Grills on decks and balconies. Charcoal grills are prohibited on decks or patios per City of Denver ordinance

14. Landscaping.

(a) The common area landscaping – to include landscaping within the front yards *and* alleys of the Homes, the green space throughout the Neighborhood and the tree lawns -is an important unifying element of the Neighborhood. Accordingly, no Owner may alter the nature or character of the landscaping in these areas without obtaining pre-approval from the Association.

(b) No Owner may install improvements or alter grading to adversely affect drainage on any Lot. Each Owner shall maintain all gutters, downspouts and extensions within such Owner's Lot to insure that the gutters and downspouts remain in the down position and are free and clear of all

obstructions and debris and that the water flow from such gutters and downspouts is directed away from the foundation and/or slabs on any improvement. No Owner may alter, obstruct or obliterate any drainage swales, pans, easements, or channels located or installed on any Lot or Common Areas

EXHIBIT "D"

See Attached Maintenance Chart

Maintenance Chart
Carriage Homes at Stapleton

ITEMS	ASSOCIATION RESPONSIBILITY	OWNER'S RESPONSIBILITY	OTHER RESPONSIBILITY
The interior and structural portions of the Home	-	All, including the structural components of walls and roofs associated with the individual Homes	-
Exterior windows, window glass, and window screens	Painting or staining of exterior surfaces of the windows and window frames	All, except the painting or staining of exterior surfaces of the window and window frames	-
Exterior front and garage doors and door frames	Painting or staining of the exterior surfaces of the front and garage doors and door frames	All, except the painting or staining of the exterior surfaces of the front and garage doors and door frames	-
Balconies and Porches of the building	All serving the Carriage Homes	-	-
Foundation	-	All, foundation associated with the individual Homes	-
Exterior surfaces of the building and garage	Any brick, stone, siding, trim, shutters, eaves and fascia (except windows, window glass, window screens, exterior doors, door frames and garage doors)	Windows, window glass, window screens, exterior doors, door frames and garage doors, except painting and staining	-
Painting and Staining of the building	Exterior surfaces of buildings, including the exterior painted surfaces of windows and window frames, doors and door frames, and any siding, shutters, eaves, fascia, gutters, balconies and downspouts;-	-	-
Non-structural roofing materials	All, including shingles, but not including trusses, rafters, or other structural components of the roof	Trusses, rafters, or other structural components of the roof associated with the individual Homes	-
Gutters and downspouts on the building	All serving the Carriage Homes	-	-

ITEMS	ASSOCIATION RESPONSIBILITY	OWNER'S RESPONSIBILITY	OTHER RESPONSIBILITY
Plumbing, Heating and Electrical	All, serving the whole building	Any pipes, lines, wires, conduits, and other apparatus or equipment compromising any portion of the plumbing, heating, electrical, communication (including without limitation, cable television service, telephone service, telephone, and intranet or Internet access), air conditioning, and other utility systems serving only his or her Home.	-
Sanitary Sewer, Storm Sewer and Water Laterals	All from meter pit to the building	All, within his or her Home.	-
Exterior light bulbs	The photocell exterior garage lights and post lights serving the Carriage Homes	The entry light serving the individual Home.	Metro District maintains all street lights
Exterior light fixtures	All serving the Carriage Homes	-	Metro District maintains all street lights
Landscaping	All landscaping located in the common area surrounding the buildings and within the green space and tree lawn associated with the Carriage Home Neighborhood	-	-
Concrete, including snow removal	Maintenance of sidewalks and surface parking serving the Carriage Home Neighborhood	Maintenance of individual entry walk and porch	<p>City of Denver is responsible for all Public Streets</p> <p>The Master Association maintains the concrete alleys but does not conduct snow removal.</p> <p>*The Carriage Homes at Stapleton Association may perform snow removal on the alleys upon approval by the Master Board.</p>
Mailboxes - Cluster Box Unit	-	-	U.S. Postal Service
Garage Trellises	All located within the Carriage Home Neighborhood that were originally installed by the Founder		

ITEMS	ASSOCIATION RESPONSIBILITY	OWNER'S RESPONSIBILITY	OTHER RESPONSIBILITY
Fencing	All serving the Carriage Home Neighborhood that were originally installed by the Founder	-	-