

THE AVION CLUB
DECLARATION OF RESTRICTIONS
COVENANTS, EASEMENTS,
IMPOSITION OF FEES
AND ARCHITECTURAL CONTROL

This Declaration is made by FRESH CREEK AIRPORT LIMITED LIABILITY COMPANY, a Wyoming limited liability company (hereinafter as "Declarant"), as of the 20th day of April, 1984.

PREAMBLE

1. Declarant is the owner of certain real property situate in Gunnison County, Colorado, described as follows:

Township 14 South, Range 105 West, 6th 2nd

Section 7: SW1/4NW1/4
SE1/4SW1/4
NW1/4SE1/4NW1/4
NE1/4SE1/4, NE1/4SW1/4

Section 8: NW1/4SW1/4, W1/2NW1/4

EXCEPTING THEREFROM: That parcel of land conveyed by Richard A. Landy, Ronald D. Rouse, Charles M. Ruzard, Imogene M. Ruzard, and Helen R. Ruzard, Inc., a Colorado corporation to William J. Leay in Quit Claim Deed Recorded May 3, 1978 in Book 514 at page 755.

ALSO EXCEPTING THEREFROM: Three tracts of land conveyed by Richard A. Landy to Ruzard Ranches, Inc., a Colorado corporation described in Quit Claim Deed recorded May 13, 1978 in Book 514 at page 284.

The Declarant intends to develop its property above described, as a residential commercial development and centered around the existing airstrip, with the possibility of providing (by- all means) to the development.

2. The Declarant also owns certain water rights, easements and rights appurtenant to other properties located in Gunnison County, Colorado, described as follows, which will be dedicated to the development:

All water rights, appurtenant to the above described real property, and the, without limitation:

a) 0.5 cfs. under Priority No. 288 (1644) dated July 5th 1921, Gunnison Water District No. 88.

b) 0.5 cfs. under Priority No. 453, decree dated April 20, 1941, former Water District No. 89.

c) 1.0 cfs. under Priority No. 484, decree dated April 20, 1941, former Water District 88.

d) Certain right to convey water through Vernon Young-Biland 34th, Deed No. 279, former Water District No. 88.

For the remaining rights, the following applies:

Declarant Owns Water District No. 4, Case Nos. W-28517, W-28518, W-28519, W-28520, W-28521, W-28522 and W-28523.

- C) Lady Well No. 1, 0.25 Acre
- D) Lady Spring No. 1, 0.25 Acre
- E) Lady Spring No. 2, 0.25 Acre
- F) Lady Reservoir No. 1, 0.25 Acre
- G) Lady Reservoir No. 2, 0.25 Acre

3. The Declarant intends to construct amenities for its development, including roads, water, sewage, collector systems, electrical and telephone service and other improvements to be located upon certain common areas within the development, using therefor the above described properties and property rights.

4. The Declarant intends that its Land shall be developed as a staged development including residential lots, multi-family living sites, service businesses, lodging facilities and an equine ranch which will be a residential community affording its residents immediate use of aviation facilities, and which will be aesthetically pleasing, harmonious with the environment, and conducive to residential and recreational use for all concerned on a lasting basis which will preserve the natural beauty of the Land to the fullest extent possible during all seasons of the year. All buildings constructed within the development will be homogeneous in style, contour, material materials and colors and may be freestanding or in clusters and may or may not have common or party walls with other buildings.

5. The Declarant believes that these objects can be best achieved through the imposition of restrictions, covenants, easements, and reservations upon the Land and through the control of the location, composition and architecture of the improvements to be placed on the Land. It further believes that its objects may be implemented by continuing control either by the Declarant or by its Justice or representative homeowners association, as hereinafter set forth.

DECLARATION

NOW THEREFORE, in order to achieve the above described objects, Declarant does hereby declare the restrictions, covenants, easements, impositions of fees and self-imposed covenants hereinafter set forth, the same to become enforceable upon and covenants running with the land, as to such parcels within the Land which the Declarant may hereafter subject to this Declaration by filing the same Plans for record with the Gunnison County Clerk and Recorder, it being the intent of the Declarant to encumber the several parcels of land (Subject Land) within the property described in the PREAMBLE and such other contiguous lands with the Declarant may acquire hereafter, as stages of its plan of development are realized through the subdivision process. As Subject Land is platted by the Declarant from time to time and becomes subject to the terms of this Declaration, this Declaration shall be considered to be a part of any and all mortgages, transfers, leases, mortgages, trust deeds and other documents affecting all or any part of said Subject Land whether or not specifically set forth in such documents. Anyone acquiring an interest in such Subject Land, shall be deemed to have accepted all the terms hereof and to be bound by year and every provision of this Declaration. The Declarant shall have no duty to designate any particular portion of the land as Subject Land, or to do so at any particular time.

ARTICLE I - DEFINITIONS

- 1.1 "Association" shall mean the nonprofit corporation described in Article VI hereof.
- 1.2 "Building Site" shall mean that portion of a Site designated upon a Plat within which improvements may be located, including but not limited to structures, driveway, parking areas, culverts, roads, tow ways and swimming pools, provided however that improvements located to be located within a Building Site shall not include laws, underground sprinkler systems and landscaping.
- 1.3 "Committee" means the Design Review Committee described in Article VII hereof.
- 1.4 "Common Area" shall mean any area within the Land which has been conveyed by the owner thereof to the Association and accepted thereby as any area designated as Open Space or Common Area on a Plat.
- 1.5 "Common Expenses" the amount assessed annually by the Association pursuant to Section 3.5 hereof, which represents the anticipated costs and expenses of operating the association and owning, insuring, maintaining and operating the Common Areas and Facilities. Each

Owner shall be responsible for his pro rata share of the common expenses set out both in Section 5.7 hereof.

1.6. 'Common Facility' shall mean any improvement which is located within a Common Area and which is commonly used or available for the common use of all Owners.

1.7. 'Declaration' shall mean the Declaration identified in the PREAMBLE. In the event that the Declarant shall delegate and assign rights or duties under the Declaration to the Association by assignment or report thereon with respect to such the Association shall be bound as the Declarant and stand in the Declarant's stead with respect to such.

1.8. 'Improvements' mean any construction, fixture or emplacement of any article, whether intended to be permanent or temporary, which is located or to be located within a Site or other area, including but not limited to, buildings or other structures, fences, gates, driveways, parking areas, utilities, roads, law-ways and swimming pools.

1.9. 'Land' shall mean the property described in the PREAMBLE hereof and any property contiguous to such property which is acquired by the Declarant and which is intended by the Declarant to become a part of its staged development described in the PREAMBLE hereof.

1.10. 'Owner' shall mean the fee simple title holder of each respective Site as established by the records maintained by the Gunnison County Clerk and Recorder. Unrecorded interests shall not be recognized by this Declarant, Association or committee.

1.11. 'Plat' shall mean any Subdivision Plat approved by the County Commissioner for Gunnison County and filed for record with the Gunnison County Clerk and Recorder by the Declarant covering parcels within the Land. Each such plat shall contain specific language subjecting the Subject Land to this Declaration.

1.12. 'Site' shall mean each separately numbered and designated parcel of land as shown on a Plat as a legal subdivision of land.

1.13. 'Subject Land' shall mean those parcels within the Land which are platted by Declarant and which are designated by Declarant in writing to be subject to this Declaration.

ARTICLE IV - EASEMENTS

2.1. Generally. Easements shall be only as shown upon a Plat and shall not be implied from any other source by the Declarant or any Owner.

2.2. Changes. Platted Easements may only be modified by the Declarant and only in conformity with recording procedures provided by Gunnison County. No changes in easement location or scope may be made which will materially affect any vested property right of an Owner, without prior written approval by that Owner.

2.3. Interference with Easements. No improvement, structure or benefits of any kind whatsoever may be erected or placed upon any platted easement, the effect of which would be to materially interfere with use thereof, without the prior written approval of the Declarant. In order to avert any interference hereunder, the Declarant must make a written finding that no Owner or the Association will be materially harmed by the particular interference.

2.4. Easements Available to All. Easements for utility, utility and common ways shall be open for use by all Owners and their guests and licensees, subject only to such rules and regulations which may be promulgated or used by the Association to promote the purposes of this Declaration. The Declarant reserves the right in and to the platted easements for roads, utilities and all common ways throughout the Land (and any real estate which may be added to the Land by the Declarant) by means of reconnection of lines existing in the Subject Land from time to time and thereby to subject them to usage by Owners of Sites in such additional Subject Land.

2.5. Irrigation Ditch Easements. The Plats create easements for existing irrigation ditches which traverse portions of the Land. All persons who enjoy the right to use those ditches to transport water shall have the right to use those easements and the platted roads within the Land for the sole purpose of maintaining and operating such ditches. No Owner or his guests may interfere with the maintenance and operation of the ditches, nor may any Owner or his guest cause or allow any materials of whatsoever nature to be dumped into such ditches. In the event of water backlogs which causes flooding within the Land, the persons having the right to maintain and operate such ditches may trespass upon any Site, in such manner as may be reasonably necessary to immediately restore the flow of water within such ditches. Provided that such persons shall compensate any Owner suffering damage by reason of such trespass.

ARTICLE III - RESTRICTIONS ON LOCATION OF IMPROVEMENTS

3.1 Generally. For the purpose of assuring uniformity to the Declaration, placement of development improvements (existing only underground conduits and utilities) must be placed entirely within a Building Site, unless permitted by the Committee, as hereinafter provided.

3.2 Committee Control of Improvement Location. The Committee shall have and retain the full authority granted to it under Article VII to control the placement of any Improvements, and it may permit Improvements to be located beyond a Building Site; provided however, that it must first make a written finding that such location promotes the purposes and objects of this Declaration and that such location does not materially or adversely affect any Owners of other Sites lying a boundary with the Site of such Site.

ARTICLE IV - SITE MODIFICATION

4.1 Generally. All Sites shall remain legal subdivisions of land for purposes of this Declaration, unless and until there has been a formal replating of one or more Sites, resulting in a re-subdivision of one Site into two or more Sites, or a combination of two or more Sites into one Site, or a relocation of Site boundary lines between two or more Sites, all in accordance with this Declaration and applicable state statutes and local government ordinances and regulations. Subjecting a Site to a condominium regime shall not be deemed to be a replating under this Article IV.

4.2 Approval. No Site boundary lines may be relocated, added or eliminated without prior formal approval of the Association, which shall only be given after its written finding that the proposed change promotes the purposes and objects of this Declaration and does not materially and adversely affect an Owner of any Site having a boundary within 100 feet of the Sites subject to modification. The Association may condition approval upon applicant-Owner(s) relocating his or their Building Site, or eliminating one or more of multiple Building Sites which may otherwise result from a combination or relocation. The Association shall act on an application (which shall be accompanied by such information as its board may reasonably require) at its next regular meeting, unless its deliberations need to be extended due to weather conditions preventing the Association from conducting a Site inspection. In addition to Association approval and applicant-Owner(s) must obtain approval of Garrison County to the Site modification.

4.3 Legal Approval and Replating. From and after the date a Site replot is recorded, the approved and replated change in Site boundary lines shall result in the modified Site or Sites having the same rights and duties, insofar as this Declaration and the Association are concerned, as though it or they had been originally planned by the Declarant in the form of such replating.

ARTICLE V - COMMON AREAS AND FACILITIES

5.1 Common Areas and Facilities. All Common Areas and Facilities will be designated on the Plans and will be for the common use and enjoyment of all of the Owners, subject only to reasonable rules and regulations prescribed by Declarant and the Association, and subject to the terms of this Declaration. Title to the Common Areas and Facilities will be conveyed by Declarant to the Association free and clear of any liens and encumbrances, or other obligations or liabilities which would materially and adversely affect the Owners' use and enjoyment thereof, or burden the Association with the obligation to pay for such Common Areas or Facilities, except the assessments and restrictions created by this Declaration and any Plan. At such time as all or any portion of the Common Areas and Facilities are conveyed to the Association, the Declarant shall assign all of its rights and duties with respect to the Common Areas and Facilities as conveyed to the Association and the Association shall accept, exercise and perform the same from that time forward. Without limiting the generality and scope of the foregoing, Declarant and the Association shall have the following rights in the use of the Common Areas and Facilities:

A. With respect to the water system, Declarant and the Association shall impose such rules and regulations on water usage as may be necessary and appropriate to assure to all Owners continuous availability of water on a fair and reasonable basis. Use of water is prioritized within the Land as follows: First, as needed for health and safety purposes, such as fire protection; Second, for residential domestic use, inclusive for laundry washing and sewerage purposes; Third, for commercial usages; fourth, for lawn watering and irrigation; fifth, for recreational purposes such as swimming pools. In the event of a breakdown in the water system, or water shortage from other cause, the Association shall use emergency regulations as may be necessary to secure water availability as prioritized above, and may obtain a court injunction enforcing the same on an ex parte basis and without posting bond therefor.

B. Declarant and the Association may control the use of roads, placing reasonable restrictions on loads, speeds, vehicle types, and other matters in the same manner as a municipality. The Association may enforce these regulations by fines against offending Owners which shall be treated as additional dues.

C. Declarant may control the use of the airport runway in order to insure safety and quiet enjoyment of the Land by all Owners. Declarant may impose a regimen of landing fees in order to provide a lease for maintaining and improving the runway and to provide needed safety actions. Since the airport is valuable to the public within the vicinity of the Land, Declarant may make use of the airport runway available to the public, on fair and equitable terms.

The Declarant reserves the right to convey roads within the Land in San Diego County provided that the County shall accept the duty to maintain such roads following conveyance.

5.2 Declarant's and the Association's Duties. The Common Facilities conveyed by the Declarant shall be delivered in operable and useable condition, and fully constructed or completed in accordance with its undertakings and agreements with San Diego County under the terms of the San Diego County Land Use Ordinance. Following conveyance thereof, the Declarant shall have no further duty with respect to the care, maintenance or replacement of the Common Areas and Facilities so conveyed, but the same shall be solely that of the Association. The Declarant may convey the Common Areas and Facilities to the Association in stages, consistent with its staged development plan, and may defer conveyance until its development is completed; provided however, the Declarant must convey all of the Common Areas and Facilities to the Association, on or before the sale of 75% of the Sites fully platted within the Land.

During the period of time the Declarant retains ownership of the Common Areas and Facilities, the Declarant may charge the Association for reasonable and necessary costs of operating, maintaining and replacing such Common Areas and Facilities, and the Association shall assess the Owners therefor in the same manner as though the Association owned the Common Areas and Facilities, and itself had incurred such costs. During the period of its ownership the Declarant shall make the Common Areas and Facilities so which it remains operable available to the Owners as prescribed by the Declarant. In the event that the Declarant fails to maintain the Common Areas and Facilities in good working condition or fails to provide adequate road, airport, water and sewage service to the Owners, then the Association shall have the right to have a receiver appointed for the Declarant with respect to the Common Areas and Facilities and to obtain judicial conveyance of the Common Areas and Facilities to the Association. All costs of such proceedings, including reasonable attorney's fees shall be awarded to the prevailing party.

5.3 Expenses. All expenses incurred by the Association in performing its duties under this Declaration, or which may be reasonably necessary in protecting, preserving, maintaining, repairing and operating the Common Areas or Facilities or maintaining and operating the Association or any expenses beyond the contemplation hereof which may be authorized by affirmative vote of two-thirds of the Owners at an Association membership meeting duly called and noticed for such purpose, shall be Common Expenses and shall be borne ratably, as provided in 6.5 hereof, by all Sites which may be Platted and subjected to this Declaration, both as a lien against said Sites and as a personal obligation of the Owners of such Sites at the time of assessment by the Association, all as more fully set forth in 6.6 and 6.7 hereof.

5.4 Conveyance or Disposition. The Common Areas and Facilities shall be held by the Declarant and the Association in trust for the Owners, and shall not be conveyed or otherwise disposed of (except for conveyance to the roads to San Diego County), unless previously approved by affirmative vote of eighty percent (80%) of the membership of the Association. The General Common Areas and Facilities may not be encumbered by the Declarant or the Association, unless the encumbrance is set off under by its terms to this Declaration, so that the General Common Areas and Facilities will remain available to the Owners and devoted solely to their use and enjoyment.

ARTICLE VI - WATER RIGHTS

The water rights described in the PRCAMs are subject to this Declaration as follows:

6.1 The water rights are hereby dedicated to an Avon Club, as they are to, may hereafter become necessary to provide an adequate source of domestic water for the Avon Club. At such time or times as the Declarant may convey part or all of the water system to the Association, or the Avon Club, he will accompany such conveyance by a conveyance of part or all of the water rights which provide an adequate source of water for the water system being conveyed, here and hereafter of liens and encumbrances. All the water rights will remain appurtenant to the Land and will not be conveyed separately by lien or deed separately therefrom.

6.2 Grant of the water rights are conditional in nature and require the Declarant to use due diligence in developing them as part of the development of the Aston Club, including the requirement to periodically report to the Water Court to establish and maintain litigation in order to keep such conditional water rights in effect. The Declarant will keep such rights in effect and will survey them in that condition. Upon such conveyance, the Association will have the duty to report to the Water Court in order to keep such water rights in effect.

ARTICLE VI - ASSOCIATION

7.1 Creation and Duration. The Declarant has caused a nonprofit corporation, AMONG OUR OWNERS ASSOCIATION, INC., to be formed under the laws of the State of Colorado. The Association shall remain in good standing during the entire term of this Declaration, and in the event it shall become delinquent, any three Owners may reinstate it according to the Colorado Non Profit Corporation Code.

7.2 Memberships. The Owner or Owners of each Site shall be entitled to one membership in the Association, per Site and such membership shall continue as long as such member is an Owner in good standing in accordance with the Bylaws of the Association. In the case of alienation of a Site in accordance with Article IV herein, each shared Site created thereby shall be entitled to one membership. Each membership shall be entitled to one vote with respect to all matters to come before the membership for decision. If any Site is subject to multiple ownership, then such ownership shall designate in writing a representative to vote or otherwise participate in membership meetings. In cases of questions or controversies concerning proper representation, the same shall be determined by the Association's board of directors, and in a case which appears unclear to the board, it shall have the right to disallow participation by the Site.

7.3 Utilities and Aesthetics. The Association shall have the duty of providing management, operation, maintenance, repair, landscaping, and improvements for the General Common Areas and Facilities (except to the Association by the Declarant and described herein) and for all easements described in Article I hereof. It shall be further responsible to provide such insurance as may be necessary or desirable with respect to the General Common Areas, Facilities and easements. At the time of this conveyance to the Association, the Association shall assume the additional responsibilities of providing business services to the Owners, including, but not limited to, water, sewage collection and egress. The Association may employ a managing agent to perform its duties hereunder. Such agent shall have the powers and duties set forth in the Bylaws of the Association.

7.4 Goals of Association. The Association shall perform its duties and obligations prescribed by this Declaration, or additional duties or obligations which may be assumed by the Association, upon a cost basis and shall have the right to establish appropriate cash reserves to insure the performance of its duties and obligations. Initially the Association will enter into a management agreement with the Declarant or its designee for a period of three (3) years from the date of recording of the initial Plat, which agreement shall provide for the performance of its obligations on a cost plus overhead basis.

7.5 Assessments and Charges. No less often than annually the board of directors of the Association shall adopt a budget for the coming calendar year which shall provide adequately for the Association's anticipated costs of operation for such year and which shall be the sole basis when such budget sums shall be due, whether by lump sum or installments. Within thirty (30) days thereafter the Board shall mail by ordinary first class mail, or otherwise deliver, a summary of the budget to all Owners and shall set a date for a meeting of all Owners to consider ratification of the budget not less than thirty (30) days or more than sixty (60) days after mailing or other delivery of the summary. The budget will be deemed ratified unless at the meeting so called a majority (60%) or more of the Owners reject the budget. In the event of rejection the amended budget shall continue in effect until new budget ratification occurs. The budgetary amount so ratified shall constitute Common Expenses and become a charge against Owners and Sites on the date the budget is ratified which shall constitute an assessment of the budgetary amount against the Sites and Owners on such date. By following the same process, the Board may modify the budget to meet extraordinary needs of the Association and any additions to the budget so ratified hereunder shall constitute Common Expenses and become a charge and assessment against Owners and Sites on the date the modified budget is ratified.

With respect to any Common Facility or service provided to Owners, the board shall have the authority to impose service charges in addition to or in lieu of Common Expenses if it determines that the provision of such charges is more equitable to the Owners than Common Expenses. For example, and not by way of limitation, if the board determines that the costs of providing water service to Owners should be ratably charged due to disparity in water usage between Sites, then the board shall have full authority to increase or require periodic charges against Sites and their Owners for such service based upon the costs of providing that service, including capital and overhead expenses, and actual or estimated usage of water by the water Sites, or alternatively upon

a charge there for water usage on a site-by-site basis, and such charge shall enjoy the same rights and status as Common Expenses; that is, they shall constitute a lien against the Site receiving such service which shall be deemed to have attached on the date of provision of service, or filing date, whichever shall first occur, and shall constitute a personal obligation of the Owner of such Site at the same date.

The Common Expenses incurred by the Association in its operation shall be borne by the Owners upon an assessment basis. Each Owner of a Site by acceptance of a deed therefor, whether or not so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association his respective assessment as herein provided. Each Owner and Site shall be responsible for an amount equal to the fraction of the total Common Expenses that the Site bears to the total number of Sites in the Subject Land, provided however that:

- A. Any common expense or portion thereof benefiting fewer than all of the Sites shall be assessed exclusively against the Sites benefited.
- B. Costs of common insurance shall be assessed in proportion to risk.
- C. Costs of utilities shall be assessed in proportion to usage.
- D. If any common expense is caused by the misconduct of an Owner, the Association shall assess that expense solely against that Owner's Site.

As Plans are recorded which add new Sites to the Budgeted Land, then such Sites shall be added to the total Sites to be employed in determining Assessments and each Site so added shall be subject to payment of assessments from and after the date of assessment. At the time the newly-platted sites become Subject Land, the Association shall recompute individual assessments for the remaining balance of the budgetary year, and notify Owners with adjusted assessments.

The assessments made shall be based upon the Association's cash requirements deemed to be such appropriate sum as the Board of Managers of the Association shall from time to time determine to be paid by all of the Owners, including Declarant, for usual Sites, to provide for the payment of all estimated expenses incurred in connection with the maintenance and operation of the Common Areas and Facilities, which sum may include, but is not limited to, expenses of operation, management, taxes and special assessments, and separately assessed, insurance premiums on Common Areas and Improvements thereon (including fire insurance with extended coverage, vandalism and malicious mischief insurance, public liability and other insurance), landscaping and care of grounds, repairs and renovations, trash and garbage collections, wages, room or water and sewage service operating expenses and other common utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent, or Board of Managers, in order or by reason of this Declaration, the payment of any deficit remaining from a previous assessment period, the creation of a reserve or contingency or other reserve or surplus fund as well as other basic and expenses relating to the Common Areas and Facilities. Assessments shall also include the costs of exterior maintenance of an Owner's Site if such maintenance is undertaken by the Association pursuant to Article XI hereof. The omission or failure of the Owner to fix the assessment for any assessment period shall not be deemed a waiver, modification or a release of the Owner from their obligation to pay. The assessments for estimated Common Expenses shall be due as prescribed in each budget and the Board of Managers or Managing Agent shall prepare and deliver or mail to each Owner an itemized statement showing the estimated or actual expenses for the assessment period and the proportionate amount due by such Owner. No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of his Site.

7.6 Lien for Assessments. The Association shall have lien right against any Site to collect delinquent assessments and fees under this Declaration, in the manner and to the extent provided by Colorado Revised Statutes §38-33.2-815, effective the date hereof, which provision is adopted and incorporated herein by reference thereto, as though recited herein. In the event that such statute may hereafter be amended or rescinded, then notwithstanding a lien action the said provisions shall continue to define and control the Association's lien rights with respect to this Declaration, except to the extent limited or prohibited by Colorado law.

The Association may, by appropriate bylaw provisions, adopt a regimen of fees, charges, late charges, attorney's fees, fines and interest, as permitted by law, which shall be enforceable as assessments under this provision.

7.7 Personal Obligation of Owner. The amount of the Common Expenses assessed against such Site shall also be a personal obligation of the Owner thereof at the time the assessment is due. Suit to recover a money judgment for unpaid assessments and any penalties thereon shall be maintainable without foreclosing or waiving the lien securing same.

7.0 Payment by Encumbrance. Any one member holding a fee on a Site may pay any unpaid assessments payable with respect to such Site, and upon such payment, such an encumbrance shall have a lien on such Site for the amounts paid to the same priority as the lien of his special lien.

7.1 Status of Delinquent Owner and Site. Any Owner more than thirty (30) days delinquent shall be suspended from membership in the Association and shall not be entitled to participate in Association matters. Notwithstanding, the Owner and his Site shall be entitled to use any of the Common Areas and Facilities until the delinquency and penalties shall be fully made up. The Association shall have the right to disconnect water and sewerage service, fuel access or access in any of the other Common Areas and Facilities, to any Owner suspended from membership for the period of suspension. In the event that a Site in which any Common Expenses or charges have not been paid is conveyed or transferred to another by operation of law, then such Site shall continue in the status of suspension until all delinquencies are fully made up by the new Owner.

ARTICLE VIII - LIMITATIONS ON LAND USE

8.1 General. No construction of improvements within a Site, or activities within a Site, or use of and within a Site by an Owner, his guests, invitees, agents or licensees, shall be permissible unless expressly permitted hereunder, or incidental to a permitted use by authority.

8.2 Single-Family Site. Except as provided in Sections 7.3 and 7.4, each Site will be limited to residential use by a single family, and domestic employees and no improvement inconsistent with such limited use shall be erected, and placed within such Site, either temporarily or permanently. Domestic employees, including caretakers, may be housed within a Site, as part of the single family use, provided that not more than 1,000 square feet of living space shall be devoted thereto per Site.

8.3 Multi-Family Use. Declarant may designate one or more Sites within the Subject Land as "Multi-Family Sites", and such designation shall permit residential use by more than one family. Such Sites may be subdivided by the Owners thereof into multiple ownership, whether condominiums, congruente residences, town houses, time-shared interests, undivided interests in real estate property, or by any other means permitted by law. The number and manner of such subdivisions shall not be limited by these covenants, but shall be subject to the limitations of the Declarant's master plan approved by Clatsop County, or by any subdivision plan, hereto approved by Clatsop County, which may modify the Declarant's master plan. For the purposes of this paragraph, the term "residential use" shall include the housing of domestic employees, including caretakers, as may be permitted by the Commission.

8.4 Commercial Use. Declarant may designate one or more Sites within the Subject Land as "Commercial Sites" within the Subject Land. Commercial use within these Commercial Sites shall be limited to uses that are consistent with the residential development of the balance of the Sites, as follows:

- A. Retail businesses which will serve the residential Sites, such as gas stations, convenience stores, restaurants and the like.
- B. Lodges or other businesses offering short-term room rentals.
- C. A guest ranch, including the rental of horses to the public.
- D. Alpine services, such as flight and skiing instruction, hangar use, ski storage and the like, and other similar related uses.

8.5 Specific Restrictions. In addition to the foregoing, the following restrictions on use of the Land are imposed:

A. In General. No activities or activities activities shall be conducted on any Sites nor shall anything be done or be caused to be done on any of said Sites that shall become or be an unreasonable annoyance or nuisance to any Owner, or in the case of multiple ownership of a Site, then to any of its property Owner within the Site.

B. Animals. No animals shall be kept or permitted on the Land, except the usual domestic household pets; and in such case, such household pets shall be kept confined to the Owner's Site or attached to a person so as not to become a nuisance. No animals may be raised for commercial purposes, provided, however, that the General Common Areas may be utilized by the Association for riding stables and horse pens.

with landscaping plans approved by the Committee. Lawn watering may be restricted or suspended by the Association under Article V (a) (ii).

K. Maintenance. All Sites, including all improvements, shall be kept and maintained by the Owner thereof in a clean, safe, attractive and dignified condition and in good repair. An Owner shall do no act or acts that will lower the structural soundness of any improvement or impair any easement.

L. Light, Sounds and Odors. No light shall be emitted from any Site which is unduly bright or causes unreasonable glare, no sounds shall be emitted on any Site which is unnecessarily loud or annoying, and no odor shall be emitted on any Site which is offensive or offensive to others.

M. Refuse. No refuse, including without limitation wash, garbage, lumber, grass, slubs or tree clippings, plant waste, compost, ashes, metals, bulk materials, and scrap materials shall be allowed to accumulate on any Site. Each Owner shall provide suitable covered refuse receptacles for the collection of such refuse in preparation for regularly scheduled periodic pickup. Refuse shall be stored for such pickup in such receptacles which shall, in turn, be enclosed in an approved structure so as to be screened from public view and protected from view. No refuse may be burned or dumped on any of the Land. The burning of refuse outdoors shall not be permitted. No incinerators or other devices for the burning of refuse indoors shall be constructed, installed, or used by any person except as approved by the Committee and Gwinnett County. All trash receptacles shall be constructed to prevent any animals, including wild animals such as bears, from gaining access therein.

N. Parking and Storage. Parking of vehicles on any Site is permitted only within parking spaces constructed pursuant to approval by the Committee, except if all vehicles may be parked in other areas while loading and unloading. Except for airplanes, automobiles, motor-vehicle-type vehicles, jeep-type vehicles, pickup trucks and bicycles, other vehicles and all articles and implements, including without limitation trailers of all types, other types of trucks, self-powered or other mobile tractors, tractors, tractors, tractors not counted as pickup trucks, snow removal equipment, and garden maintenance equipment, shall be parked or stored on the Land only in an approved location approved by the Committee.

O. Recreational or Burning. No burning of trash, lawn clippings or any other materials shall be permitted by any Owners. Such broomracks and woodpiles as may be permitted by governmental regulation and the Committee may be used by Owners, none may be installed without prior approval by the appropriate governmental agency and the Committee. In the event of degradation of air quality within the Land resulting from use of broomracks and woodpiles, the Association may impose reasonable rules and regulations limiting the use of such within the Land.

P. Hazardous Activities. No activities shall be conducted on any Site, and no improvements shall be constructed on any Site, which are or might be considered hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Site. No open fires shall be lighted or permitted within a Site except in a contained structure with walls attached and in use for cooking purposes or except in a safe and well-designed interior fireplace in which such controlled and attended fires as are required for heating or maintenance of Land. No hazardous materials as defined by Federal or State law shall be permitted within the Land. No storage of fuels shall be permitted within the Land, except within Commercial Sites, and in the event that no fuel storage is provided within the Commercial Sites, then the Committee may issue an order permits to store fuel within other Sites, in a safe, secure and suitable as may be appropriate, assuming proper handling and safety to the Owners.

Q. Occupancy. No portion of any Site shall be used for residence, living or sleeping purposes other than rooms designed for such purposes in a completed structure. No living or sleeping more than one structure shall be used for living or sleeping purposes by more persons than the rooms designed to accommodate.

R. Mining and Drilling. No Site shall be used for the purpose of mining, quarrying, drilling, boring, exploring for, or removing water, oil, gas, other hydrocarbons minerals, metals, stones, gravel or earth.

S. Aerial Activity. Aerial activity, including but not limited to, powered flight, soaring, hang gliding, parachuting or ballooning shall not be permitted anywhere in the Owner Area designated as the airport and may only be conducted in conformity to the Rules and Regulations of the Association concerning such activities.

C. Access Easement. There shall be no access to any Site or into portions of the Land except from platted roads within the Land.

D. Fences. No fences, walls, or other barriers shall be permitted for the purpose of enclosing or demarcating Site boundaries. Chain fences may be permitted by the Committee. The Association will maintain an adequate boundary fence around the Land in order to assure that neighboring landowners will not suffer interference in their land use by persons of activities of Owners.

E. Drainage. Since the Land is situated in mountainous terrain, there will be a substantial amount of natural surface water drainage and runoff flowing over the area. No Owner or other persons shall interfere with or redirect the natural course of any such drainage and runoff so as to cause an unnatural flow onto or across the land of another. All drainage easements shown on the Plat(s) shall be observed and such trees and water courses (streams) shall not be removed, changed or eliminated by any Owner.

F. Temporary Structures. No temporary structure, excavation, basement, trailer, or tent, shall be permitted within a Site, except as may be necessary during construction and as authorized by the Committee.

G. Water and Sewage. Each structure designed for occupancy or use by humans shall connect with the central water and sewage facilities provided by the District and the East River Regional Sanitation District and no on-site well or separate water or sewage facilities shall be permitted within the Land. No private well shall be permitted on the Land, nor shall any facility be used for the private disposal of sewage. Mechanical garbage disposal facilities shall be provided and maintained in each kitchen or food preparing area.

H. Unattractiveness. No unsightliness shall be permitted on any Site. Without limiting the generality of the foregoing:

- i. All unsightly structures, facilities, equipment, objects and conditions shall be enclosed within a structure approved by the Committee.
- ii. Repairs of equipment, vehicles and airplanes must be conducted within a structure and no dismantled equipment, airplanes or vehicles may be kept, except within a structure.
- iii. Service areas and facilities for hanging, drying, or airing clothing or fabrics shall be enclosed by a structure approved by the Committee.
- iv. Poles and/or tanks for water, gas, oil, sewer, drainage, or other purposes; wires, cables, utility meters, and other utility facilities shall be enclosed by a structure approved by the Committee or shall be below the surface of the ground. If, at the time of the occupancy of any structure, connections to nearby telephone and electric lines (telephones that are not wall-tied), then temporary poles or wires for aucting or temporary purposes, as the case may be, may be installed to a reasonably necessary height provided that they shall be promptly removed at the expense of the Owner after such connections become available.
- v. The site and location of any exterior television or radio antenna or satellite dish shall be subject to approval by the Committee which may, in its discretion, forbid the installation of any such exterior antenna.

I. Signs. No signs or advertising devices of any nature shall be erected or maintained within any General Common Area or within a Site except as permitted by the Committee, which shall adopt uniform rules with respect to signs within the Land, including signage for the development, road and other warning or informational signs, and signage for commercial uses. Signs shall be placed or located as directed or approved by the Committee. One criterion which shall be considered by the Committee in determining approval shall be whether the names and logos and selected land parcels to a commercial facility and will be readily susceptible to specific treatment and promotional efforts. Neon or brightly lighted signs or self-lighted signs shall not be permitted.

J. Lawn Watering. In order to preserve water and to maintain the rustic nature of the Land, watering of lawns or gardens shall only be permitted on a

T. Smokestack Systems, Fireplaces And Stoves. All structures within the Subject Land designed for human occupancy, shall be constructed with inside sprinkler systems meeting the requirements of the Uniform Fire Code, or any applicable local fire code. All structures within the Subject Land proposed to include fireplaces or stoves must conform or meet the same in conformity with any applicable state or local law or regulation governing their type, construction or installation; in the event that such laws or regulations are enacted following initial construction or installation, then such fireplaces or stoves must be brought up to the requirements of such laws or regulations within a reasonable time after such enactment.

ARTICLE IX - DESIGN REVIEW

9.1 Establishment of Committee. In order to achieve the objects and purposes of the Declaration set forth in the Preamble of this Declaration, the construction of any and all improvements within the Land, including alterations and additions to any existing improvements, and including those owned or proposed by Declarant (excluding only Common Facilities) by the Association, may not occur, or be initiated in any fashion unless and until written approval thereof has been obtained from the Design Review Committee. Specifically, and without limitation, the Committee must give prior written approval to the exact location of all improvements and the Architect/ Lending materials therefor; the ground floor area, the height, the size and exterior aspect and the number of rooms and of units in all structures; the landscaping plan for all unimproved areas of the Site; and the number, sit, and the arrangement of, parking spaces as well as the design of vehicular access thereto.

9.2 Memberships. The Committee shall consist of three members of the Association or designated representatives of a member of the Association of which no less than two must be members of the Board of Directors thereof. An architect or engineer may be employed by the Committee on a limited basis to assist in its consideration of architectural control. The Committee shall initially be appointed by the Declarant, but successor Committee members shall be selected by the board of directors of the Association. One or more alternate members may be designated to act in place of an absent member. The first Committee shall consist of the following persons:

<u>Name</u>	<u>Office</u>	<u>Address</u>
Richard Landy	Chairman	13703 East Bethany Drive, #210 Aurora, Colorado 80014
Mariano Landy		13703 East Bethany Drive, #210 Aurora, Colorado 80014
Yaniv Rosenberg		7501 East Jarvis Street Denver, Colorado 80231

Committee members shall remain in office until their resignation, their termination as set forth in designated representatives of an Owner, or their removal by the Board of Directors of the Association.

9.3 Rules and Procedures. The Committee may in its discretion set such guidelines for the assistance of Owners regarding particular aspects of the architectural control to be exercised through design review under this Article. Further, the Committee shall adopt and reduce to writing a uniform set of rules and procedures for processing the materials submitted to it for approval. It will also set the time(s) which will be required to be established in the Owner for any proposed improvements and the time(s) for such submissions. Such guidelines, rules, procedures, and fees shall be made available to all Owners and prospective Owners through the secretary of the Committee.

9.4 Submissions to Committee. The Committee may require any Owner or prospective Owner to submit any or all of the following materials. This list shall not be deemed to limit the Committee in requiring any other materials.

- A. A preliminary report indicating the general nature of the proposed project. This report must specify with particularity the intended use of the Site and improvements.
- B. Preliminary plans and specifications for the proposed improvements, sufficient to permit the Committee to review all aspects of the proposal in light of each consideration designated in the Committee by the provisions of this Declaration.
- C. Depiction of a horizontal plan view, whether by drawing or model, of the proposed improvement, so as to determine the general effect of the proposed improvement with respect to height, view, and general harmony.

D. A detailed survey with contour elevations at not less than two foot intervals showing the location of proposed improvements, including without limitation, all structures, drives and parking. The survey shall show all trees exceeding four inches in diameter at eight feet in height and any potential wooded area, all utility structures, the large rocks, and such other data as the Committee may require.

E. Detailed working drawings prepared by a licensed architect or engineer to such scale as requested by the Committee and with such elevations as the Committee may deem necessary.

F. A list of window materials to be used and the proposed exterior colors.

G. Plans of any proposed fireplaces or wood burning stoves or other burning devices to be included within the improvements. No such plans shall receive approval unless they meet building code or other applicable governmental requirements which affect the Sites.

8.5 **Committee's Decision.** The Committee shall have a period of ninety (90) days, except such period shall be fourteen (14) days for any period starting in the months of March through August of each year, from the submission to it of the last material which it may request within which to approve or disapprove the proposed improvements, whether in part or in whole; provided however, that in the case of commercial or multi-family developments, wherein the Committee finds that the proposed development will substantially impact upon surrounding Owners, the Committee may set a hearing, with notice to affected Owners, to consider the proposal and in such event the periods set forth herein for Committee approval shall be increased by a factor of two. The Owner or proposed Owner, his architects, engineers, and/or contractors, shall meet with the Committee, upon reasonable notice of such meeting, in order to facilitate the processing and approval of improvement plans. The failure of the Committee to approve or disapprove plans within the period described in this paragraph shall constitute evidence of Committee approval. Any approval or disapproval by the Committee shall be in writing.

8.6 **Majority Approval.** Committee approval shall be by a majority of the Committee. The Committee may withhold approval of any submissions which do not include a complete plan of construction of all improvements to be located within a Site, and shall not be required to approve preliminary construction, or further stages of development of a Site.

8.7 **No Construction Without Approval.** No work with respect to the construction of improvements shall be commenced unless and until written approval of the Committee has been given or through the lapse of time following submission of material as above provided. Either the Committee or the Association or the Declarant shall have the further right to enforce compliance with this Declaration or the Committee's rules and procedures by the filing of documents affecting title to any particular Site, by requesting that the appropriate governmental authorities not grant building or other required permits or licenses; by court action for a prohibitive or mandatory injunction; or by such means as it may deem necessary or advisable. Any violation of this provision by an Owner, which requires action by either the Committee or the Association, permitted hereunder, shall subject such Owner to the personal obligation to pay all of the costs of such action, including court costs and attorney fees incurred by the Committee or Association, which obligation shall be enforced by a lien against the Owner's Site, in the same manner and effect as the lien for unpaid Association dues under paragraph 6.5 hereof.

8.8 **Variance.** The Committee for good cause may waive any of its rules and regulations and may permit a variance from any of the terms of this Declaration, provided that it make written findings that such waiver or variance is consistent with and in furtherance of the overall objects and purposes of this Declaration.

8.9 **Liability.** The Committee and its members shall not be liable for any action taken by it in good faith and shall be held harmless by all Owners dealing with it, by the Declarant, and by the Association for any actions, except gross negligence or willful indifference or malfeasance.

ARTICLE X - CONSTRUCTION OF IMPROVEMENTS

10.1 **Period of Construction.** All improvements constructed within a Site shall be completed within nine months from the date of Site preparation or excavation (which preparation shall not be unreasonably begun) unless written permission granting an extension of time is obtained from the Association or unless construction is delayed by strikes, war, riot, or acts of God. In order to assure compliance with the provisions hereof, the Committee may require such assurances as it may deem advisable from the Owner, from the general contractor and/or subcontractors, and/or from the title or performance bond provider, the cost of any improvements. At the discretion of the Committee, such assurance may be a completed and executed copy with the Declarant named as

an obligee thereunder, a per diem dollar amount of penalty for failure to make timely completion, or any other device or method commonly used to assure completion of improvements.

11.2 Waiver. During the period of construction of improvements, the restrictive provisions of this Declaration will be waived only to the extent necessary to permit completion of construction and only upon the assurance that there will be no such violation of any provision of this Declaration following completion of construction.

ARTICLE XII - PARTY WALLS

11.1 General Rules of Law to Apply. Each wall which is built as part of the original construction of an improvement within a Site and placed on the dividing line between two Sites shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

11.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

11.3 Restoration by Site or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

11.4 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of finishing the necessary protection against such elements.

11.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be apportioned to the Land and shall pass to such Owner's successors in title.

11.6 Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and each arbitrator shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

ARTICLE XIII - ENFORCEMENT

12.1 By Whom. The provisions of this Declaration may be enforceable by the Declarant, by the Association, or by any Owner or by Guilford County. An Owner or Guilford County shall have the right to enforce the provisions of this Declaration only after giving the Declarant and the Association notice of an alleged violation of the provisions hereof and upon failure of the Declarant or the Association to initiate remedial action as hereinafter provided within thirty days after receipt of such notice. The right of enforcement conferred upon the Owner and Guilford County shall not be effective as to any waiver granted by the Declarant, the Association, or the Architectural Control Committee under the provisions of this Declaration.

12.2 Enforcement by Declaration. The Declarant or Association shall have the right to enforce all of the conditions of this Declaration relating to appearance and maintenance of any Site or of the improvements thereon by going upon the Site and correcting any violation. Any such action shall be taken in the following manner:

A. Upon receiving notice of any violation of the Declaration or Association's rules, the Declarant or Association shall give written notice to the Owner(s) of such Site.

B. Upon verification of a violation, notice in writing shall be given to the Owner(s) of such Site, which notice shall identify the Site and the Owner thereof and shall describe the violation and shall require the Owner to correct such violation or commence corrective activities reasonably leading to prompt correction, within ten (10) days following such notice.

C. Upon failure to correct any violation or to assure the Declarant or Association that such violation will be corrected, the Declarant or Association may cause the violation to be corrected. Such action may include, but shall not be limited to, erecting or repairing improvements, removal of unrightful objects, landscaping, and

removal of any vehicle or object violating the parking or storage restrictions under paragraph 7.5.N hereof.

D. The detection of any violation shall be the Department or Association in accordance with stated provisions shall be at the expense of the Owner. The expenses shall be deemed to include not only costs actually expended, but also a normal percentage for overhead and any and all other costs of management, including reasonable attorney's fees.

E. The Owner shall be personally obligated for all expenses incurred by the Department or Association and its agents for such violation. The Declaration or Association shall have a lien for any amounts expended hereunder, which lien may be filed and enforced in a manner similar to the lien of the Association by unpaid assessments as provided in paragraph 8.6 hereof.

12.8 **Enforcement by Law.** The enforcement of the provisions of this Declaration may also be by a proceeding in law for a prohibitive or mandatory injunction or by a suit or action to recover damages. A judgment in any action at law or in equity shall include reasonable attorney's fees. In addition thereto, the Declarant may exclude any Owner or the guests of any Owner from the use and enjoyment of the General Common Areas and any facilities thereon.

ARTICLE XIII - MAINTENANCE AND REPAIR OF IMPROVEMENTS

13.1 **By Owner.** An Owner shall maintain and keep in good repair all improvements contained on such Owner's Site not required to be maintained and kept in good repair by the Association. It is the responsibility of each Owner to keep adequate fire, casualty and public liability insurance coverage on his Site and improvements.

ARTICLE XIV - MISCELLANEOUS

14.1 **Effect and Duration of Covenants.** The provisions of this Declaration shall be for the benefit of and binding upon the Subject Land, each Site, each Owner, and his successors, heirs, representatives, and assigns. Such provisions shall continue in full force and effect until January 1, 2012, and may be extended for successive ten (10) year periods upon affirmative vote of the Owners of four-fifths of the Sites made, at a meeting of the Association members duly called for such purpose. At any such meeting, each Site shall have one vote.

14.2 **Liens and Certificates.** Upon payment of a reasonable fee not to exceed \$25.00 and upon written request of any Owner or any person with any right, title or interest in a Site, or intending to acquire any right, title or interest in a Site, the Association shall furnish a written statement setting forth the amount of any unpaid assessments, charges, fines, or penalties, if any, due or accrued under the Declaration with respect to any Site or portion thereof. Such statement shall, with respect to the party to whom it is issued, be conclusive against the Association and all other parties that no greater or other unpaid amounts were then due or accrued.

14.3 **Limited Liability.** Neither the Declarant or Association nor any agent or employee thereof shall be liable to any party for any action or for any failure to act with respect to any matter under this Declaration if the action taken or failure to act was in good faith or was without malice.

14.4 **Severability.** Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of any provision.

14.5 **No Waiver.** Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision nor of any other provision hereof.

14.6 **No Easement.** The General Common Areas and Facilities shall be owned by the Declarant and the Association in trust for all of the Owners of the Sites and shall remain undivided and no Owner shall bring any action for partition or division of the General Common Areas. In the event that the Association becomes defunct or is dissolved voluntarily or by operation of law, then the General Common Areas and Facilities shall become the property of all the Owners in common.

14.7 **Neighbor's Use Rights and Indemnification.** No work performed or services furnished and incorporated on a Site with the consent or at the request of an Owner or his agent or his contractor or subcontractor shall be the basis for the filing of a claim against any other Site not expressly consenting to or requesting the same, or against the General Common Areas. Each Owner (in this section) shall indemnify and hold harmless each of the other Owners and the Association (in this section) against all liability arising from the claim of any person against the land of any other Owner or against

the Owner Common Areas for construction performed in for labor, materials, services or other products.

14.9 Right to Mortgage. Any Owner shall have the right from time to time to mortgage or encumber his site by deed of trust, mortgage or other security instrument. Nothing in this Declaration shall be construed to mean that any Owner holds an interest in the Common Areas or Facilities, except his right as a member of the Association, and no purported encumbrance of the Common Areas or Facilities shall be effective so long as the Declarant or the Association.

14.10 Assignments. The Declarant may from time to time transfer, assign, and/or delegate its powers, rights, and obligations under this Declaration to the Association, except as otherwise specifically provided herein. The Declarant shall be deemed to have assigned such powers, rights, and obligations to the Association upon its bankruptcy, or dissolution. Such transfer, assignment, and/or delegation shall be effected by the recording with the Clerk and Recorder of Gunnison County a notice identifying this Declaration and specifically describing the provisions thereof affected by such transfer.

14.11 Amendment. The Declarant shall have the right to amend, delete, or supplement any provision of this Declaration at any time prior to the sale of 75% of the Sites contemplated to be included within the Land, provided that any such amendment, deletion, or supplement shall not have a material adverse effect upon the vested property rights of any of the then Owners. The Owners shall have the right to amend, delete, or supplement any provision of this Declaration by means of affirmative vote given by the Owners of four-fifths of the Sites. Such right to amend shall include the right to effectively transfer to the Association any powers, rights, or obligations granted to the Declarant under the Declaration. Such vote shall be taken at a meeting called for such purpose. The Owner of each Site shall have one vote.

14.12 Colorado Common Interest Ownership Act. The State of Colorado has enacted the Colorado Common Interest Ownership Act, Chapter 16 Revised Statutes, §§38-38.1-100 et seq, which affects the relationships between the Declarant, Association and Owners. That Act requires certain statements and disclosures to be contained within this Declaration. Certain of the terms used hereinafter are defined by that Act.

A. The name of the common interest community is the AVON CLUB and the name of its association is THE AVON CLUB OWNERS ASSOCIATION. The AVON CLUB is a planned community, but multi-family units (Sites), if any, may be subjected to condominium regimes at the option of the unit (Site) Owners.

B. The AVON CLUB is situated wholly within Gunnison County.

C. The legal description of the AVON CLUB is set forth in the Preamble.

D. The maximum number of units (Site) the Declarant reserves the right to create is 421.

F. Description of the boundaries of each unit (Site) will be contained in the Plans to be subjected to this Declaration.

E. The Common Areas and Facilities are described in the Plans; however generally, they consist of the right-of-way, the streets, the roads and bike paths and pond swales and the water system.

G. No limited common elements are planned for by AVON CLUB.

H. Development rights and other special declarant rights reserved by the Declarant, all of which apply to the Land, and which may be exercised for a period not to exceed ten (10) years from the date hereof, are as follows:

i. The Declarant has reserved the right to add real estate to the Land, and to subdivide such added real estate to this Declaration. If this right is exercised in the future the total units (Sites) within the AVON CLUB may exceed 421 units (Sites) by reason of such addition.

ii. The Declarant has reserved the right to create units (Sites) and common elements (Common Areas and Facilities) as part of Declarant's staged/rolling process.

iii. Any Owner, including the Declarant as to unsplit units (Sites) has the right to subdivide units (Sites) under the terms and conditions of this Declaration.

- w. The Declarant is not obliged to subject all of the Land to the Declaration, and therefore has reserved the right to withdraw any portion thereof from its plan of development which has not become a Subject Land.
- x. The Declarant has reserved the right to complete improvements indicated on the Plan or Plans to be filed for the AVION CLUB, to maintain a club and management office, and signs advertising the AVION CLUB, to use ~~such signs~~ to enter the Common Areas for the purpose of making improvements within the AVION CLUB or real estate which may be added to the AVION CLUB.
- i. Development rights described in a Subsection H above may be exercised with respect to any piece of real estate within the Land at any time, without limitation.
- j. Notions to Owners which are required or permitted under this Declaration may be given by depositing the notice in the U.S. mails, postage prepaid, first class mail, addressed to the address for Owners contained in their deed to a Site, or the address maintained for such Owner by the Gunnison County Treasurer, whichever is more current.

Signed and dated at Burlington, Colorado, on the date first above written.

BRUSH CREEK AIRPORT LIMITED LIABILITY COMPANY, a Wyoming limited liability company

By Richard H. Land
Richard H. Land

STATE OF COLORADO }
COUNTY OF Gunnison }

The foregoing Declaration of Restrictions, Covenants, Easements, Reservations, and Authorizations entire was acknowledged before me this 22nd day of April, 1988, by Richard H. Land as the Member of Brush Creek Airport Limited Liability Company, a Wyoming limited liability company.

Witness my hand and official seal.

My commission expires: Sept 9, 1990



Glenn W. Besinger
Notary Public