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*Upon recordation return to:
Wintergreen Homes, LLC
c/o Timothy A. Thulson
P.O. Box 790
Glenwood Springs, CO 81602*

**DECLARATION
OF
COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE CERISE RANCH SUBDIVISION, PHASE 1**

*Declaration of Protective Covenants
Cerise Ranch Subdivision
16-Oct-00*

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**DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR THE CERISE RANCH SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE CERISE RANCH SUBDIVISION (the "Declaration") is made as of Oct. 16th, 2000, by Wintergreen Homes, L.L.C., a Colorado limited liability company ("Declarant").

RECITALS

A. Declarant is the owner of that certain real property (the "Property") located in the county of Garfield, Colorado, more particularly defined and described on the Final Plat (the "Plat") heretofore recorded in the records of the Office of the Clerk and Recorder for Garfield County Colorado on _____, as Reception No. _____, which Plat is incorporated herein by this reference.

B. Declarant desires to create a Planned Community pursuant to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statutes 38-33.3-101 et seq. (the "Act") on the Property, the name of which is "The Cerise Ranch Subdivision."

**ARTICLE I
DECLARATION AND SUBMISSION**

Declarant hereby declares that the Property, together with all easements, rights-of-ways and appurtenances thereto, and any buildings, fixtures, and improvements thereon shall be held, sold and conveyed subject to the provisions of this Declaration which are for the purpose of protecting the value and desirability of the Property, and which shall run with the land and be binding on all parties and their heirs, successors, and assigns of all parties having any right, title or interest in all or any part of the Property. Additionally, Declarant hereby submits the property to the provisions of the Act.

**ARTICLE II
DEFINITIONS**

Section 2.1 Definitions. The following words when used in this Declaration or any Supplemental Declaration, unless inconsistent with the context of this Declaration, shall have the following meanings:

- 17.1R.
- A. "Abandoned and Inoperable Vehicle" has the meaning set forth in Section
- B. "Act" means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et seq.
- C. "Articles" mean the Articles of Incorporation for The Cerise Ranch Property Owners Association, Inc., on file with the Colorado Secretary of State, and any amendments which may be made to those Articles from time to time.
- D. "Annual Assessment" means the Assessment levied annually.
- E. "Assessments" means the Annual, Special, and Default Assessments levied pursuant to Article XI below. Assessments are further defined as a Common Expense Liability as defined under the Act.
- F. "Association" means The Cerise Ranch Property Owners Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.
- G. "Association Documents" means this Declaration, the Articles of Incorporation, and the Bylaws of the Association, and any procedures, rules, regulations, or policies adopted under such documents by the Association.
- H. "Association-Insured Property" has the meaning set forth in Section 13.1.
- I. "Association Rules" means the rules and regulations adopted by the Association as provided in Section 5.1.
- J. "Bylaws" means the Bylaws adopted by the Association, as amended from time to time.
- K. "Common Elements" means those areas depicted and identified on the Plat as "Common Area/Open Space Easement" and the improvements thereon, in which the Association owns or has an interest for the common use and enjoyment of all of the Owners on a nonexclusive basis including, but not limited to, the potable central water system. Such interest may include, without limitation, estates in fee, for terms of years, or easements. "Common Area" shall include all areas identified within the Plat as Open Space Easement and is further defined as a Common Element as defined under the Act.

L. "Common Expenses" means (i) all expenses expressly declared to be common expenses by this Declaration or the Bylaws of the Association; (ii) all other expenses of administering, servicing, conserving, managing, maintaining, repairing, or replacing the Common Area and Common Elements; (iii) insurance premiums for the insurance carried under Article X; and (iv) all expenses lawfully determined to be common expenses by the Executive Board of the Association.

M. "Declarant" means Wintergreen Homes, LLC., a Colorado limited liability company, its successors and assigns.

N. "Declaration" means and refers to this Declaration of Covenants, Conditions, Restrictions and Easements for The Cerise Ranch.

O. "Default Assessment" means the Assessment levied by the Association pursuant to Article XI, Section 11.7 below.

P. "General Development Guidelines" means the guidelines and rules published and amended and supplemented from time to time by the Design Review Board.

Q. "Design Review Board" means and refers to the Design Review Board defined and created pursuant to Article XVI below.

R. "Executive Board" means the governing body of the Association elected to perform the obligations of the Association relative to the operation, maintenance, and management of the Property and all improvements on the Property.

S. "Expansion and Development Rights" has the meaning set forth in Article XV.

T. "First Mortgage" means any Mortgage which is not subordinate to any lien or encumbrance except liens for taxes, liens for Assessments or other liens which are given priority by statute.

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

V. "ISTS" means individual sewage treatment system meeting the ISTS Design and Performance Standards set forth at Section 17.1.D.

W. "Lot" means a plot of land subject to this Declaration and designated as a "Lot" on any subdivision plat of the Property recorded by Declarant in the office of the Clerk and

Recorder of Garfield County, Colorado, together with all appurtenances and improvements, now or in the future, on the Lot. "Lot" also has the meaning ascribed to it in Section 15.3 hereof. Lot is further defined as a Unit as defined under the Act.

X. "Manager" shall mean a person or entity engaged by the Association to perform certain duties, powers, or functions of the Association, as the Executive Board may authorize from time to time.

Y. "Member" shall mean every person or entity who holds membership in the Association.

Z. "Mortgage" shall mean any mortgage, deed of trust, or other document pledging any Lot or interest therein as security for payment of a debt or obligation.

AA. "Mortgagee" means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

BB. "Oversized" has the meanings set forth in Section 17.1.R.

CC. "Owner" means the owner of record, whether one or more persons or entities, of fee simple title to any Lot, and "Owner" also includes the purchaser under a contract for deed covering a Lot, but excludes those having such interest in a Lot merely as security for the performance of an obligation, including a Mortgagee, unless and until such person has acquired fee simple title to the Lot pursuant to foreclosure or other proceedings.

DD. "Person" means a natural person, a corporation, a partnership, a trustee or any other legal entity.

EE. "Plat" means the subdivision plat depicting the Property subject to this Declaration and recorded in the records of the Clerk and Recorder of Garfield County, Colorado on _____, 2000 at Reception No. _____ and all supplements and amendments thereto.

FF. "Property" means and refers to that certain real property described on the Plat.

GG. "Repair and reconstruction" has the meaning set forth in Section 13.2.

HH. "Roads" means all roads within the Property as shown on the Plat.

II. "The Cerise Ranch Subdivision" shall mean the planned community created by this Declaration, consisting of the Property, the Lots, and any other improvements constructed on the Property and as shown on the Plat.

JJ. "Sharing Ratio" means the allocation of Assessments to which an Owner's Lot is subject. The formula for sharing ratios is an equal allocation among all of the Lots.

KK. "Special Assessment" means an assessment levied pursuant to Section 11.6 below on an irregular basis.

LL. "Successor Declarant" means any party or entity to whom Declarant assigns any or all of its rights, obligations, or interests as Declarant, as evidenced by an assignment or deed of record executed by both Declarant and the assignee or transferee and recorded in the office of the Clerk and Recorder of Garfield County, Colorado, designating such party as a Successor Declarant. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

MM. "Supplemental Declaration" means an instrument which subjects any additional property to this Declaration, as more fully provided in Article XV below.

NN. "Supplemental Plat" means a subdivision plat which depicts additional property made part of this Declaration or the resubdivision of any Lot or the creation of any condominiums, duplexes, town homes or other multi-family units on any Lot, and may include one or more "maps" as defined in the Act.

Each capitalized term not otherwise defined in this Declaration or in the Plat shall have the same meanings specified or used in the Act.

ARTICLE III NAME, DIVISION INTO LOTS

Section 3.1 Name. The name of the project is The Cerise Ranch Subdivision. The project is a Planned Community pursuant to the Act.

Section 3.2 Association. The name of the association is The Cerise Ranch Property Owners Association, Inc. Declarant has caused to be incorporated under the laws of the State of Colorado the Association as a non-profit corporation with the purpose of exercising the functions as herein set forth.

Section 3.3 Number of Lots. The maximum number of Lots to be developed on the Property as the same may be expanded by Declarant pursuant to the provisions of Article XV herein; is sixty-eight (68). Declarant reserves the right for itself and any Successor Declarant to subdivide any Lots or create condominiums, duplexes, town homes and other multi-family units on such Lots.

Section 3.4 Identification of Lots. The identification number of each initial Lot is shown on the Plat.

Section 3.5 Description of Lots.

A. Each Lot shall be inseparable and may be developed exclusively for residential purposes in accordance with the restrictions applicable to a particular Lot contained in this Declaration and the Plat. No Lot shall be further subdivided, except that Declarant, its successors and assigns (which assigns may be more than one, including, without limitation, developers of certain portions of the Property) may further subdivide Lots into condominiums, duplexes, town homes and other multi-family units. Once subdivided, each Lot shall be deemed to be the number of Lots into which it is subdivided. Once a condominium, duplex, town home or multi-family dwelling unit is created pursuant to filing of appropriate final plat(s), then each such separate residence shall constitute a Lot.

B. Title to a Lot may be held individually or in any form of concurrent ownership recognized in Colorado. In case of any such concurrent ownership, each co-owner shall be jointly and severally liable for performance and observance of all the duties and responsibilities of an Owner with respect to the Lot in which he owns an interest. For all purposes herein, there shall be deemed to be only one Owner for each Lot. The parties, if more than one, having the ownership of a Lot shall agree between themselves how to share the rights and obligations of such ownership, but all such parties shall be jointly and severally liable for performance and observance of all of the duties and obligations of an Owner hereunder with respect to the Lot in which they own an interest.

C. Any contract of sale, deed, lease, Mortgage, will or other instrument affecting a Lot may describe it as Lot ____, Cerise Ranch Subdivision, according to the Plat thereof recorded in the records of the Clerk and Recorder of Garfield County, Colorado on ____, 2000 at Reception No. ____.

D. Each Lot shall be considered a separate parcel of real property and shall be separately assessed and taxed. Accordingly, the Common Area shall not be assessed separately but shall be assessed with the Lot as provided pursuant to Colorado Revised Statutes Subsections 39-1-103(10) and 38-33.3-105(2).

E. No Owner of a Lot shall be entitled to bring any action for partition or division of the Common Area.

F. Subject to Section 17.5 and as provided below, each Lot shall be used and occupied solely for residential use; provided that such use and occupancy shall be only as permitted by and subject to the appropriate and applicable governmental zoning and use ordinances, rules and

regulations from time to time in effect. Notwithstanding the foregoing, Declarant, for itself and its successors, assigns, and/or designees (which designees may be more than one, including, without limitation, developers of certain portions of the Property), hereby retains a right to maintain on any Lot or Lots sales offices, management offices or model residences at any time or from time to time so long as Declarant, or its successors or assigns, continues to own an interest in a Lot. The use by Declarant, or its successors, assigns or designees, of any Lot as a model residence, office or other use shall not affect the Lot's designation on the Plat as a separate Lot.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS; ASSOCIATION OPERATIONS

Section 4.1 The Association. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Transfer of Membership. An Owner shall not transfer, pledge, encumber or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Lot and then only to the purchaser or Mortgagee of his Lot.

Section 4.3 Membership. The Association shall have one (1) class of membership consisting of all Owners, including the Declarant so long as the Declarant continues to own an interest in a Lot. Except as otherwise provided for in this Declaration, each Member shall be entitled to vote in Association matters pursuant to this Declaration on the basis of one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one person or alternative persons (who may be a tenant of the Owners) appointed by proxy in accordance with the Bylaws. In the absence of a proxy, the vote allocated to the Lot shall be suspended in the event more than one person or entity seeks to exercise the right to vote on any one matter. Any Owner of a Lot which is leased may assign his voting right to the tenant, provided that a copy of a written proxy appointing the tenant is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right. In no event shall more than one vote be cast with respect to any one Lot.

Section 4.4 Declarant Control. Notwithstanding anything to the contrary provided for herein or in the Bylaws, Declarant shall be entitled to appoint and remove the members of the Association's Executive Board and officers of the Association to the fullest extent currently permitted under the Act. The specific restrictions and procedures governing the exercise of Declarant's right to so appoint and remove Directors and officers shall be set out in the Bylaws of the Association. Declarant may voluntarily relinquish such power evidenced by a notice executed by Declarant and recorded in the Office of the Clerk and Recorder for Garfield County, Colorado, but, in such event, Declarant may at its option require that specified actions of the Association or the Executive Board as described in the recorded notice, during the period Declarant would otherwise

be entitled to appoint and remove Directors and officers, be approved by Declarant before they become effective.

Section 4.5 Compliance with Association Documents. Each Owner shall abide by and benefit from each provision, covenant, condition, restriction and easement contained in the Association Documents. The obligations, burdens, and benefits of membership in the Association concern the land and shall be covenants running with each Owner's Lot for the benefit of all other Lots and for the benefit of Declarant's adjacent properties.

Section 4.6 Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records, and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 4.7 Manager. The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The Manager shall not have the authority to make expenditures except upon prior approval and direction by the Executive Board. The Executive Board shall not be liable for any omission or improper exercise by a Manager of any duty, power, or function except to the intent such liability is accepted pursuant to written instrument executed by or on behalf of the Executive Board.

Section 4.8 Implied Rights and Obligations. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, all powers granted to an association pursuant to C.R.S. § 38-33.3-302(1) (except as expressly otherwise provided in this Declaration), and every other right or privilege reasonably implied from the existence of any right or privilege given to the Association under the Association Documents or reasonably necessary to effect any such right or privilege. The Association shall perform all of the duties and obligations expressly imposed upon it by the Association Documents, and every other duty or obligation implied by the express provisions of the Association Documents or necessary to reasonably satisfy any such duty or obligation.

Section 4.9 Association Meetings. Meetings of the Association shall be held at least once each year. Special meetings of the Association may be called by the President, by a majority of the Executive Board or by Owners having ten percent (10%) of the votes in the Association. Not less than ten (10) nor more than fifty (50) days in advance of any meeting, the Secretary or other officer specified in the Bylaws of the Association shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each Owner or to any other mailing address designated in writing by the Owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to this Declaration

or the Bylaws, any budget changes and any proposal to remove an officer or member of the Executive Board.

Section 4.10 Association Standard of Care. The duty of care which the Association owes to the Owners is that of a landowner to a licensee, notwithstanding the interest which the Owners hold in the Common Area through their membership in the Association.

Section 4.11 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. NEITHER THE ASSOCIATION, DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE FOR FAILURE TO PROVIDE ADEQUATE SECURITY OR FOR THE INEFFECTIVENESS OF ANY SECURITY MEASURE UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE THAT THE ASSOCIATION, AND ITS EXECUTIVE BOARD, DECLARANT AND ANY SUCCESSOR DECLARANT, DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO THE GENERAL DEVELOPMENT GUIDELINES ESTABLISHED BY THE DECLARANT MAY NOT BE COMPROMISED OR CIRCUMVENTED; NOR THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO THE GENERAL DEVELOPMENT GUIDELINES ESTABLISHED BY THE DECLARANT MAY NOT BE COMPROMISED OR CIRCUMVENTED; NOR THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE; NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. ALL OWNERS AND OCCUPANTS OF ANY LOT AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ASSUME ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, TO RESIDENTIAL DWELLINGS AND TO THE CONTENTS OF RESIDENTIAL DWELLINGS AND FURTHER ACKNOWLEDGE THAT THE ASSOCIATION, ITS EXECUTIVE BOARD, COMMITTEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, OR ANY TENANT, GUEST OR INVITEE OF ANY OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY

SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

Section 4.12 Power to Provide Services to Subassociations. To the fullest extent permitted by the Act, the Association may establish subassociations and to provide services to subassociations. Such services to any subassociation shall be provided pursuant to an agreement in writing between the Association and such subassociations which shall provide for the payment by such subassociation to the Association of the reasonably estimated expenses which the Association will incur in providing such services to the subassociation, including a fair share of the overhead expenses of the Association. In lieu of collecting the expenses for such services from the subassociation, the Association shall have the right to collect them directly from the Members of the subassociation in monthly installments as part of the monthly common assessments.

Section 4.13 Power to Provide Special Services for Members. To the fullest extent permitted by the Act, the Association may provide services to a Member or group of Members. Any service or services to a Member or group of Members shall be provided pursuant to an agreement in writing, or through one or more Supplemental Declarations, which shall provide for payment to the Association by such Member or group of Members of all costs and expenses which the Association estimates it will incur in providing such services, including a fair share of the overhead expenses of the Association, and shall contain provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors and assigns of the Member or group of Members, and that the payment for such services shall be secured by a lien on the Lot or Lots of the Member or group of Members and may be collected in the same manner as assessments or otherwise.

Section 4.14 Water. Potable water shall be supplied to each Lot by a central water system which shall be owned, operated and maintained by the Association. All water use shall be metered by water meters or other measuring devices approved by the Association, which meters or measuring devices shall be installed at Owner's sole cost. The Association shall be responsible for setting all rates, fees or charges for the provision through the central water system of water service to each Lot, which rates, fees and charges will be sufficient to pay for all costs incurred in providing the same, including but not limited to, the yearly costs owed by the Association under the Basalt Water Conservancy District Water Allotment Contract, Contract No. ____, the maintenance of all water rights and the costs required to maintain a sufficient operating reserve(s).] The obligation of Owners to pay the Association for such water service shall be a personal obligation of the Owner which the Association shall have the power and duty to enforce.

A. Hazardous Cross-Connections. The Association shall enforce all regulations promulgated by the Colorado Department of Public Health & Environment (the "Department") contained within the Code of Colorado Regulations at 5 CCR 1003-1, Section 12, to wit:

(i) the central water system shall have no un-controlled cross-connections to a pipe, fixture, or supply, any of which contain water not meeting the provisions of the Colorado Primary Drinking Water Regulations, 5 CCR 1003-1. For the purpose of this provision, "cross-connection" means any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance not meeting drinking water requirements under the Colorado Primary Drinking Water Regulations. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which or because of which "backflow" can or may occur are considered to be cross-connections;

(ii) all potential hazardous service connections shall be identified;

(iii) all users shall be required to install and maintain containment devices;

(iv) all containment devices shall be approved by the Association upon installation;

(v) all containment devices shall be tested and maintained as necessary on installation and at least annually thereafter, by a trained cross-connection control technician;

(vi) the Association shall retain maintenance records of all containment devices. These records shall be available for inspection by Department personnel. All maintenance records shall be maintained by the Association for a period of three (3) years;

(vii) Owners shall notify the Association of any cross-connections within ten (10) calendar days of its discovery. The cross-connection shall be corrected within ten (10) days of being ordered in writing by the Association to correct the problem.

(viii) The failure on part of the Lot Owner(s) to comply with the above provisions may result in the termination of water service.

B. Service to Nonmembers. The Association, if requested by the Owner(s) of that property more particularly described on Exhibit A attached hereto and identified therein as the Mumbert Family Cerise Property; provided, however, that the Association shall not be obligated – in the event said property is subdivided – to provide potable water service which exceeds in total amount, five equivalent residential units (5 EQR's), shall provide potable water service to said properties through the central water system. Any such potable water service shall be provided pursuant to an agreement in writing which shall provide for payment to the Association by the owners of said properties of all costs and expenses that are incurred by the Association in providing

such service and the applicable tap fee then being charged members for service connections. The provision of potable water service pursuant to this provision shall be provided in accordance with and subject to all the terms, conditions, limitations and restrictions set forth within this Section 4.14.

C. Irrigation. water provided through the central water system shall be used to irrigate no more than three thousand (3000) square feet per Lot.

Section 4.15 Wastewater Treatment. Wastewater treatment shall be supplied to each Lot by individual sewage treatment system ("ISTS") installed by each Owner in accordance with the ISTS Design and Performance Standards set forth in Section 17.1.D. and maintained by the Association in accordance with the provisions of the ISTS Maintenance Plan set forth in Section 9.4. The Association shall be responsible for setting all rates, fees or charges for inspecting, maintaining and repairing each individual system and such rates, fees or charges assessed by the Association against each Lot for such inspection, maintenance and repair shall be a personal obligation of the Owner thereof which the Association shall have the power and duty to enforce.

Section 4.16 Equestrian Facilities/Services. The Association may promulgate rules and regulations governing the stabling, pasturing or boarding within the Common Area of horses owned by the Owners. The total number of horses that may be maintained as such within the Common Area at any one time shall not exceed _____. The Association shall be responsible for setting all rates, fees or charges instant to such stabling, pasturing or boarding and such rates, fees or charges shall be a personal obligation of the Owner thereof which the Association shall have the power and duty to enforce.

ARTICLE V POWERS OF THE EXECUTIVE BOARD OF THE ASSOCIATION

Section 5.1 Association Rules. From time to time and subject to the provisions of the Association Documents, the Executive Board may adopt, amend, repeal, suspend and publish rules and regulations, to be known as the "Association Rules," governing, among other things and without limitation:

A. The use of the Common Area, including any recreational facilities which may be constructed on such property, the personal conduct of the Members and their guests, and the establishment of penalties, including, without limitation, the imposition of fines, for the infraction of such Association Rules;

B. The use of any private Roads;

C. The management and expenditure of all funds deposited with the Association by the purchasers of Lots for the purpose of constructing, maintaining and repairing wildlife habitat improvements within the Property.

D. The rights of a Member, including, but not limited to, the voting rights of a Member during any period in which such Member is in default on payment of any Assessment levied by the Association, as provided in Article XI. Such rights also may be suspended after notice and hearing for a period not to exceed ninety (90) days for an infraction of published Association Rules, unless such infraction is ongoing, in which case the rights may be suspended during the period of the infraction and for up to ninety (90) days thereafter.

A copy of the Association Rules in effect will be distributed to each Member and any change in the Association Rules will be distributed to each Member within a reasonable time following the effective date of the change.

Section 5.2 Implied Rights. The Executive Board may exercise for the Association all powers, duties, and authority vested in or delegated to the Association, and not reserved to the Members or Declarant by other provisions of this Declaration or the Articles or Bylaws of the Association or as provided by law.

ARTICLE VI PROPERTY RIGHTS

Section 6.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (i) This Declaration, the Plat and any other applicable covenants;
- (ii) The restrictions and limitations contained within the Agreement executed by the Association and the Declarant and recorded in the records of the Clerk and Recorder for Garfield County, Colorado on _____, 2000 at Book __, Page __ and Reception No. _____;
- (iii) The right of the Executive Board to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (iv) The right of the Executive Board to suspend the right of an Owner to use facilities within the Common Area (A) for any period during which any charge or Assessment against such Owner's Lot remains delinquent, and (B) for a period not to exceed ninety (90) days

for a single violation or for a longer period in the case of any continuing violation of the Declaration, any applicable Supplemental Declaration, the Bylaws or Association Rules;

(v) The right of the Executive Board to impose reasonable membership requirements and charge reasonable membership, admission, use or other fees for the use of any facility situated upon the Common Area;

(vi) The right of the Executive Board to permit the use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests;

(vii) The right and obligations of the Declarant and the Association, acting through its Executive Board, to restrict, regulate or limit Owners' and occupants' use of the Common Area for environmental preservation purposes, including, without limitation, wildlife corridors, winter wildlife ranges and natural wildlife habitat; and

(viii) Any governmental or quasi-governmental rules, regulations or statutes.

Section 6.2 Expansion. From time to time, Declarant may, but shall not be obligated to, expand the Common Area by written instrument recorded with the Clerk and Recorder of Garfield County, Colorado, all as more fully set forth in Article XV below.

Section 6.3 Maintenance. The Association shall maintain and keep the Common Area in good repair, and the cost of such maintenance shall be funded as provided in Article XI, subject to any insurance then in effect. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement of all Roads, landscaping, walls, gates, signage, central water systems, irrigation systems, sidewalks, all equestrian facilities (including but not limited to all stables, barns and fences), driveways and improvements, if any (which shall including, without limitation, snow removal services), located in the Common Area and the management and control of all noxious weeds contained within the Common Area, including but not limited to all those identified within the Memorandum Regarding Weed Control and Revegetation attached hereto as Exhibit B, in accordance with the procedures and recommendations set forth therein. In the event the Association does not maintain or repair the Common Area, Declarant shall have the right, but not the obligation, to do so at the expense of the Association.

Section 6.4 No Dedication to the Public. Nothing in this Declaration or the other Association Documents will be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Common Area by such authority or utility, absent an express written agreement to that effect.

ARTICLE VII MECHANIC'S LIENS

Section 7.1 No Liability. If any Owner shall cause any material to be furnished to his Lot or any labor to be performed therein or thereon, no Owner of any other Lot shall under any circumstances be liable for the payment of any expense incurred for the value of any work done or material furnished. All such work shall be at the expense of the Owner causing it to be done, and such Owner shall be solely responsible to contractors, laborers, materialmen and other persons furnishing labor or materials to his or her Lot. Nothing herein contained shall authorize any Owner or any person dealing through, with or under any Owner to charge the Common Area or any Lot other than the Lot of such Owner with any mechanic's lien or other lien or encumbrance whatsoever. On the contrary (and notice is hereby given) the right and power to charge any lien or encumbrance of any kind against the Common Area or against any Owner or any Owner's Lot for work done or materials furnished to any other Owner's Lot is hereby expressly denied.

Section 7.2 Indemnification. If, because of any act or omission of any Owner, any mechanic's or other lien or order for the payment of money shall be filed against the Common Area or against any other Owner's Lot or any Owner or the Association (whether or not such lien or order is valid or enforceable as such), the Owner whose act or omission forms the basis for such lien or order shall at his own cost and expense cause the same to be canceled and discharged of record or bonded by a surety company reasonably acceptable to the Association, or to such other Owner or Owners, within twenty (20) days after the date of filing thereof, and further shall indemnify and save all the other Owners and the Association harmless from and against any and all costs, expenses, claims, losses or damages including, without limitation, reasonable attorneys' fees, resulting therefrom.

Section 7.3 Association Action. Labor performed or material furnished for the Common Area, if duly authorized by the Association in accordance with the Declaration or the Bylaws, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for the filing of a lien pursuant to law against the Common Area.

ARTICLE VIII PROPERTY RIGHTS OF OWNERS AND RESERVATIONS BY DECLARANT

Section 8.1 Owner's Easement of Enjoyment. Every Owner has a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot. Certain third persons also may have access to the Common Area as set forth in the Association Rules. Every Owner shall have a right of access to and from his Lot.

Section 8.2 Recorded Easements. The Property shall be subject to all easements, licenses, covenants, and restrictions as shown on any recorded plat affecting the Property and to any other easements of record or of use as of the date of recordation of this Declaration including but not limited to, the easements set forth in this Article VIII.

Section 8.3 Open Space Easement. Lots Nos. 1-5 and 57-66 shall be burdened by an easement designed to perpetuate open space and the rural character of the Subdivision (the "Open Space Easement"). Subject to the provisions of the Declaration and the uses and regulations of the Association, each and every Owner is hereby granted an easement for the access, use, and enjoyment of any and all recreational amenities located within the Open Space Easement as is more specifically depicted and described on the Plat. Owners shall not place or construct any structures or fences within the Open space Easement and shall maintain the same in a manner consistent with its allowed use. The Declarant and/or the Association shall have the right to construct ponds, lakes, underground utility lines, recreational amenities or other structures which are allowed under the this Declaration. All portions of the Property encompassed within the Open Space Easement shall for all purposes of this Declaration, constitute Common Area.

Section 8.4 Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns, hereby reserves an easement for construction, utilities, drainage, ingress and egress over, in, upon, under and across the Common Area, together with the right to store materials on the Common Area, to build and maintain temporary walls, and to make such other use of the Common Area as may be reasonably necessary or incident to any construction of improvements on the Property, or other real property owned by Declarant, or other properties abutting and contiguous to the Property; provided, however, that no such rights shall be exercised by Declarant in a way which unreasonably interferes with the occupancy, use, enjoyment, or access to the Common Area by the Owners.

Section 8.5 Utility Easements. There are hereby reserved unto Declarant (so long as the Declarant owns any of the Property), the Association, and the designees of each (which may include, without limitation, Garfield County, Colorado and any utility company) easements upon, across, over and under all of the Lots, with the exception of the building envelope, to the extent reasonably necessary for the purpose of installing, replacing, repairing, and maintaining cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, irrigation systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas and electricity. The foregoing easements may traverse the private property of any Owner; provided, however, an easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing dwelling on a Lot or building envelope as shown on the Plat, and any damage to a Lot resulting from the exercise of an easement shall be reasonably repaired by, and at the expense of, the Person exercising the easement. The exercise of an easement

shall not unreasonably interfere with the use of any Lot and, except in any emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically reserves the right to convey to the local water supplier, electric company, natural gas supplier and cable television or communications systems supplier and any other utility supplier an easement across the Property for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the dwelling on the Lot, nor shall any utilities be installed or relocated on the Property, except as approved by the Executive Board or Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Executive Board or Declarant shall have the right to grant such specific, descriptive easement over the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property. The Owner of a Lot subject to such easement shall cooperate with Declarant and the Executive Board and take all actions, including, without limitation, executing any documents evidencing such descriptive easement as reasonably requested by the Executive Board or Declarant. In the event an Owner fails to cooperate in such matter the Association or Declarant may, pursuant to Section 8.14 below, exercise its power to act as that Owner's attorney-in-fact to execute any necessary documentation on behalf of such Owner.

Section 8.6 Support Easement. Each Lot is subject to a blanket easement for support and a blanket easement for the maintenance of the structures or improvements presently situated, or to be built in the future, on the Lots.

Section 8.7 Road Easement. The Lots may have common Roads and/or driveways upon certain Lots serving more than one Lot, and there is granted hereby a non-exclusive easement to the Owners of Lots served by any such Road or driveway for ingress and egress purposes over and across those portions of such Lots which are used as a Road or driveway. No Owner shall hinder nor permit his guest to hinder reasonable access by any other Owner and his guest to the Lots.

Section 8.8 Emergency Access Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Property in the proper performance of their duties.

Section 8.9 Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves for itself and its successors, assigns and designees the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams and wetlands located within the Common Area to (i) install, keep, maintain, and replace pumps in order to provide water for the irrigation of any of the Common Area; (ii) construct, maintain, and repair any bulkhead, wall, dam or other structure retaining water; and (iii) remove trash and other debris therefrom and fulfill their

maintenance responsibilities as provided in this Section. Declarant, the Association, and their designee shall have an access easement over and across any of the Property abutting or containing any portion of any of the lakes, ponds, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section.

There is further reserved herein for the benefit of Declarant, the Association, and their designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within one hundred feet of lake beds, ponds and streams within the Property, in order to (i) temporarily flood and back water upon and maintain water over such portions of the Property; (ii) fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the lakes, ponds, streams, and wetlands within the Common Area; (iii) maintain and landscape the slopes, banks and surrounding areas pertaining to such lakes, ponds, streams, and wetlands; (iv) construct, maintain, operate, repair, and replace water lines, water storage tanks, water house facilities and other improvements necessary or convenient for the installation and operation of the Association's water system; and (v) enter upon and across such portions of the Property for the purpose of exercising its rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, or other natural disasters.

Section 8.10 Easements for Encroachments. To the extent that any improvement constructed within the Common Area (including, without limitation, any portion of the Roads) encroaches on any Lot, either currently existing or as a result of any addition or improvement pursuant to this Declaration, a valid easement for such Lot, either currently existing or as a result of any addition or improvement pursuant to this Declaration, a valid easement for such encroachments and for the maintenance of same, so long as they exist, shall and does exist. In the event any such improvement is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments of parts of such rebuilt improvements shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist so long as the improvements shall stand.

Section 8.11 General Maintenance Easement. An easement is hereby reserved to Declarant, and granted to the Association, and any member of the Executive Board or the Manager, and their respective officers, agents, employees, and assigns, upon, across, over, in, and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions, including but not limited to inspecting and maintaining each ISTS pursuant to Section 9.4 which the Association is obligated or permitted to perform pursuant to the Association Documents or to protect the Association's property.

Section 8.12 Blanket Easement. Declarant hereby reserves to itself, its successors and assigns, and grants to the Association, a blanket easement upon, across, over and under the Property, with the exception of building envelopes, for the installation, replacement, repair and maintenance of drainage, ditch, utility and other service lines and systems, including but not limited to, water, gas, telephone, television, cable or communication and electric lines and systems and drainage structures and, further, for the purpose of cuts and fills and/or retaining walls adjacent to the Roads as are necessary or desirable for the proper construction, use and maintenance of the Roads. Declarant, its successors and assigns, further reserves the right, but not the obligation, and grants to the Association the right, but not the obligation, to record a document specifying the boundaries of such easements at any time after such utility lines, roadway cuts and fills and/or retaining walls, pedestrian trails or other improvements described above have been constructed.

Section 8.13 Declarant's Right to Excess Capacity. To the maximum extent permitted by the Act, Declarant, during the period of Declarant control and for a period of 20 years thereafter, reserves the right to use excess capacity of the water system, water rights, waterways, wells, ponds, springs and all pumps, pipelines, ditches, tanks, measuring devices, meters or other facilities associated therewith, including any facilities necessary for the exercise of any existing or subsequently decreed water rights or augmentation plan together with easements associated therewith for the construction, erection, maintenance, operation, use, expansion, repair and replacement of the water rights and/or facilities, and to add to such water system or water rights, to amend or change any water court decree, or to substitute the water source or amount of water in any water right as may be subsequently decreed by appropriate action in the water court or with the State Engineer's Office.

Section 8.14 Association as Attorney-in-Fact. Each Owner, by his acceptance of a deed or other conveyance vesting in him an interest in a Lot, does irrevocably constitute and appoint the Association and/or Declarant with full power of substitution in the Owner's name, place and stead to deal with Owner's interest in order to effectuate the rights reserved by Declarant or granted to the Association, as applicable, with full power, right and authorization to execute and deliver any instrument affecting the interest of the Owner and to take any other action which the Association or Declarant may consider necessary or advisable to give effect to the provisions of this Section and this Declaration generally. If requested to do so by the Association or Declarant, each Owner shall execute and deliver a written, acknowledged instrument confirming such appointment. No Owner shall have any rights against the Association or Declarant or any of their officers or Directors with respect thereto except in the case of fraud or gross negligence.

Section 8.15 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area to the members of his family, his tenants, guests, licensees, and invitees, but only in accordance with and subject to the limitations of the Association Documents.

Section 8.16 Declarant's Right of Assignment. Declarant reserves the right to assign any or all of its rights, obligations or interests as Declarant by recording an assignment or deed of record executed by both Declarant and the transferee or assignee in the Office of the Clerk and Recorder of Garfield County, Colorado, designating such party as a Successor Declarant. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

Section 8.17 Declarant's Right to Conduct Business. Declarant, during the period of Declarant control of the Executive Board and for a period of 20 years thereafter, reserves the right to conduct certain activities which, notwithstanding any provision contained in this Declaration to the contrary, shall include the right to maintain a sales office, management office and other such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or necessary for the construction, sale and management of any Lots. Such facilities may include without limitation a business office, storage area, construction yards, signs, model units, sales offices, construction office, parking areas and lighting and temporary parking structures for all prospective purchasers of Lots.

ARTICLE IX MAINTENANCE AND LANDSCAPING

Section 9.1 Maintenance and Landscaping of Lots.

A. Subject to Article XVI and Section 9.1, each Owner shall be solely responsible for all landscaping, maintenance and repair of his Lot and of the exterior and interior of his residence, including all fixtures and improvements and all utility lines and equipment located therein or in, on or upon his Lot and is required to maintain the Lot and any improvements located thereon in a condition of good order and repair. No Owner shall unreasonably damage the value of other Lots such as by shoddy upkeep of such Owner's Lot or any structures located on the Lot. Each Owner shall be responsible, pursuant to the Colorado Noxious Weed Act, Colo. Rev. State. §§ 35-5.5101 et. seq. (1999), for controlling and managing all noxious weeds, including but not limited to, all those identified within the Memorandum Regarding Weed Control and Revegetation attached hereto as Exhibit B, which may be located upon that portion of the Owners Lot situate outside the Common Area.

B. Owners shall be responsible for all maintenance and repairs of utility service lines, connections, facilities and related equipment providing service to such Owner's Lot and the residence and other buildings and improvements constructed upon such Lot, with such responsibility to begin at the point where a utility provider ceases responsibility for maintenance and repair for a particular utility. The responsibility of an Owner for repair and maintenance shall include those portions of said Owner's Lot, other Lots, unplatted tracts, platted open space, platted easements, and streets and roads which are crossed by such a utility service line or other improvement. All such

expenses and liabilities shall be borne solely by the Owner of such Lot, who shall have a perpetual easement in and to that part of the Property lying outside of such Owner's Lot for purposes of maintenance, repair and inspection. Each Owner shall use the utility service easement provided herein in a reasonable manner and shall promptly restore the surface overlying such easements when maintaining or repairing a utility service line or other improvement.

C. No Owner shall construct any structure or improvement or make or suffer any structural or design change (including a color scheme change), either permanent or temporary and of any type or nature whatsoever to the exterior of his residence or construct any addition or improvement on his Lot without first obtaining the prior written consent thereto from the Design Review Board pursuant to Article XVI hereto.

D. Each Owner shall be responsible for ensuring that all construction activities contained within Owner's Lot are conducted in conformance with the Best Management Practices (BMP's) contained within the Drainage Study for the **CERISE RANCH SUBDIVISION**, HCE JOB NUMBER 99054.01,01/26/00 ("Drainage Study"), a copy of which shall be maintained at all times as part of the regularly kept records of Association.

E. No Owner shall construct any improvement or engage in any activity which could interfere in any manner with the drainage/debris flow improvements located within the Drainage Easements identified and more particularly described within the Plat.

Section 9.2 Common Area. The Association shall maintain the Common Area as set forth in Section 6.3 above. Maintenance of the Common Area shall be performed at such time and in such a manner as the Association shall determine.

Section 9.3 Roads.

A. The Association shall maintain and keep the Roads in good repair, and the cost of such maintenance shall be funded as provided in Article XI. This maintenance shall include, but shall not be limited to, upkeep, repair and replacement of the Roads (which shall include, without limitation, snow removal services) and the management and control of all noxious weed, including but not limited to all those identified within the Memorandum Regarding Weed Control and Revegetation attached hereto as Exhibit B, in accordance with the procedures and recommendations set forth therein. The Association's responsibility for Road maintenance under this Section applies whether or not such Roads lie on a Common Area, or some other area of the Property. In the event the Association does not maintain or repair the Roads, Declarant shall have the right, but not the obligation, to do so at the expense of the Association. The Association may contract for these services with any public or private entity.

B. In the event a dedication to Garfield County is made under this Section, the Roads must meet all Garfield County road and trail plan standards applicable at the time of such dedication. Garfield County SHALL HAVE NO OBLIGATION TO ACCEPT THE OWNERSHIP OF THE ROADS OR THE RESPONSIBILITY TO MAINTAIN THE ROADS.

Section 9.4 ISTS Management Plan.

A. In order to ensure that each ISTS installed within the Property is inspected on a regular basis and properly maintained, the responsibility and authority for such inspection and maintenance shall be vested exclusively within the Association. This management plan is not intended to provide for common ownership of the ISTS's or to provide common funding for the construction, repair or replacement thereof, such ownership and responsibility for construction, repair and maintenance to remain with the Owner.

B. In accordance with the above, the Association shall:

(i) retain at all times, the services of qualified personnel to inspect the ISTS's and to perform all maintenance and repairs necessary to ensure that same are installed properly, remain in good operating condition and comply with the performance requirements set forth within Section 17.1.D.;

(ii) inspect the operating components of each ISTS within (30) days of being placed into operation; thereafter, each ISTS shall be inspected at least quarterly;

(iii) test the BOD and TSS content of the effluent being discharged by each ISTS at least biannually; and.

(iv) maintain at all times written or other permanent records documenting the date each ISTS was inspected or tested, the results of such inspections or tests and the extent of all maintenance and/or repairs performed. All documents maintained by the Association pursuant to this provision shall at all times be available for inspection by the Owners and/or authorized representatives Garfield County Department of Building and Planning.

C. The following provisions shall apply in the event the estimated maintenance or repair costs required of any ISTS exceed in total during any one calender year, \$1000.00:

(i) the Association shall give the Owner written notice of the nature and extent of the work necessary, to return the ISTS to good operating condition and/or bring the ISTS System within the performance requirements set forth within Section 17.1.D.iv; and

(ii) within (30) days of receipt of such notice, Owner shall at his or her own expense cause to be completed, the repairs set forth within the notice. In the event Owner fails to complete such repairs within this time period to the satisfaction of the Association, the Association shall have the authority, in addition to any other remedy provided within this Declaration or the Act, to take any of the following actions:

- a. to impose against Owner, a fine not to exceed \$200.00 for each day in which the System remains unrepaired; and/or
- b. to discontinue domestic water service to Owner's Lot; and/or
- c. to complete on behalf of the Owner the required repairs to the ISTS. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Lot, upon demand. All unreimbursed costs shall be a lien upon the Lot until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid assessment levied in accordance with Article XI of this Declaration.

D. In the event the Association fails to properly implement and enforce the provisions of this management plan set forth in this Section 9.4., the Board of County Commissioners for Garfield County, Colorado and its duly authorized representatives and agents, shall have all the right to enter upon the Property and implement and enforce such provisions at the expense of the Association or exercise any other right or power afforded under this Declaration or the Act including, but not limited to, the initiation of appropriate proceedings in the District Court for Garfield County, Colorado, to compel enforcement of the provisions of this management plan.

E. The provisions of this Section 9.4, shall not be amended or repealed by the Declarant, Association or Owners without the written consent of the Board of County Commissioners for Garfield County, Colorado.

Section 9.5 Maintenance of Drainage Structures. The Association shall be responsible for maintaining in good repair all drainage structures located within the Property, including but not limited to, all detention basins, grass lined swales and culverts in accordance with the BMP's and other practices outlined within the Drainage Study. All construction activities conducted by the Association on the Common Area shall be performed in accordance with the provisions set forth within the Drainage Study.

Section 9.6 Maintenance Contract. The Association or Executive Board may employ or contract for the services of a third party to perform certain delegated powers, functions, or duties of the Association to maintain the Common Area. The employed individual or maintenance company shall have the authority to make expenditures upon prior approval and direction of the Executive

Board. The Executive Board shall not be liable for any omission or improper exercise by the employed third party of any duty, power, or function so delegated by written instrument executed by or on behalf of the Executive Board.

Section 9.7 Owner's Failure to Maintain or Repair. In the event that a Lot and the improvements thereupon are not properly maintained and repaired by an Owner, or in the event that the improvements on the Lot are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue and repair the reconstruction of the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner and with the approval of the Executive Board, shall have the right to enter upon the Lot to perform such work as is reasonably required to restore the lot and the buildings and other improvements thereon to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Lot, upon demand. All unreimbursed costs shall be a lien upon the Lot until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid assessment levied in accordance with Article XI of this Declaration.

ARTICLE X INSURANCE AND FIDELITY BONDS

Section 10.1 General Insurance Provisions. The Association shall maintain, to the extent reasonably available:

(i) Property insurance on the Common Area for broad form covered causes of loss; except that the total amount of insurance must be not less than the full insurable replacement costs of the insured property less reasonable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, paving areas, landscaping and other items normally excluded from property policies; and

(ii) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Area and the Association, in an amount deemed sufficient in the judgment of the Executive Board, insuring the Executive Board, the Association, the Manager, and their respective employees, agents, and all persons acting as agents. Declarant shall be included as an additional insured in Declarant's capacity as an Owner and Executive Board member. The Owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use, or management of the Common Area. The insurance shall cover claims of one or more insured parties against other insured parties.

(iii) The Association may carry such other and further insurance that the Executive Board considers appropriate, including insurance on Lots, or insurance covering the acts

or omissions of officers, directors, employees or agents of the Association, or other insurance that the Association is not obligated to carry to protect the Association or the Owners.

Section 10.2 Cancellation. If the insurance described in Section 10.1 is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefor having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners.

Section 10.3 Policy Provisions. Insurance policies carried pursuant to Section 10.1 must, to the extent available, provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association;

(ii) The insurer waives its rights to subrogation under the policy against any Owner or member of his household;

(iii) No act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(iv) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

Section 10.4 Insurance Proceeds. Any loss covered by the property insurance policy described in Section 10.1 must be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any holder of a security interest. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Owners and Mortgagees as their interests may appear. Subject to the provisions of Section 10.7 below, the proceeds must be distributed first for the repair or restoration of the damaged property, and the Association, Owners and Mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored or the regime created by this Declaration is terminated.

Section 10.5 Association Policies. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss

or benefitting from such repair or restoration all or any equitable portion of the deductibles paid by the Association.

Section 10.6 Insurer Obligation. To the extent the following is available, an insurer that has issued an insurance policy for the insurance described in Section 10.1 shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or Mortgagee. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association and to each Owner and Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses.

Section 10.7 Repair and Replacement.

A. Any portion of the Common Area for which insurance is required under this Article which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- (i) The regime created by this Declaration is terminated;
- (ii) Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- (iii) Sixty-seven percent of the Owners vote not to rebuild, including the vote of every Owner of a Lot or assigned limited common element that will not be rebuilt; or
- (iv) Prior to the conveyance of any Lot to a person other than Declarant, the Mortgagee holding a deed of trust or mortgage on the damaged portion of the Common Area rightfully demands all or a substantial part of the insurance proceeds.

B. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Common Area is not repaired or replaced, the insurance proceeds attributable to the damaged Common Area must be used to restore the damaged area to a condition compatible with the remainder of The Cerise Ranch Subdivision, and except to the extent that other persons will be distributees, the unused insurance proceeds must be distributed to all the Owners or Mortgagees, as their interests may appear in proportion to the Common Expense liabilities of all the Lots.

Section 10.8 Common Expenses. Premiums for insurance that the Association acquires and other expenses connected with acquiring such insurance are Common Expenses.

Section 10.9 Fidelity Insurance. Fidelity bonds must be maintained by the Association to protect against dishonest acts on the part of its Directors, officers, trustees, and employees and on the part of all others who handle or are responsible for handling the funds belonging to or administered by the Association in an amount not less than two months' current Assessments plus reserves as calculated from the current budget of the Association. In addition, if responsibility for handling funds is delegated to a Manager, such bond may be obtained for the Manager and its officers, employees, and agents, as applicable. Any such fidelity coverage shall name the Association as an obligee and such bonds shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions.

Section 10.10 Worker's Compensation Insurance. The Executive Board shall obtain worker's compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

Section 10.11 Other Insurance. The Association shall also maintain insurance to the extent reasonably available and in such amounts as the Executive Board may deem appropriate on behalf of Directors against any liability asserted against a Director or incurred by him in his capacity of or arising out of his status as a Director. The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 10.12 Insurance Obtained by Owners. Each Owner shall obtain and at all times maintain physical damage and liability insurance for such Owner's benefit, at such Owner's expense, covering the full replacement value of the Owner's Lot and residence (except to the extent any such Lot is encumbered by an easement conveyed to the Association as Common Area), personal property and personal liability insurance in a limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to bodily injury or death to any number of persons arising out of one accident or disaster, or for damage to property, and if higher limits shall at any time be customary to protect against tort liability such higher limits shall be carried. In addition, an Owner may obtain such other and additional insurance coverage on the Lot and residence as such Owner in the Owner's sole discretion shall conclude to be desirable; provided, however, that none of such insurance coverage obtained by the Owner shall operate to decrease the amount which the Executive Board, on behalf of all Owners, may realize under any policy maintained by the Executive Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners, including Declarant, should Declarant be the Owner of any Lot. No Owner shall obtain separate insurance policies on the Common Area.

All Owners are required to maintain on file copies of all such current policies with the Association to evidence their obligations hereunder and to facilitate recovery of all appropriate awards or proceeds by the Association.

ARTICLE XI ASSESSMENTS

Section 11.1 Obligation. Each Owner, including Declarant, by accepting a deed for a Lot, is deemed to covenant to pay to the Association (i) the Annual Assessments imposed by the Executive Board as necessary to meet the Common Expenses of maintenance, operation, and management of the Common Area and to perform the functions of the Association; (ii) Special Assessments for capital improvements and other purposes as stated in this Declaration, if permitted under the Act; and (iii) Default Assessments which may be assessed against a Lot for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under the Association Documents.

Section 11.2 Purpose of Assessments. The Assessments shall be used exclusively to promote the health, safety and welfare of the Owners and occupants of The Cerise Ranch Subdivision, for the improvement and maintenance of the Common Area and other areas of Association responsibility referred to herein, as more fully set forth in this Article below and in Article XVIII.

Section 11.3 Budget. Within thirty (30) days after the adoption of any proposed budget for the Association, the Executive Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting sixty percent (60%) of all Owners, whether or not present at the meeting, reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board. The Executive Board shall adopt a budget and submit the budget to a vote of the Owners as provided herein no less frequently than annually. The Executive Board shall levy and assess the Annual Assessments in accordance with the annual budget.

Section 11.4 Annual Assessments. Annual Assessments for Common Expenses made shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners, subject to Section 11.3 above. Estimated Common Expenses shall include, but shall not be limited to, the cost of routine maintenance and operation of the Common Area; expenses of management, taxes and special governmental assessments pertaining to the Common Area and insurance premiums for insurance coverage as deemed desirable or necessary by the Association; landscaping, care of grounds within the Common Area; routine repairs

and renovations within the Common Area; wages; common water and utility charges for the Common Area; legal and accounting fees; management fees; expenses and liabilities incurred by the Association under or by reason of this Declaration; payment of any default remaining from a previous assessment period; and the creation of a reasonable contingency or other reserve or surplus fund for general, routine maintenance, repairs, and replacement of improvements within the Common Area on a periodic basis, as needed. Notwithstanding the use of the term "Annual" Assessments, the Association may establish an Annual Assessment for less than 12 months (e.g., set two six month "Annual Assessments"). Until the Association makes an Annual Assessment, the Declarant shall pay all Common Expenses.

Annual Assessments shall be payable on a prorated basis each year in advance and shall be due on the first day of each month, calendar quarter or year, as determined by the Executive Board. The omission or failure of the Association to fix the Annual Assessments for any assessment period shall not be deemed a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any Annual Assessments in excess of the actual expenses incurred in any fiscal year. In the alternative, the Executive Board may elect to allocate any such excess Assessments to an Association working capital fund or to an Association reserve fund.

Section 11.5 Apportionment of Annual Assessments. Each Owner shall be responsible for that Owner's share of the Common Expenses, which shall be divided among the Lots on the basis of the Sharing Ratios in effect on the date of assessment, subject to the following provisions. All expenses (including, but not limited to, costs of maintenance, repair, and replacement) relating to fewer than all of the Lots to the extent not covered by insurance may be borne by the Owners of those affected Lots only at the reasonable discretion of the Executive Board. The formula used in establishing Sharing Ratios is an equal allocation among all of the Lots.

Section 11.6 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy in any fiscal year one or more Special Assessments, if permitted under the Act, payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Area or for any other expense incurred or to be incurred as provided in this Declaration. This Section 11.6 shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration, and in acting under this Section, the Association shall make specific references to this Section. Any amounts assessed pursuant to this Section shall be assessed to Owners in the same proportion as provided for Annual Assessments in Article XI, Section 11.4, subject to the requirements that any extraordinary maintenance, repair or restoration work on fewer than all of the Lots shall be borne by the Owners of those affected Lots only; and any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the actions of a particular Owner (or his agents,

servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

Section 11.7 Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least thirty (30) days prior to the due date.

Section 11.8 Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Annual, Special, or Default Assessment, which is not paid within thirty (30) days after its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- (i) Assess a late charge for each delinquency in such amount as the Association deems appropriate;
- (ii) Assess an interest charge from the date of delinquency at the yearly rate of two points above the prime rate charged by the Association's bank, or such other rate as the Executive Board may establish, not to exceed twenty-one percent (21%) per annum;
- (iii) Suspend the voting rights of the Owner during any period of delinquency;
- (iv) Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;
- (v) Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and
- (vi) Proceed with foreclosure as set forth in more detail below.

Assessments chargeable to any Lot shall constitute a lien on such Lot. The Association may institute foreclosure proceedings against the defaulting Owner's Lot in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the

notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien.

The Association shall have the power to bid on a Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

To the maximum extent permitted by law, the lien of the Assessments will be superior to and prior to any homestead exemption provided now or in the future by the law of the State of Colorado, and to all other liens and encumbrances except liens and encumbrances recorded before the date of the recording of this Declaration, and liens for governmental assessments or charges imposed against a Lot by a Colorado governmental or political subdivision or special taxing district or any other liens made superior by statute.

Section 11.9 Personal Obligation. The amount of any Assessment chargeable against any Lot shall be a personal and individual debt of the Owner of same. No Owner may exempt himself from liability for the Assessment by abandonment of his Lot or by waiver of the use or enjoyment of all or any part of the Common Area. Suit to recover a money judgment for unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 11.10 Successor's Liability for Assessments. The provisions of the Act shall govern and control: (a) the obligations of successors to the fee simple title of a Lot on which Assessments are delinquent and (b) the subordination by the lien of the Assessments provided for in this Declaration. Notwithstanding the foregoing or any contrary provision herein, the lien of the Assessments shall represent a prior and senior lien and shall enjoy priority over any First Mortgage recorded subsequent to the recording of the Declaration.

Section 11.11 Payment by Mortgagee. Any Mortgagee holding a lien on a Lot may pay any unpaid Assessment payable with respect to such Lot, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Lot for the amounts paid with the same priority as the lien of the Mortgage.

Section 11.12 Statement of Status of Assessment Payment. Upon payment of a reasonable fee set from time to time by the Executive Board and upon fourteen (14) days' written request to the

Manager or the Association's registered agent, any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Lot shall be furnished with a written statement setting forth the amount of the unpaid Assessments, if any, with respect to such Lot. Unless such statement shall be issued by personal delivery or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party (in which event the date of posting shall be deemed the date of delivery) within fourteen (14) days, the Association shall have no right to assert a lien upon the Lot over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

Section 11.13 Capitalization of the Association. Upon acquisition of record title to a Lot from Declarant or any seller after Declarant, each Owner shall contribute to the working capital and reserves of the Association an amount equal to twenty-five percent (25%) of the Annual Assessment determined by the Executive Board for that Lot for the year in which the Owner acquired title. Such payments shall not be considered advance payments of the Annual Assessments. The unused portion of the working capital deposit shall be returned to each Owner, without interest, upon the sale of his Lot, provided that the new purchaser of the Lot has deposited the required working capital deposit with the Association. The Executive Board shall be entitled to make use of the working capital reserves in its discretion following a ten (10) day written notice of its intention to so use the reserves and the purposes therefor is mailed to all of the Owners.

Section 11.14 Real Estate Transfer Assessment. If permitted by law, the Executive Board, in its discretion, may levy a real estate transfer assessment upon the transfer of real property within the Property. Any such real estate transfer assessment must be made pursuant to certain uniform procedures, limitations and exclusions as are currently in effect for other similar real estate projects in Garfield County, Colorado. In addition, the procedures, limitations and exclusions must be placed of record by the Association in the Office of the Clerk and Recorder for Garfield County, Colorado, prior to the enactment of such levy. In no event shall the real estate transfer assessment rate exceed two percent (2%) of the fair market value of the property being transferred.

ARTICLE XII ASSOCIATION AS ATTORNEY-IN-FACT

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of dealing with any improvements covered by insurance written in the name of the Association pursuant to Article X upon their damage or destruction as provided in Article XIII, or a complete or partial taking as provided in Article XIV below. Acceptance by a grantee of a deed or other instrument of conveyance from Declarant or any other Owner conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact.

ARTICLE XIII DAMAGE OR DESTRUCTION

Section 13.1 The Role of the Executive Board. Except as provided in Section 13.6, in the event of damage to or destruction of all or part of any Common Area improvement, or other Property covered by insurance written in the name of the Association under Article X, the Executive Board shall arrange for and supervise the prompt repair and restoration of the damaged Property (the Property insured by the Association pursuant to Article X is sometimes referred to as the "Association-Insured Property").

Section 13.2 Estimate of Damages or Destruction. As soon as practicable after an event causing damage to or destruction of any part of the Association-Insured Property, the Executive Board shall, unless such damage or destruction shall be minor, obtain an estimate or estimates that it deems reliable and complete of the costs of repair and reconstruction. "Repair and reconstruction" as used in this Article XIII shall mean restoring the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction. Such costs may also include professional fees and premiums for such bonds as the Executive Board or the Insurance Trustee, if any, determines to be necessary.

Section 13.3 Repair and Reconstruction. As soon as practical after the damage occurs and any required estimates have been obtained, the Association shall diligently pursue to completion the repair and reconstruction of the damaged or destroyed Association-Insured Property. As attorney-in-fact for the Owners, the Association may take any and all necessary or appropriate action to effect repair and reconstruction of any damage to the Association-Insured Property, and no consent or other action by any Owner shall be necessary. Any repair and reconstruction of damaged or destroyed Roads shall, at a minimum, meet all standards approved by Garfield County for The Cerise Ranch Subdivision. Assessments of the Association shall not be abated during the period of insurance adjustments and repair and reconstruction.

Section 13.4 Funds for Repair and Reconstruction. The proceeds received by the Association from any hazard insurance carried by the Association shall be used for the purpose of repair, replacement, and reconstruction of the Association-Insured Property. If the proceeds of the Association's insurance are insufficient to pay the estimated or actual cost of such repair, replacement, or reconstruction, or if upon completion of such work the insurance proceeds for the payment of such work are insufficient, the Association may, pursuant to Article XI, Section 11.6, but subject to applicable law, levy, assess, and collect in advance from the Owners, without the necessity of a special vote of the Owners, a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair and reconstruction. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair, replacement or reconstruction.

Section 13.5 Disbursement of Funds for Repair and Reconstruction. The insurance proceeds held by the Association and the amounts received from the Special Assessments provided for above constitute a fund for the payment of the costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for the costs of repair and reconstruction shall be made from insurance proceeds, and the balance from the Special Assessments. If there is a balance remaining after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made as Special Assessments, then in equal shares per Lot, first to the Mortgagees and then to the Owners, as their interests appear or, in the reasonable discretion of the Executive Board, the balance may be paid to any maintenance over working capital reserves maintained by the Executive Board.

Section 13.6 Decision Not to Rebuild Common Area. If Owners representing at least 67% of the total allocated votes in the Association (other than Declarant) and 51% of the Mortgagees holding First Mortgages (based on 1.0 vote for each Mortgage which encumbers a Lot) and all directly adversely affected Owners agree in writing not to repair and reconstruct improvements within the Common Area and if no alternative improvements are authorized, then and in that event the damaged property shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition. In the event such a written agreement not to repair or reconstruct is made regarding any Road, such decision must additionally receive the written consent of the Board of County Commissioners, Garfield County, Colorado. Any remaining insurance proceeds shall be distributed in accordance with the Act.

ARTICLE XIV CONDEMNATION

Section 14.1 Rights of Owners. Whenever all or any part of the Common Area shall be taken by any authority having power of condemnation or eminent domain or whenever all or any part of the Common Area is conveyed in lieu of a taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding to the extent of the Association's ownership interest in the Common Area, unless otherwise prohibited by law.

Section 14.2 Partial Condemnation; Distribution of Award; Reconstruction. The award made for such taking shall be payable to the Association as trustee for those Owners for whom use of the Common Area was conveyed and, unless otherwise required under the Act, the award shall be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty days after such taking Declarant and the Owners who represent at least 67% of the votes of all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board and the Design Review Board. If such improvements are to be repaired or restored, the provisions in Article XIII above regarding the disbursement of funds with respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed in equal shares per Lot among the Owners, first to the Mortgagees and then to the Owners, as their interests appear.

Section 14.3 Complete Condemnation. If all of the Property is taken, condemned, or sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Area shall be distributed as provided in Article XIII, Section 13.5, above.

ARTICLE XV EXPANSION, SUBDIVISION AND WITHDRAWAL

Section 15.1 Reservation of Expansion and Withdrawal Rights.

A. Declarant reserves the right to add to the Property that real property more particularly described on Exhibit A and Exhibit C attached to this Declaration ("Specified Additional Property").

B. Declarant reserves the right to add additional, unspecified real estate to the Property to the fullest extent permitted by the Act.

C. Declarant reserves the right to subdivide any Lot into two or more Lots, and to create duplexes or multi-family facilities on any Lot either pursuant to re-subdivision, the subjection of such duplexes or multi-family units to a common interest ownership regime or other lawful means, as long as the total number of Lots to be created by Declarant within the Property does not exceed sixty eight (68).

D. Declarant reserves the right to connect to the central water system at no cost or expense to Declarant, all Lots created within either the Property or Additional Property, above described.

E. To the maximum extent permitted by the Act, Declarant reserves the right for itself and any Successor Declarant any time and from time to time to withdraw from the provisions of this Declaration any real property subject to this Declaration or subjected to this Declaration by a duly recorded Supplemental Declaration, and, if necessary, Supplemented Plat prior to the time of a sale of a Lot within that phase of the Property as described in this Declaration or in said Supplemental Declaration and, if necessary, Supplemental Plat.

F. The new Lots shall be subject to all of the terms and conditions of this Declaration and of any Supplemental Declaration, upon placing the Supplemental Declaration and, if necessary, the Supplemental Plat(s) of public record in the real estate records of Garfield County, Colorado.

Section 15.2 Supplemental Declarations and Supplemental Plats. Such expansion may be accomplished by the filing for record by Declarant in the Offices of the Clerk and Recorder for Garfield County, Colorado, of one or more Supplemental Declarations and, if the real property being subject to this Declaration by such Supplemental Declaration has not been previously platted pursuant to recorded plat, of a Supplemental Plat depicting such real property recorded concurrently with the applicable Supplemental Declaration. The Supplemental Declaration shall set forth the Lots and other real property, if any, to be included in the expansion, together with any covenants, conditions, restrictions and easements particular to such property. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion. Declarant may exercise such rights for expansion in whatever order of development Declarant in its sole discretion determines. Declarant shall not be obligated to expand the real property subject to this Declaration.

Section 15.3 Expansion of Definitions. In the event of such expansion, resubdivision or creation of condominium, duplex, town home or other multi-family units, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Property subject to this Declaration as so expanded, resubdivided or created in condominiums, duplexes, town homes or multi-family units. For example, "Lot" shall mean the Lots as shown on the Plat plus any additional Lots added by a Supplemental Declaration and, if necessary, Supplemental Plat or Plats (but avoiding duplication such that if three town homes were created from one Lot, then there would be a net two additional Lots), and reference to this Declaration shall mean this Declaration as supplemented. All conveyances of Lots shall be effective to transfer rights in the Property as expanded.

Section 15.4 Effect of Expansion.

A. Upon the inclusion of additional Lots under this Declaration by the filing of a Supplemental Declaration(s) and, if necessary Supplemental Plat(s) thereof, the Sharing Ratio applicable to a Lot shall automatically be reduced to a fraction, the numerator of which shall be one

(1) and the denominator of which shall be equal to the aggregate number of Lots then subject to this Declaration. Such reduction in the Sharing Ratio appurtenant to a Lot shall be reflected and set forth in the Supplemental Declaration.

B. Notwithstanding any inclusion of additional Lots under this Declaration, each Owner shall remain fully liable with respect to its obligation for the payment of the Common Expenses of the Association, including the expenses for such new Common Area, costs and fees, if any. The recording of a Supplemental Declaration or Supplemental Plat shall not alter the amount of the Common Expenses assessed to a Lot prior to such recording.

Section 15.5 Termination of Expansion and Development Rights. The rights reserved to the Declarant for itself, its successors and assigns for the expansion and development pursuant to Section 15.1 ("Expansion and Development Rights") shall expire twenty (20) years from the date of recording this Declaration, unless terminated earlier pursuant to the terms and provisions of the Act, or unless the Expansion and Development Rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Expansion and Development Rights by Declarant.

ARTICLE XVI GENERAL DEVELOPMENT GUIDELINES AND REVIEW BOARD

Section 16.1 Design Review Board and Guidelines. There is hereby established a Design Review Board (the "Design Review Board"), which will be responsible for the establishment and administration of General Development Guidelines to facilitate the purpose and intent of this Declaration.

Section 16.2 Purpose and General Authority. The Design Review Board will review, study and either approve or reject proposed improvements on the Property, all in compliance with this Declaration, the Plat and as further set forth in the General Development Guidelines and such rules and regulations as the Design Review Board may establish from time to time to govern its proceedings. No improvement will be erected, placed, reconstructed, replaced, repaired or otherwise altered, nor will any construction, repair or reconstruction be commenced until plans for the improvements shall have been approved by the Design Review Board; provided, however, that improvements that are completely within a dwelling structure may be undertaken without such approval.

Section 16.3 ISTS Systems. For the purpose of implementing this Article XVI, individual sewage disposal systems shall constitute "improvements" as used in this Article. All such systems shall be reviewed by the Design Review Board for conformance with the provisions set forth within Section 17.1.D.

Section 16.4 Board Discretion. The Design Review Board will exercise its reasonable judgment to see that all improvements conform and harmonize with any existing structures as to external design, quality and type of construction, seals, materials, color, location on the building site, height, grade and finished ground elevation, landscaping, and the schemes and aesthetic considerations set forth in the General Development Guidelines and other Association Documents. The Design Review Board, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. The approval by the Design Review Board of improvements on the Property shall carry no precedential weight when reviewing subsequent requests for approvals, and the Design Review Board shall not be required to approve requests for the same or similar improvements.

Section 16.5 General Development Guidelines. The General Development Guidelines may include, among other things, at the sole discretion of the Design Review Board, the restrictions and limitations set forth below:

(i) Procedures and necessary fees for making application to the Design Review Board for design review approval, including the documents to be submitted and the time limits in which the Design Review Board must act to approve or disapprove any submission.

(ii) Time limitations for the completion, within specified periods after approval, of the improvements for which approval is required under the General Development Guidelines.

(iii) Landscaping regulations, with limitations and restrictions prohibiting the removal or requiring the replacement of existing trees, the type and use of plants, and other practices benefitting the protection of the environment, conservation of water, aesthetics and architectural harmony of The Cerise Ranch Subdivision.

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

The Design Review Board may amend, repeal and augment the General Development Guidelines from time to time, in the Design Review Board's sole discretion. The General Development Guidelines will be binding on all Owners and other persons governed by this Declaration. Notwithstanding the foregoing, the Design Review Board is empowered in its

discretion to grant variances from the requirements of the General Development Guidelines under unique or unusual circumstances.

Section 16.6 Design Review Board Membership. The Design Review Board will be composed of not less than three (3) persons nor more than five (5) persons. The Design Review Board need not include any Member of the Association. All of the members of the Design Review Board will be appointed, removed and replaced by Declarant, in its sole discretion, until all the Lots comprising the Property are sold unless required otherwise by the Act, or such earlier time as Declarant may elect to voluntarily waive this right by notice to the Association, and at that time the Executive Board will succeed to Declarant's right to appoint, remove or replace the members of the Design Review Board.

Section 16.7 Organization and Operation of Design Review Board.

A. The term of office of each member of the Design Review Board will be one year, commencing January 1 of each year, and continuing until his successor shall have been appointed. Should a Design Review Board member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided below.

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

C. The Design Review Board chairman will take charge of and conduct all meetings and will provide reasonable notice to each member of the Design Review Board prior to any meeting. The notice will set forth the time and place of the meeting, and notice may be waived by any member.

D. The affirmative vote of majority of the members of the Design Review Board will govern its actions and be the act of the Design Review Board.

E. The Design Review Board may avail itself of other technical and professional advice and consultants as it deems appropriate, and the Design Review Board may delegate its plan review responsibilities, except final review and approval, to one or more of its members or to consultants retained by the Design Review Board. Upon that delegation, the approval or disapproval of plans and specifications by such member or consultant will be equivalent to approval or disapproval by the entire Design Review Board.

Section 16.8 Expenses. Except as provided in this Section below, all expenses of the Design Review Board will be paid by the Association and will constitute a Common Expense. The Design Review Board will have the right to charge a fee for each application submitted to it for review, in an amount which may be established by the Design Review Board from time to time, and such fees will be collected by the Design Review Board and remitted to the Association to help defray the expenses of the Design Review Board's operation. Further, the Design Review Board may retain the services of a third party consultant to assist the Design Review Board in reviewing a particular application. In such event, the Design Review Board may charge the applicant for the professional fees incurred in retaining such consultant.

Section 16.9 Other Requirements. Compliance with the Association's design review process is not a substitute for compliance with County of Garfield building, zoning and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses, and permits as may be required prior to commencing construction. Further, the establishment of the Design Review Board and procedures for architectural review will not be construed as changing any rights or restrictions upon Owners to maintain and repair their Lots and improvements as otherwise required under the Association Documents.

Section 16.10 Limitation of Liability. Neither the Design Review Board nor any individual Design Review Board member will be liable to any person for any official act of the Design Review Board in connection with submitted plans and specifications, except to the extent the Design Review Board or any individual Design Review Board member acted with malice or wilful wrongful intent. Approval by the Design Review board does not necessarily assure approval by the appropriate governmental or commission for the County of Garfield. Notwithstanding that the Design Review Board has approved plans and specifications, neither the Design Review Board nor any of its members will be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason or such approval of the construction of the improvements. Neither the Executive Board, the Design Review Board, nor any agent thereof, nor Declarant, nor any of its partners, employees, agents or consultants will be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Association Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Design Review Board will be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the Design Review Board's decisions. The Association, however, will not be obligated to indemnify each member of the Design Review Board to the extent that any such member of the Design Review Board is adjudged to be liable for malice or wilful wrongful intent in the performance of his duty as a member of the Design Review Board, unless and then only to the extent that the court in which such action or suit may be brought determines upon application that, despite the adjudication or liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 16.11 Enforcement.

A. Any member or authorized consultant of the Design Review Board, or any authorized officer, Director, employee or agent of the Association may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, in order to inspect improvements constructed or under construction on the Lot to determine whether the improvements have been or are being built in compliance with the Association Documents and the plans and specifications approved by the Design Review Board.

B. Before any improvements on a Lot may be occupied, the Owner of the Lot will be required to obtain a temporary certificate of compliance issued by the Design Review Board indicating substantial completion of the improvements in accordance with the plans and specifications approved by the Design Review Board, and imposing such conditions for issuance of a final certificate of compliance issued by the Design Review Board as the Design Review Board may determine appropriate in its reasonable discretion. Without limiting the generality of the preceding sentence, the Design Review Board may require that the Owner deposit with the board such sums as may be necessary to complete the construction and landscaping on the Lot by a specified date. If the construction and landscaping is not completed as scheduled, the Design Review Board may apply the deposit to cover the cost of completing the work and enforce such other remedies as are available to the Association for the failure of the Owner to comply with these covenants, including, without limitation, the remedies set forth in this Section.

C. Upon completion of construction, the Design Review Board will issue an acknowledged certificate of compliance setting forth generally whether, to the best of the Design Review Board's knowledge, the improvements on a particular Lot are in compliance with the terms and conditions of the General Development Guidelines.

D. Every violation of these covenants is hereby declared to be and to constitute a nuisance, and every public or private remedy allowed for such violation by law or equity against a Member will be applicable. Without limiting the generality of the foregoing, these covenants may be enforced as provided below:

(i) The Design Review Board may adopt a schedule of fines for failure to abide by the Design Review Board rules and the General Development Guidelines, including fines for failure to obtain any required approval from the Design Review Board.

(ii) The Association, upon request of the Design Review Board and after reasonable notice to the offender and, if different, to the Owner, may enter upon any Lot at any reasonable time after notice to the Owner, without being deemed guilty of trespass, and remove any improvement constructed, reconstructed, refinished, altered or maintained in violation of these covenants. The Owner of the improvement will immediately reimburse the Association for all

expenses incurred in connection with such removal. If the Owner fails to reimburse the Association within thirty (30) days after the Association gives the Owner notice of the expenses, the sum owed to the Association will bear interest at the default rate from the date of the advance by the Association through the date of reimbursement in full, and all such sums and interest will be a Default Assessment enforceable as provided in Article XI.

(iii) All improvements commenced on the Property will be prosecuted diligently to completion and will be completed within one (1) year after commencement, unless an exception is granted in writing by the Design Review Board. If an improvement is commenced and construction is then abandoned for more than ninety (90) days, or if construction is not completed within the required one (1) year period, then after notice and opportunity for hearing as provided in the Bylaws, the Association may impose a fine of \$1,000 per day (or such other reasonable amount as the Association may set) to be charged against the Owner of the Lot until construction is resumed, or the improvement is completed, as applicable, unless the Owner can prove to the satisfaction of the Executive Board that such abandonment is for circumstances beyond the Owner's control. Such charges will be a Default Assessment and lien as provided in Article XI.

Section 16.12 Binding Effect. The actions of the Design Review Board in the exercise of its discretion by its approval or disapproval of plans and other information submitted to it or with respect to any other matter before it will be conclusive and binding on all interested parties.

ARTICLE XVII PROPERTY USE RESTRICTIONS

Section 17.1 General Restriction. Subject to Declarant's rights under this Declaration, the Property will not be used for any purpose other than as set forth in these covenants, as permitted by any applicable ordinances of the County of Garfield and the laws of the State of Colorado and the United States, and as set forth in the Association Documents or other specific recorded covenants affecting all or any part of the Property.

A. Use of Lots. Subject to Section 17.5, which permits certain business uses of a Lot, and Section 3.5.F, which permits model residences and offices under certain circumstances, each Lot may be used only for residential purposes in accordance with the restrictions applicable to a particular Lot set forth in this Declaration and the Plat. No business or commercial building may be erected on any Lot and, except as noted above, no business or commercial enterprise or other non-residential use may be conducted on any part of a Lot.

B. Excavation. No excavation will be made except in connection with improvements approved as provided in these covenants. For purposes of this Section, "excavation"

means any disturbance of the surface of the land which results in a removal of earth, rock, trees, or other substance a depth of more than eighteen (18) inches below the natural surface of the land. During the course of any excavation, all reasonably necessary measures, including but not limited to the regular spraying or application of water to all such sites, shall be utilized to prevent the migration or escape of fugitive dust from the Property. All open excavated areas shall be promptly revegetated in accordance with the recommendations contained within Memorandum Regarding Weed Control and Revegetation attached hereto as Exhibit B.

C. Water. Each structure located within the Property and designed for occupancy shall connect with the central water system made available by the Association.

D. ISTS Design and Performance Standards. Each ISTS installed within the Property shall comply with the following requirements:

(i) each system shall be designed by a professional engineer registered in the State of Colorado pursuant to Colo. Rev. Stat §12-25-111 (1999);

(ii) each system design shall adequately address the soil percolation conditions present at the Lot site, which percolation rates shall be verified through appropriate on-site testing;

(iii) each system shall be designed to adequately service at least (4) bedrooms;

(iv) each system design, through the incorporation of recirculating trickling filter, sequencing batch reactors and/or other accepted on-site wastewater treatment system technologies, shall be capable of producing effluent quality which meets or exceeds the requirements of the United States Environmental Protection Agency for secondary wastewater treatment (30mg/L BOD and 30 mg/L suspended solids);

(v) the tops of all tanks or risers extending therefrom shall be surface accessible to facilitate system testing and maintenance; and

(vi) all absorption fields shall be sized to adequately service (4) bedrooms. Trench segments with at least (6) feet of separation shall be used whenever practically feasible. A minimum of (3) similarly sized trench segments should be installed with alternating valves or a distribution box that allows isolation of each segment. Monitoring pipes shall be installed at the far end of each trench segment to allow inspection of field condition. If a bed must be utilized, single dosed zones shall be acceptable. If mounding is required to establish (4) feet of suitable soil, a single pressure dosed zone shall be acceptable. If a bed or mound is used, a minimum of (2) monitoring pipes shall be installed at the far end of the bed or mound.

Following ISTS installation, each Owner shall provide the Association with as-built drawings depicting, in relation to the other improvements on the Lot, the location and dimensions of the ISTS facilities including the absorption field and monitoring pipes, all applicable design, operation and maintenance specifications of the system's manufacturer and written certification from the designing engineer that the ISTS was installed in conformance with the requirements above stated and all applicable design specifications of the manufacturer.

In the event the Association fails to properly implement and enforce the design and performance standards forth in this Section 17.1.D., the Board of County Commissioners for Garfield County, Colorado and its duly authorized representatives and agents, shall have all the right to enter upon the Property and implement and enforce such standards at the expense of the Association or exercise any other right or power afforded under this Declaration or the Act including, but not limited to, the initiation of appropriate proceedings in the District Court for Garfield County, Colorado, to compel enforcement of the same.

The provisions of this Section 17.1.D shall not be amended or repealed by the Declarant, Association or Owners without the written consent of the Board of County Commissioners for Garfield County, Colorado.

E. Wells/Drilling. No well from which water, oil or gas is produced will be dug, nor will storage tanks, reservoirs, or any installation of power, telephone or other utility lines (wire, pipe or conduit) be made or operated anywhere on the Property except in connection with water wells and works operated by the Association, public agencies or duly certified public utility companies; provided, however, that the foregoing will not prevent the drilling of or installation of additional water wells by Declarant or its assigns. The drilling or excavation for minerals shall not be permitted on the Property

F. Antennae. No exterior radio, television, microwave or other antennae or antennae dish or signal capture and distribution device will be permitted without the prior written consent of the Design Review Board, and appropriate screening.

G. Signs. No signs of any kind will be displayed to the public view on or from any portion of the Property except signs of Declarant or its affiliates, assigns or designees established during the period of Declarant control of the Executive Board or signs required by law or signs approved by the Design Review Board. No "For Sale" or "For Rent" sign may be posted on any Lot, except for standard "for sale" or "for rent" signs that do not exceed four square feet.

H. Animals and Pets. Except as is expressly provided in this Declaration, no animals, livestock, or poultry of any kind will be kept, raised, or bred on any portion of the Property.

I. Containment. Household pets, such as dogs and cats, may not be permitted to run at large at any time. Those pets which, in the sole discretion of the Executive Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants or other Lots or wildlife shall be removed upon request of the Executive Board. If the pet owner fails to honor such request, the Executive Board may remove the pet.

J. Drainage. No Owner will do or permit any work, place any landscaping or install any other improvements or suffer the existence of any condition whatsoever which will alter or interfere with the drainage pattern for the Property or the drainage berms, water or other drainage improvements constructed by Declarant, except to the extent such alteration and drainage pattern is approved in writing by the Design Review Board or the Executive Board, and except for rights reserved to Declarant to alter or change drainage patterns.

K. Construction Regulations of the General Development Guidelines. All Owners and contractors will comply with the portions of the General Development Guidelines regulating construction activities. Such regulations may affect, without limitation, the following: trash and debris removal; sanitary facilities; parking areas; outside storage; restoration of damaged property; conduct and behavior of builders, subcontractors and Owners' representatives on the Property at any time; the conservation of landscape materials; and fire protection.

L. Blasting. If any blasting is to occur, the Design Review Board and Declarant will be informed far enough in advance to allow them to make such investigation as they deem necessary to confirm that appropriate protective measures have been taken prior to the blasting. No blasting shall occur without such prior written approval. Notwithstanding the foregoing, no approval of any blasting by Declarant of the Design Review Board will in any way release the person conducting the blasting from all liability in connection with the blasting, nor will such approval in any way be deemed to make Declarant or the Design Review Board liable for any damage which may occur from blasting, and the person doing the blasting will defend and hold harmless and hereby indemnifies Declarant and the Design Review Board from any such expense or liability. Declarant or the Design Review Board may impose any reasonable conditions and restrictions, including time and date restrictions, on all blasting.

M. Temporary Structures. No temporary structures will be permitted except as may be determined to be necessary during construction and as specifically authorized by the Design Review Board.

N. No Conversion. No Owner shall construct or convert any carport, garage, attic or other unfinished space, other than a basement, to finished space for use as an apartment or other integral part of the living area on any residence without approval of the Design Review Board, the Association and the Garfield County Building Department.

O. No Outside Clotheslines. No laundry or wash will be dried or hung outside on the Property.

P. Motorized Vehicles. No trucks, trail bikes, recreational vehicles, motor homes, motor coaches, snowmobiles, campers, trailer, boats or boat trailers or similar vehicles, other than passenger automobiles or pickup or utility trucks with a capacity of one-half ton or less, or any other motorized vehicles will be parked, stored or in any manner kept or placed on any portion of the Property except in an enclosed garage. This restriction, however, will not be deemed to prohibit commercial and construction vehicles and construction mobile offices, in the ordinary course of business, from making deliveries or otherwise providing services to the Property or for Declarant or the other Owners.

Q. Parking and Auto Repair. No automobiles or other vehicles will be parked in any street or upon any portion of the Property, except within garages, carports or designated parking areas, except as provided herein. No work on automobiles or other vehicle repair will be performed in any visible or exposed portion of the Property except in emergencies.

R. Abandoned, Inoperable, or Oversized Vehicles. No abandoned or inoperable vehicles of any kind will be stored or parked on any portion of the Property, other than within enclosed garages, except as provided below. "Abandoned or inoperable vehicle" is defined as any vehicle which has not been driven under its own propulsion for a period of three weeks or longer; provided, however, this will not include vehicles parked by Owners while on vacation or residing away from the Property. A written notice describing the "abandoned or inoperable vehicle" and requesting its removal may be personally served upon the Owner or posted on the unused vehicle. If such vehicle has not been removed within seventy-two (72) hours after notice has been given, the Association will have the right to remove the vehicle without liability, and the expense of removal will be a Default Assessment charged against the Owner as provided in Section XI. All unsightly or oversized vehicles, snow removal equipment, garden maintenance equipment, and all other unsightly equipment and machinery may be required by Declarant or the Executive Board to be stored at a designated location or locations. "Oversized" vehicles, for purposes of this Section, will be vehicles which are too high to clear the entrance to a residential garage.

S. Outside Burning. There will be no exterior fires, except barbecues and braziers and incinerator fires contained within facilities or receptacles and in areas designated and approved by the Design Review Board. No Owner will permit any condition upon its portion of the Property which creates a fire hazard or is in violation of fire prevention regulations. No Owner shall permit any fireworks, except as permitted by the rules of the Association and in compliance with applicable law.

T. Noise. No exterior horns, whistles, bells or other sound devices except security devices used exclusively to protect the security of the Property or improvements, will be placed or used on any portion of the Property.

U. Lighting. All exterior lighting of the improvements and grounds on the Property, or interior lighting visible outside of any building, will be subject to regulation by the Design Review Board.

V. Obstructions. There will be no obstruction of any walkways or bike paths or interference with the free use of those walkways and paths except as may be reasonably required in connection with repairs. The Owners, their families, tenants, guests and invitees are granted non-exclusive easements to use the walkways and paths within the Property. That use will be subject to the Association rules adopted by the Executive Board from time to time.

W. Fence Restriction. Fencing will be restricted throughout the Property to facilitate wildlife movements, optimize habitat availability, and reduce wildlife mortality. If peripheral fencing of the Property is required to restrict domestic livestock grazing on adjacent properties, fencing shall employ a three strand barbed wire fence, with strands located at eighteen (18) thirty (30) and forty-two inches above the main ground level.

(i) If wood rail fencing is used it shall not exceed forty-two (42) inches in height and twelve (12) inches in width (top view), and an opening in the lower one-half (½) of at least sixteen (16) inches to allow passage of deer fawns and elk calves. Other fence materials such as wood slats, electric wires, or other synthetic materials may be used but shall not exceed forty-two (42) inches in height.

(ii) Owners shall be permitted a privacy fence, exceeding forty-two (42) inches in height with no openings, to enclose up to two thousand five hundred (2,500) square feet, providing it is immediately adjacent to the residential unit and is contained entirely within the Lots' building envelope.

(iii) If security fencing is required such fencing shall not be less than seven (7) feet in height and must be so constructed that wildlife movement between and through the Property and Lots is not lost or impaired.

X. Camping and Picnicking. No camping or picnicking will be allowed within the Property except in those areas designated for those purposes. The Executive Board, in its discretion, may ban or permit public assemblies and rallies within the Property.

Y. House Numbers. Each dwelling unit will have a house number with a design and location established by the Design Review Board.

Z. Nuisance. No obnoxious or offensive activity will be carried on within the Property, nor will anything be done or permitted which will constitute a public nuisance. No noise or other nuisance will be permitted to exist or operate upon the Property so as to be offensive or detrimental to any other part of the Property or its occupants.

AA. Hazardous Material. No hazardous or toxic materials (as defined under any local, state or Federal law, regulation or ordinance) will be stored, generated, emitted from, released from, transported to or from, disposed of or used on the Property, except for normal household purposes in such quantities as do not violate environmental laws.

BB. Wetlands. No improvement shall be constructed within 25 feet of any Wetlands boundary as depicted upon the Plat, and no residence shall be constructed outside the boundaries of the building envelope existing upon certain Lots as depicted upon the Plat.

CC. Tanks. No elevated tanks of any kind shall be erected, placed, or permitted upon any Lot.

DD. General Practices Prohibited. The following practices are prohibited within any portion of the Property:

- (i) Allowing construction suppliers and contractors to clean their equipment other than at a location designated for that purpose by the Design Review Board;
- (ii) Removing any rock, plant material, top soil or similar items from any property of others;
- (iii) Carrying firearms on the Property;
- (iv) Use of surface water for construction;
- (v) Careless disposition of cigarettes and other flammable materials;
- (vi) Capturing, trapping or killing of wildlife within the Property, except in circumstances posing an imminent threat to the safety of persons using the Property;
- (vii) Any activity which materially disturbs, threatens or destroys the vegetation, wildlife, wetlands, or air or water quality within the Property or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution; or
- (viii) The dumping or burial of any trash or refuse.

Section 17.2 Use of Property During Construction. It will be expressly permissible and proper for any Owner acting with the prior written consent of the Design Review Board and for Declarant, and their respective employees, agents, independent contractors, successors, and assigns involved in the construction of improvements on, or the providing of utility service to, the Property, or other real property owned by Declarant, to perform such activities and to maintain upon portions of the Common Area as they deem necessary such facilities as may be reasonably required, convenient, necessary or incidental to such construction and development of the Property. This permission specifically includes, without limiting the generality of the foregoing, maintaining storage areas, construction yards, model residences, sales offices, management offices and equipment and signs. However, no activity by any Owner will be performed and no facility will be maintained on any portion of the Property in such a way as to unreasonably interfere with the use, enjoyment or access of such Owner or his tenants or guests of and to his Lot. If any Owner's use under this provision is deemed objectionable by the Design Review Board, then the Design Review Board, in its sole discretion, may withdraw this permission.

Section 17.3 Partition or Combination of Lots. No part of a Lot may be partitioned or separated from any other part thereof. No Lots may be combined, but the Owner of two or more contiguous Lots may build one single family dwelling unit on the contiguous Lots, upon complying with all applicable requirements of the County of Garfield, and with all applicable General Development Guidelines, including, without limitation, procedures for adjusting building sites otherwise drawn for the Lots to accommodate a larger dwelling unit, minimum and maximum limitations of living area that may be constructed on any given number of contiguous Lots, and measures necessary to preserve any easements reserved with respect to the contiguous Lots.

The fact that two or more contiguous Lots may be owned by one person and developed with one single family dwelling unit will not affect the number of votes or the amount of Assessments allocated to the Lots. If the Owner is required by the County of Garfield or any other governmental authority or by a Mortgagee to replat the Lots in order to construct improvements on the Lots, the number of votes and the allocation of Assessments to the Lots after replatting will equal the sum of the votes and Assessments allocated to the Lots before replatting. Each Lot will be conveyed, transferred, gifted, devised, bequeathed, encumbered or otherwise disposed of, as the case may be, with all appurtenant rights and interests created by law or by this Declaration, including the Owner's membership in the Association and the right to use the Common Area, and with the appropriate allocation of voting rights and liability for Assessments established for the Lot as provided in this Declaration.

Section 17.4 Leasing. The Owner of a Lot will have the right to lease his Lot, subject to the following conditions:

- (i) All leases will be in writing.

(ii) The lease shall be specifically subject to the Association Documents, and any failure of a tenant to comply with the Association Documents will be a default under the lease, enforceable by the Association.

(iii) The Owner shall be liable for any violation of the Association Documents committed by the Owner's tenant, without prejudice to the Owner's right to collect any sums by the Owner on behalf of the tenant.

Section 17.5 Businesses. No Owner shall conduct any business, trade, garage sale, moving sale, rummage sale or similar activity on any Lot, except that an Owner or occupant residing on a Lot may conduct business activities within the residence so long as: (a) the existence or operation of the business activity is undetectable to the senses of sight, sound or smell from outside the residence; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity may be carried out within the confines of the residence and is free from regular visitation of the residence by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property; or such business activity satisfies the definition of home-based day care contained within the zone district text for the Cerise Ranch Subdivision.

This subsection shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to the development and sale of the Property, or the Declarant's use of any Lot.

Section 17.6 Compliance with Laws. Subject to the rights of reasonable contest, each Owner will promptly comply with the provisions of all applicable laws, regulations, ordinances, and other governmental or quasi-governmental regulations with respect to all or any portion of the Property. Each owner will abide by any wildlife regulations imposed by the Association or any agency or authority having jurisdiction over the Property.

Section 17.7 Enforcement. Notwithstanding anything in the foregoing to the contrary, the Executive Board may prohibit any activity, business or otherwise, which, in the sole direction of the Executive Board, constitutes a nuisance, or a hazardous or offensive use, or threatens the security, safety, or quiet enjoyment of other residents of the Property. The Association may take such action as it deems advisable to enforce these covenants as provided in this Declaration. In addition, the Association will have a right of entry on any part of the Property for purposes of enforcing these Articles, and any costs incurred by the Association in connection with such enforcement which remain unpaid thirty (30) days after the Association has given notice of the cost to the Owner and otherwise complied with Act will be subject to interest at the default rate from the date of the advance by the Association through the date of payment in full by the Owner, and will be treated as a Default Assessment enforceable as provided in Article XI.

Section 17.8 Use of the Words "Cerise Ranch Subdivision" or Logo. No Person shall use the words "The Cerise Ranch Subdivision" or any derivative thereof, or any other name given to the Property by the Declarant, or the logo of the development in any printed or promotional material without Declarant's prior written consent. However, Owners may use the term "The Cerise Ranch Subdivision" in printed or promotional matter where such term is used solely to specify that particular property is located within The Cerise Ranch Subdivision and the Association shall each be entitled to use the word "The Cerise Ranch Subdivision" in its name.

Section 17.9 Agreements with Adjacent Property Owners. The owners of some or all of the nonresidential properties adjacent to the Property may be obligated to share in certain costs associated with the maintenance, repair, replacement and insurance of portions of the Common Area, if any, which are used by or benefit jointly the owners of such nonresidential properties and the Owners within the Property, by agreement, contract or covenant to share costs. The owners of the nonresidential properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein.

ARTICLE XVIII ADDITIONAL RESTRICTIONS FOR WILDLIFE PROTECTION

Section 18.1 Wildlife Restrictions. In order to preserve, protect and promote the well being of The Cerise Ranch's existing wildlife, the use of the Property, and each Lot thereon, and the rights and easements of enjoyment in and to the Common Areas created hereunder are restricted as follows:

A. All areas identified and depicted upon the Wetland Areas shall be preserved in their present natural character and condition to as great a degree as possible and no activity shall be permitted thereon which shall modify or alter their existing character and condition.

B. No tree or vegetation removal shall be permitted within the Common Area except as may be necessary, in the determination of the Association, to remove a dangerous condition or to control an invasive species.

C. Except as allowed under Section 4.16, no more than two (2) domestic animals shall be permitted to be kept upon any Lot. As used herein, "domestic animal" shall specifically exclude all horses, livestock, poultry or other farm animals of any kind except cats and dogs. Owners shall be entitled to keep dogs on their property pursuant to the following restrictions and limitations and subject to any additional rules and regulations which may be promulgated by the Association:

(i) No more than one dog, including puppies over the age of ten (10) weeks, shall be kept by any Lot Owner at any time upon any one (1) Lot.

(ii) Dogs shall be kept under the control of their Owners at all times and shall not be permitted to run free or to cause a nuisance in the Property. No dogs shall be allowed beyond the boundaries of the Lot owned by the person(s) where the dog is housed unless leashed and accompanied by a person in full control of such dog.

(iii) Dogs shall not be allowed to bark continuously, which shall be defined as barking for a continuous fifteen (15) minute period, including successive barks or a series of barks which repeat or resume following a brief or temporary cessation.

(iv) When not accompanied by a person, all dogs shall be leashed, chained, "electric fenced," or kenneled. The location of kennels shall be subject to review of the Design Review Board.

(v) All dogs shall be kept reasonably clean, and all Lots shall be free of refuse and animal waste.

(vi) Should any dog chase or molest deer, elk or any domestic animals or persons, or destroy or disturb property of another, the Association shall be authorized to prohibit the Owner or any tenant, invitee, event, guest or other user of a Lot from continuing to maintain the offending animal on his property and may dispose of that animal, if necessary, to protect wildlife or other Owners, Persons or property. The offending dog owner shall be provided written notice of such action at least two (2) days before disposal occurs. Within such two (2) day period, the offending dog shall be kenneled at a licensed kennel. All charges associated with action taken by the Association may be assessed against either the Owner and/or the dog owner, or both, at the Association's sole option.

(vii) Notwithstanding the foregoing, no animal may be kept upon a Lot which, in the sole discretion and judgment of the Executive Board results in any annoyance or is obnoxious to Owners within the Subdivision.

D. The Association and all Owners shall not accumulate or store trash or garbage outside of their residential structures unless such trash or garbage is contained within a container certified as bear-proof by the North American Bear Society, the National Park Service or Colorado Division of Wildlife; provided, however, that Owners may use trash or garbage containers which do not meet the certifications above described so long as:

(i) said containers are placed outside no earlier than one (1) hour prior to the regularly scheduled time for trash collection by the Owner's (s') waste service provider; and

(ii) said containers are returned to the residential structure(s) no later than one (1) hour following trash collection by the Lot Owner's (s') waste service provider.

E. The Association and all Owners shall not feed, bait, salt or utilize any other means or artifice to attract wildlife to the Lots or Property. This limitation shall not apply to bird feeders or bird houses which may be located and utilized within the Property.

F. The Association and Owners may restrict wildlife from landscaping and other isolated sensitive areas by using temporary fencing and other passive means which will not unreasonably restrict the free movement of wildlife within the Property.

G. The Association and all Owners are prohibited from chasing, scaring, disturbing, hazing, or other using any other form of harassment to coerce big game (deer and/or elk) off of the Common Area.

H. The Association and all Owners hereby waive and shall hold the Colorado Division of Wildlife harmless from, any and all claims for damages to landscaping improvements or ornamental plants located on the Lots or Common Area resulting from the activities of big game (deer and/or elk).

I. The Association and the Owners shall be responsible for the removal and proper disposal of all animal carcasses located upon the Common Area or Lots, as may be appropriate.

J. The Association shall assess and enforce penalties against Owners violating any of the wildlife restrictions set forth in this Section 18.1 as follows: One Hundred Dollars (\$100.00) for the first violation committed by an Owner; Two Hundred Dollars (\$200.00) for the second violation; Three Hundred Dollars (\$300.00) for the third violation; and for each succeeding violation the fine increases in One Hundred Dollar (\$100.00) increments. The dollar amounts of the fines may be changed upon the approval of the Executive Board.

K. The restrictions of this Section 18.1 shall be enforceable in perpetuity and shall not be amended or terminated by action of the Association, Owners or Declarant nor by any provision for termination of this Declaration. The restrictions of this Section 18.1 shall be enforceable in any and all manner provided in this Declaration by the Association, Owners, Declarant, Garfield County or any state or federal agency charged with the preservation of wildlife and wetlands areas. Any such enforcement action shall entitle the enforcing party to recovery of damages equal to the cost of restoration of the property, and such enforcing party shall be entitled to an award of reasonable attorney fees and costs of enforcement, including but not limited to court

costs, expert witness fees, costs of depositions and exhibits. Declarant shall provide a copy of the wildlife brochure to the Lot Owner(s) at the closing of sale of each Lot.

L. The Association shall maintain at all times as part of the regularly kept records of the Association, the wildlife educational brochure attached hereto and incorporated herein and attached hereto as Exhibit D.

ARTICLE XIX MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgages on Lots. To the extent applicable, necessary, or proper, the provisions of this Article XIX apply to this Declaration and also the Articles and Bylaws of the Association.

Section 19.1 Approval Requirements. Unless at least 51% of the Mortgagees holding First Mortgages against any portion of the Property (based on one vote for each Mortgage owned), and at least 67% of the Owners (other than Declarant) have given their prior written approval, the Association shall not be entitled to:

(i) By act or omission seek to abandon, partition, subdivide, sell, or transfer all or part of the Common Area (provided, however, that the granting of easements or rights of way for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this clause);

(ii) Subject to the expansion rights of Declarant set forth in Article XV, change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner;

(iii) Fail to maintain insurance required to be maintained under this Declaration;

(iv) Use hazard insurance proceeds for losses to improvements in the Common Area for other than the repair, replacement, or reconstruction of such property.

The failure of a Mortgagee to object in writing to an amendment within thirty (30) days after receipt of request for approval shall be deemed an approval of such amendment.

Section 19.2 Title Taken by Mortgagee. Any Mortgagee holding a First Mortgage of record against a Lot who obtains title to the Lot pursuant to remedies exercised in enforcing the Mortgage, including foreclosure of the Mortgage or acceptance of a deed in lieu of foreclosure, will

be liable for all Assessments assessed against such Lot, whether such Assessments were assessed prior to or after Mortgagee has taken title to such Lot.

Section 19.3 Distribution of Insurance or Condemnation Proceeds. In the event of a distribution by the Association of insurance proceeds or condemnation awards allocable among the Lots for losses to, or taking of, all or part of the Common Area, neither the Owner nor any other person shall take priority in receiving the distribution over the right of any Mortgagee who is a beneficiary of a First Mortgage against the Lot.

Section 19.4 Right to Pay Taxes and Charges. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Area.

ARTICLE XX DURATION OF COVENANTS AND AMENDMENT

Section 20.1 Term. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity, subject to the termination provisions of the Act.

Section 20.2 Amendment. This Declaration, or any provision of it, may be amended at any time by Owners holding not less than 67% of the votes possible to be cast under this Declaration at a meeting of the Owners called for that purpose, except as limited by Article XIX. Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying the approval of a sufficient number of Owners of the amendment. No amendment to the Declaration which affects the rights of Declarant reserved hereunder shall be valid without the written consent of Declarant. Notwithstanding the foregoing, Declarant, acting alone, reserves to itself the right and power to modify and amend this Declaration and/or the Plat to the fullest extent permitted under the Act. Further, the Executive Board may, pursuant to the provisions of the Act, petition the district court in which the Property is situated to amend this Declaration as provided in the Act.

Section 20.3 Revocation. This Declaration shall not be revoked, except as provided in Article XIV regarding total condemnation, without the consent of all of the Owners evidenced by a written instrument duly recorded.

ARTICLE XXI SPECIAL DISTRICT

The Association shall have the power, and is hereby authorized, to contract with and to cooperate with a Special District in order to ensure that their respective responsibilities are discharged. The Association is further authorized to act on behalf of its Members to ensure that the level of services provided by the Special District, if created, is consistent with the community-wide standard.

ARTICLE XXII GENERAL PROVISIONS

Section 22.1 Declarant Powers.

A. Notwithstanding anything in this Declaration to the contrary, the Declarant hereby reserves the following special Declarant rights to the fullest extent permitted by the Act: To complete improvements indicated on plats and maps filed with this Declaration or Supplemental Declaration; to exercise any development right (as defined in the Act); to maintain sales offices, management offices, signs advertising the Property and models; to use easements through the Common Areas for the purpose of making improvements within the Property or within real estate which may be added to and made subject to this Declaration; to make the Property subject to a master association; to merge or consolidate a common interest community of the same form of ownership; and to appoint or remove any officer of the Association or any Executive Board member during any period of Declarant control. All such special Declarant rights shall, to the maximum extent permitted by law, be exercisable by Declarant for a period of twenty (20) years after the Declarant no longer controls the Executive Board.

B. Notwithstanding anything to the contrary herein, no rights or powers reserved to Declarant hereunder shall exceed the time limitations or permissible extent of such rights or powers as restricted under the Act. Any provision in this Declaration in conflict with the requirements of the Act shall not be deemed to invalidate such provision as a whole but shall be adjusted as is necessary to comply with the Act.

Section 22.2 **Enforcement.** Except as otherwise provided in this Declaration, the Executive Board, Declarant, or any Owner (provided the Executive Board fails to take action after reasonable notice is given to the Executive Board by such Owner) shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant, or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party in any legal action arising under this Declaration shall be entitled to reimbursement of all costs of such action including, without limitation, reasonable attorneys' fees.

Section 22.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 22.4 Conflicts Between Documents. In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

WINTERGREEN HOMES, LLC,
a Colorado limited liability company

By: _____

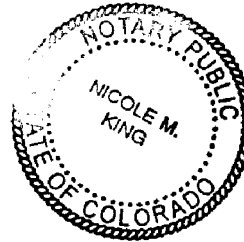
Art Kleinstein, Manager

STATE OF COLORADO)
) ss.
COUNTY OF Garfield)

* The foregoing instrument was acknowledged before me this 16th day of
October 2000 by Art Kleinstein as Wintergreen Homes, LLC, a Colorado
limited liability company.

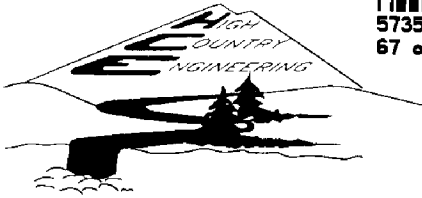
WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 01/10/04



Nicole King
Notary Public

EXHIBIT A
(Mumbert Family Cerise Property)

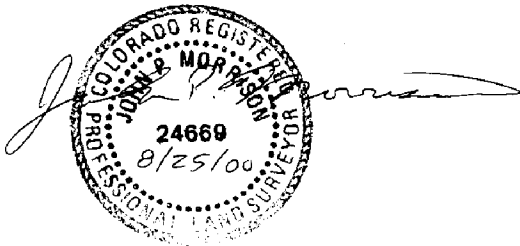


573540 12/12/2000 04:14P B1221 P1008 M ALSDORF
67 of 82 R 410.00 D 0.00 GARFIELD COUNTY CO

MUMBERT FAMILY CERISE
PROPERTY DESCRIPTION

A PARCEL OF LAND SITUATED IN THE E1/2NW1/4 SECTION 32,
GOVERNMENT LOT 7, TOWNSHIP 7 SOUTH, RANGE 87 WEST OF THE SIXTH
PRINCIPAL MERIDIAN, COUNTY OF GARFIELD, STATE OF COLORADO; SAID
PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 33, A GARFIELD
COUNTY SURVEYOR BRASS CAP IN PLACE, THENCE S 76°23'23" W A
DISTANCE OF 2744.88 FEET TO A POINT ON THE NORTH-SOUTH
CENTERLINE OF SECTION 32, ALSO BEING A POINT ON THE WEST
BOUNDARY LINE OF PHASE 1, CERISE RANCH SUBDIVISION, A REBAR AND
CAP L.S. #26626 IN PLACE, THE POINT OF BEGINNING; THENCE S 01°41'13" W
ALONG SAID NORTH-SOUTH CENTERLINE OF SECTION 32, ALSO BEING
SAID WESTERLY LINE OF PHASE 1, CERISE RANCH SUBDIVISION, A
DISTANCE OF 1093.06 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-
WAY OF STATE HIGHWAY NO. 82, A REBAR AND CAP L.S. #26626 IN PLACE;
THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, N 78°56'10" W A
DISTANCE OF 66.82 FEET TO A REBAR AND CAP L.S. #26626 IN PLACE;
THENCE LEAVING SAID RIGHT-OF-WAY, N 02°27'10" E A DISTANCE OF
273.17 FEET TO A REBAR AND CAP L.S. #26626 IN PLACE; THENCE
N 78°56'08" W A DISTANCE OF 550.72 FEET TO A REBAR AND CAP L.S. #26626
IN PLACE; THENCE S 02°27'10" W A DISTANCE OF 273.18 FEET TO A POINT
ON SAID NORTHERLY RIGHT-OF-WAY OF STATE HIGHWAY NO. 82; THENCE
ALONG SAID NORTHERLY RIGHT-OF-WAY, N 78°56'10" W A DISTANCE OF
65.35 FEET; THENCE LEAVING SAID RIGHT-OF-WAY, N 02°49'32" E A
DISTANCE OF 1066.52 FEET TO A REBAR AND CAP ILLEGIBLE IN PLACE;
THENCE S 80°56'02" E A DISTANCE OF 658.02 FEET TO THE POINT OF
BEGINNING; SAID PARCEL CONTAINING 13.046 ACRES, MORE OR LESS.



K:\WP\09\054\MUMBERT_LEGAL.doc

923 Cooper Avenue
Glenwood Springs, CO 81601
phone 970 945-8676 • fax 970 945-2555

14 Inverness Drive East, Ste B-144
Englewood, CO 80112
phone 303 925-0544 • fax 303 925-0547



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EXHIBIT B
(Memorandum Regarding Weed Management
and Revegetation)

Declaration of Protective Covenants
Cerise Ranch Subdivision
16-Oct-00

Cerise Ranch Memorandum

To: Jeff Laurien
From: The Land Studio/Doug Pratte
Re: Weed Management and Revegetation per Steve Anthony's Recommendation in
Memo to Garfield County dated March 13, 2000
Date: August 8, 2000

Jeff:

Please find listed below the seed mix intended to revegetate all disturbed areas of Cerise Ranch due to disturbance from utility construction, road construction, rockfall mitigation structures, debris flow mitigation structures, and relocated irrigation ditches. This is a mix I have used in other areas of the Roaring Fork Valley and contains species indigenous to the region. Wildflowers have been added to the grass mix to provide some diversity and additional color in any disturbed areas. I have also included some notes about broadcasting seed and hydromulching disturbed areas

Note that though this plan is intended to revegetate the disturbance caused by infrastructure construction, individual homeowners are required to revegetate all areas on their property disturbed by construction of their residence, driveway, and utilities to their residence.

Also, please find attached a letter from Kim Johnson of Prima Plant Services Inc. related to a weed management plan for Cerise Ranch. Kim is an expert in this field and has developed a good plan to deal with weed control. We will most likely continue to work with her in this regard through the course of this project.

SEEDING MIX FOR SEEDED AREAS

Common Name	Botanical Name	% mix	rate*
Grasses			
Indian Rice Grass	<i>Achnatherum hymenoides</i>	10%	1.2
Mountain Brome	<i>Bromus marginatus</i>	10%	1.9
Tufted Hairgrass	<i>Deschampsia caespitosa</i>	10%	.2
Slender Wheatgrass	<i>Elymus trachycaulus</i>	10%	.8
Sheep Fescue	<i>Festuca ovina</i>	10%	.4
Canby Bluegrass	<i>Poa canbyi</i>	10%	.4
Wildflowers			
Colorado Columbine	<i>Aquilegia coerula</i>	5%	3
Perennial Gaillardia	<i>Gaillardia aristata</i>	5%	.5
Scarlet Gilia	<i>Ipomopsis aggregata</i>	5%	.3
Blue Flax	<i>Linum lewisii</i>	5%	.3



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Mountain lupine	<i>Lupinus alpestris</i>	5%	1.5
Rocky mountain penstemon	<i>Penstemon strictus</i>	5%	.2
Scarlet Globemallow	<i>Sphaeralcea coccinea</i>	5%	.2
Showy Goldeneye	<i>Viguiera multiflora</i>	5%	.1

- Seeding rate is in PLS lbs./acre

*Tips for Broadcast Seeding

Soils "accept" broadcast seed better if they have been very recently raked or harrowed to eliminate crusting. After broadcasting the seed, cover the seed by harrowing, chaining, raking or using a similar technique. Raking or harrowing immediately before and after broadcast is highly recommended.

Care should be taken when seeding to provide uniform coverage (even seed application rates) over the site. Seeding should not be attempted on windy days.

*Tips for Using Hydromulch

An organic tackifier is typically added to the slurry to enhance the durability of the applied mulch cover.

Although typically applied at a rate of approximately 1,500 pounds per acre (1680 kg/ha), it is more effective at a rate of 3,000 pounds per acre (3360 kg/ha) with a guar gum tackifier.

*Time of Seeding

When seed is planted in nonirrigated conditions, the planting season must be chosen to take advantage of natural moisture. Seeding success is greatly influenced by temperature and precipitation; the best germination occurs when temperatures are above freezing and precipitation is high. In Colorado, seasons that reflect these conditions for cool season species are usually the early spring and late fall; seeding should not be done when the ground is frozen. For most sites, proper seeding time is dependent on:

- A period of adequate moisture for seed germination;
- A period of adequate moisture for early seedling growth and establishment;
- Adequate soil temperatures for seed growth (Ostler and Allred 1987).

It is important to seed a site as soon as final grading and topsoil placement have occurred to minimize erosion and weed establishment on the project.

- * Taken from "Native Plant Revegetation Guide for Colorado, Caring for the Land Series, Volume III" published October 1998 by the Colorado Department of Natural Resources

Prima Plant Services, Inc.

◆◆◆
80 Arlien Rd. ♦ Carbondale, CO. 81623
Phone & FAX (970) 963-6113
prima@scopris.net

Doug Pratte
Land Studio, Inc.
FAX 927-4261

August 7, 2000

RE: Wood Management Plan for the Cerise Ranch Subdivision, Garfield County

Dear Doug,

Thank you for showing me the ranch property last week. The bulk of the parcel is in excellent condition with irrigated pasture, wetlands, and piñon/juniper slopes. I did not walk the entire property, but in the areas I passed I saw the following weeds which are on the Garfield County noxious weed list: plumeless thistle, canada thistle, houndstongue and common burdock. Fortunately, the infestations are light in general and located on ditches, along fence lines, or where there has been some ground disturbance in the past.

Until such time that the subdivided property is developed, the owner should continue his efforts to treat the individual patches of weeds either by selective spot spraying or mechanical means (cutting) at least twice during the growing season to prevent flowering and seed production. It is much easier to control a light infestation than to play catch-up after the weed population grows unchecked for several seasons.

When new roads, utilities, and ponds are being constructed, the existing topsoil should be stockpiled and then replaced on disturbed areas as it is known to be relatively weed free. Imported soils are frequently contaminated with a wide range of weed seeds not found on the receiving site and can create a worsened weed problem for many years. Immediately after final grades are established and topsoil is spread, reseeded (preferably with a hydromulch cover) should take place with a mix of grasses and broadleaf plants to match the native species on the site. A sprinkler system should be installed to allow the seedlings to make as much headway as possible during the first couple of growing seasons. The goal is to produce a healthy and competitive cover of desirable species right away so weeds will have less chance to become problematic.

During the first growing season a very selective spot treatment of newly emerging weeds should be done at least two times, after the grasses have matured to recommended levels. A backpack sprayer is ideal for this purpose. Digging the weeds out is not recommended as this can cause additional soil disturbance which continues the cycle of weed seeds invading bare dirt.

Colorado Department of Agriculture Licensed Pesticide Applicator
Member of the International Society of Arboriculture - Rocky Mountain Chapter
and the Colorado Association of Lawn Care Professionals



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In the two or three seasons after development, noxious weed control (cutting and/or selective spot spraying) should take place twice yearly in the disturbed areas until the desirable species have become well established and cover the bare soil.

In the areas which are not to be disturbed by construction such as the pasture and wetlands areas, weed scouting and control are still necessary at least twice each season. As it is not known if grazing or haying activities will continue, the land should still be managed as needed (fertility, irrigation, cutting) to promote healthy competitive vegetation to limit weed intrusion.

On individual homesites, the same recommendations apply: stockpiling soil, quick revegetation, and diligence with early weed control. I urge you to include language regarding proper weed management in any documents which property owners will come across, e.g., homeowners by-laws, plats, etc. so that owners are aware of the potential problem.

If there are any questions you might have about this report, please contact me.

Sincerely,

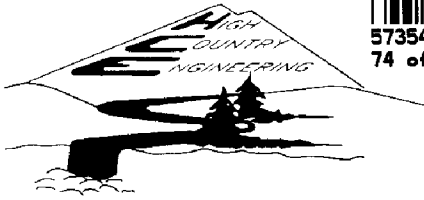
Kim Johnson



573540 12/12/2000 04:14P B1221 P1014 M ALSDORF
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EXHIBIT C
(Specified Additional Property)

Declaration of Protective Covenants
Cerise Ranch Subdivision
16-Oct-00



573540 12/12/2000 04:14P B1221 P1015 M ALSDORF
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PHASE II, SPECIFIED ADDITIONAL
PROPERTY DESCRIPTION

A PARCEL OF LAND SITUATED IN THE SW1/4SE1/4 SECTION 29, LOTS 2, 7, 8, 20, AND 21 SECTION 32, AND THE SW1/4NW1/4NE1/4 AND LOTS 1, 3, 14, 15, SECTION 33, TOWNSHIP 7 SOUTH, RANGE 87 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTIES OF GARFIELD AND EAGLE, STATE OF COLORADO; SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 33, A GARFIELD COUNTY SURVEYOR BRASS CAP IN PLACE, THE POINT OF BEGINNING; THENCE S 89°14'52" E ALONG THE NORTHERLY LINE OF SAID SECTION 33 A DISTANCE OF 2743.09 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 33, A REBAR AND CAP ILLEGIBLE FOUND IN PLACE AND REPLACED WITH A 3-1/4" ALUMINUM CAP L.S. #19598; THENCE LEAVING SAID NORTHERLY LINE S 01°41'36" W ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 33 A DISTANCE OF 664.14 FEET TO THE N-N-C 1/64TH CORNER OF SAID SECTION 33, A REBAR AND CAP L.S. #26626 IN PLACE; THENCE S 89°20'01" E, ALONG THE NORTHERLY LINE OF SAID SW1/4NW1/4NE1/4 A DISTANCE OF 688.32 FEET TO THE NW-NE 1/64TH CORNER OF SAID SECTION 33, A REBAR AND CAP L.S. #14111 IN PLACE; THENCE LEAVING SAID NORTHERLY LINE S 01°43'07" W ALONG THE EASTERLY LINE OF SAID SW1/4NW1/4NE1/4 A DISTANCE OF 663.71 FEET TO THE C-W-NE 1/64TH CORNER OF SAID SECTION 33 A REBAR AND CAP L.S. #14111 IN PLACE; THENCE N 89°17'29" W ALONG THE SOUTHERLY LINE OF SAID SW1/4NW1/4NE1/4 A DISTANCE OF 688.02 FEET TO THE N-C 1/16TH CORNER OF SAID SECTION 33, A REBAR AND CAP L.S. #14111 IN PLACE AND REPLACED WITH A 3-1/4" ALUMINUM CAP L.S. #19598; THENCE N 89°17'29" W ALONG THE NORTHERLY LINE OF LOT 4 OF SAID SECTION 33 A DISTANCE OF 752.39 FEET TO THE NORTHWEST CORNER OF SAID LOT 4, A 3-1/4" ALUMINUM CAP L.S. #19598 SET IN PLACE; THENCE S 02°29'54" W 1146.11 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF STATE HIGHWAY NO. 82; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 2964.79 FEET AND A CENTRAL ANGLE OF 07°12'40", A DISTANCE OF 373.14 FEET, (CHORD BEARS N 75°48'46 W 372.89 FEET) TO A 3-1/4" ALUMINUM CAP L.S. #20677 IN PLACE; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY N 80°48'38" W 213.65 FEET TO A 3- 1/4" ALUMINUM CAP L.S. #20677 IN PLACE; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY N 81°30'58" W 1391.80 FEET TO A 3-1/4" ALUMINUM CAP L.S. #20677 IN PLACE; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY

923 Cooper Avenue
Glenwood Springs, CO 81601
phone 970 945-8676 • fax 970 945-2555

14 Inverness Drive East, Ste B-144
Englewood, CO 80112
phone 303 925-0544 • fax 303 925-0547

CERISE RANCH, PHASE 2
PROPERTY DESCRIPTION
PAGE 2 OF 2

N 81°30'58" W 809.98 FEET TO A POINT; THENCE LEAVING SAID NORTHERLY
RIGHT-OF-WAY N 06°46'09" W 1405.90; THENCE N 08°14'49" W 63.57 FEET;
THENCE N 00°00'00" E 233.37 FEET; THENCE N 06°16'05" E 375.64 FEET TO A
POINT ON THE NORTHERLY LINE OF SAID SECTION 32; THENCE ALONG
SAID NORTHERLY LINE S 88°58'20" E, 982.76 FEET TO THE POINT OF
BEGINNING; SAID PARCEL CONTAINING 183.353 ACRES, MORE OR LESS.



K:\WP\99\054\FUTURE DEV-DESC.DOC

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EXHIBIT D
(Wildlife Brochure)

Declaration of Protective Covenants
Cerise Ranch Subdivision
16-Oct-00

THE CUNNING COYOTE

Perhaps no other wild animal has endured the wrath of humans while evoking such genuine heartfelt admiration than the coyote. Some people curse their existence; Native Americans consider them to be the smartest animal on earth ("God's dog") and many urbanites revel in opportunities to see and hear these vocal predators.

Coyotes are extremely adaptable animals and rapidly adjust to changing conditions. In the past, wildlife managers have found that coyote populations can actually expand rather than decline in response to eradication attempts. As a result, a variety of lethal and non-lethal control methods are used to manage populations and control damage.

Found in most of North America, coyotes are most abundant on the open prairie and deserts. They are comfortable in the country, mountains or in cities, as long as there is appropriate shelter and food. As a result, people must be aware of their presence and take precautions to avoid conflict with them.

With a better understanding of coyotes and their habitat, humans can coexist with these adaptable and cunning animals.

WHEN COYOTES MEET PEOPLE

Coyotes' behavior varies depending upon its environment. In the wild where they are actively hunted and trapped, coyotes are generally elusive. Near cities or in areas where hunting and trapping is not allowed, coyotes may be aggressive. In urban settings, they can lose their fear of people and may threaten domestic pets. Although attacks on humans are extremely rare, there have been cases where coyotes have attacked young children.

WHAT TO DO IF YOU LIVE IN COYOTE COUNTRY

- If you live in areas where coyotes have been seen, PROTECT YOUR PETS! Coyotes will attack and kill cats and dogs. Do not allow your pets to roam,

especially at night. Make sure your yard is appropriately fenced. We suggest at least a six-foot fence or better yet, keep your dog in a completely enclosed kennel.



- Do not allow dogs to run with coyotes. Although it appears they are "playing," coyotes can turn on dogs to defend their territory.

- Don't leave pet food outside. This invites wildlife into your yard and problems may result.

- Protect livestock, especially chickens, young calves and sheep. Contact your local extension-office for appropriate methods to prevent depredation.

- Keep your garbage in a storage facility or in a tightly sealed container. Clean garbage cans regularly to reduce residual odors by using hot water and chlorine bleach.

WHAT TO DO IF YOU MEET A COYOTE

- Coyotes provide an enjoyable wildlife viewing experience. Keep your distance and do not approach the animals. Enjoy the opportunity to view wildlife.

- Keep your pets on a leash when walking them.

- If a coyote approaches you or your pet, you can use an animal repellent, like pepper spray, to ward off the coyote. Or, throw rocks or sticks at the coyote to scare it away.

- Use a loud, authoritative voice to frighten the animal.

WHO DO YOU CALL?

The Division of Wildlife is responsible for managing, conserving and protecting wildlife. Your concerns about wildlife are our concerns as well.

If you have questions or problems related to coyotes, please contact the Division of Wildlife, Monday through Friday, from 8 a.m. to 5 p.m.

Central Regional Office
6060 Broadway
Denver, CO 80216
(303) 291-7227

Denver Headquarters
6060 Broadway
Denver, CO 80216
(303) 297-1192

Northwest Regional Office
711 Independent Ave.
Grand Junction, CO 81505
(303) 248-7175

Northeast Regional Office
317 W. Prospect Rd.
Fort Collins, CO 80526
(303) 484-2836

Southwest Regional Office
2300 S. Townsend Ave.
Montrose, CO 81401
(303) 249-3431

Southeast Regional Office
2126 N. Weber St.
Colorado Springs, CO 80907
(719) 473-2945

SOURCES, REFERENCES AND ADDITIONAL READING

The Clever Coyote, 1951, by S.P. Young and H.H.T. Jackson, Mammalian Species #79, The Stackpole Company, Pennsylvania.

Coyotes: Biology, Behavior and Management, 1978, M. Bekoff, Academic Press, New York.

Social Ecology and Behavior of Coyotes, 1986, M. Bekoff and M.C. Wells, *Advances in the Study of Behavior*, 16.

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Changes in Body Size Associated with Range Expansion in the Coyotes (Canis latrans), 1991, J.M. Thurber and R.O. Peterson, *Journal of Mammalogy*, 72.

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Coyote, M. Bekoff, *Wild Mammals of North America: Biology, Management and Economics*, 447, Johns Hopkins University Press, Baltimore.

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LIVING WITH WILDLIFE



IN COYOTE COUNTRY



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COYOTE CAPSULE

The name "Coyote" (Canis Latrans) is derived from the Aztec word "coyotl." They are found throughout the United States (except Hawaii) and in most of Canada. Prior to 1900, coyotes were restricted to areas west of the Mississippi in the United States and west of Ontario's Lake Nipigon in Canada.

The coyote is a member of the canid family which includes both wolves and domestic dogs.

The coyote's success is attributed to the decline of wolf populations and the coyote's own ability to adapt. Coyotes have adjusted very well to human-disturbed environments, and now thrive in close proximity to people.

Coyotes are opportunistic hunters. They prey on small mammals, domestic pets, livestock and domestic fowl but will readily eat carrion and plants. A coyote will adjust its diet depending on the food that is available.

In Colorado, coyotes are classified as a game species and may be taken year-round with either small game or furbearer license. Landowners may kill coyotes, without a license on their land if the coyotes threaten their property or livestock.

PHYSICAL APPEARANCE

- Coyotes range in color from near black to off-white. Coyotes in the southwest deserts are the smallest and lightest in color, whereas those in the northern forests are the largest and darkest. Colorado coyotes are usually rust colored with a white or gray throat and belly.

- Like other predators, coyotes vary in size. The males are larger than the females. The average size of a coyote is 37 inches long and 18 inches high. Their weight varies from 20 to 50 pounds.

- The coyote is distinguished by its long narrow snout, pointed ears and general dog-like appearance.



TELL-TALE SIGNS

- Coyote tracks are very similar to other members of the dog family. Imprints show four toes and toe nails; front tracks are larger than the rear. The front tracks are 2 to 3 inches long and 2 inches wide. Rear tracks are 2 inches long and 1 1/2 inches wide.



- Their scat is variable in size and consistency, depending on diet. It often contains hair, berries, bone fragments and seeds. You are likely to find droppings along trails, atop knolls, near boulders or prominent tufts of grass.

- Coyotes may be the most vocal of all land mammals. Although most people are familiar with the coyote's howl, the animal actually has a language which incorporates a variety of sounds. They have long clear calls in addition to barks and yips. Their vocalizations are designed to bring individuals together or let other coyotes know their location.



HABITAT

- Coyotes have expanded their range over the last century. They are found in all habitats, ranging from grasslands and deserts to urban areas and mountains.

- Coyotes are common in areas where rabbits, mice and gophers live. These may include lush rangelands or overgrazed pastures.

- In order to provide shelter for their pups, coyotes den in a wide variety of places, including brush-covered slopes, steep banks, rock ledges, thickets and hollow logs. They will also dig their own burrows. Dens of other animals are frequently used.

BEHAVIOR

- Coyotes may travel alone, in pairs or small groups. One factor that seems to affect coyote sociability is prey size. In populations where the major prey items are small rodents, coyotes tend to be solitary. In populations where large animals like deer are available, large groups of coyotes are formed. Coyotes tend to be more social during winter, when carrion is a very important food source.

- Females generally have a home range of a few square miles; males wander over larger areas.

- They are generally nocturnal and sometimes diurnal. When coyotes are in close association with man with no disturbance (trapping or hunting), they are less timid and are frequently seen during the day.

- Coyotes have excellent senses of hearing and smell. Coyotes are very clever predators. They have been known to kill porcupines without being quilled. They will also use teamwork to bring down prey.

MATING AND BREEDING

- Coyotes typically pair for life. If one dies, the other will look for another mate.

- They are capable and will breed with domestic dogs.

- Breeding occurs between January and March. Males are capable of breeding when they are less than one year old.

- Pups are born from April to mid-May. The litter size is determined by local population density and food availability. More pups are born when there are low coyote densities and when food sources are abundant.



- The female prepares the den. The male assists in the raising of the young and initially supplies most of the food. The pups are born blind and hairless. They begin eating meat at 8 weeks of age and start hunting between 8-12 weeks.

- The pups disperse between November and March. The family may hunt together temporarily in mid-winter but do not form true packs.

- People should never approach pups or attempt to take them from a denning area. Even if you see pups unattended, their parents are usually just a short distance away. Adults rarely abandon their young.

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WHEN MOUNTAIN LIONS MEET PEOPLE

Generally, lions are calm, quiet and elusive. They tend to live in remote, primitive country. Lions are most commonly found in areas with plentiful deer and adequate cover. Such conditions exist in mountain subdivisions, urban fringes and open spaces. Consequently, the number of mountain lion/human interactions has increased. This increase is likely due to a variety of reasons: more people moving into lion habitat, increase in deer populations and density, presumed increase in lion numbers and expanded range, more people using hiking and running trails in lion habitat and a greater awareness of the presence of lions.

WHAT TO DO IF YOU LIVE IN LION COUNTRY

We can live with these incredibly efficient predators if we respect mountain lions and their habitat. To reduce the risk of problems with mountain lions on or near your property, we urge you to follow these simple precautions.

- o Make lots of noise if you come and go during the times mountain lions are most active - dusk to dawn.
- o Install outside lighting. Light areas where you walk so you could see a lion if one were present.
- o Closely supervise children whenever they play outdoors. Make sure children are inside before dusk and not outside before dawn. Talk with children about lions and teach them what to do if they meet one.
- o Landscape or remove vegetation to eliminate hiding places for lions, especially around children's play areas. Make it difficult for lions to approach unseen.
- o Planting non-native shrubs and plants that deer often prefer to eat encourages wildlife to come onto your property. Predators follow prey.
DON'T FEED ANY WILDLIFE!
- o Keep your pet under control. Roaming pets are easy prey and can attract lions. Bring pets in at night. If you leave your pet outside, keep it in a kennel with a secure top. Don't feed pets outside; this can attract raccoons and other animals that are eaten by lions. Store all garbage securely.
- o Place livestock in enclosed sheds or barns at night. Close doors to all outbuildings since inquisitive lions may go inside for a look.
- o Encourage your neighbors to follow these simple precautions. Prevention is far better than a possible lion confrontation.

WHAT TO DO IF YOU MEET A MOUNTAIN LION

People rarely get more than a brief glimpse of a mountain lion in the wild. Lion attacks on people are rare, with fewer than a dozen fatalities in North America in more than 100 years. Most of the attacks were by young lions, perhaps forced out to hunt on their own and not yet living in established areas. Young lions may key in on easy prey, like pets and small children.

No studies have been done to determine what to do if you meet a lion. But based on observations by people who have come upon lions, some patterns of behavior and response are beginning to emerge. With this in mind, the following suggestions may be helpful. Remember: Every situation is different with respect to the lion, the terrain, the people and their activity.

- o When you walk or hike in mountain lion country, go in groups and make plenty of noise to reduce your chances of surprising a lion. A sturdy walking stick is a good idea; it can be used to ward off a lion. Make sure children are close to you and within your sight at all times. Talk with children about lions and teach them what to do if they meet one.
- o Do not approach a lion, especially one that is feeding or with kittens. Most mountain lions will try to avoid a confrontation. Give them a way to escape.
- o **STAY CALM** when you come upon a lion. Talk calmly yet firmly to it. Move slowly.
- o **STOP.** Back away slowly only if you can do so safely. Running may stimulate a lion's instinct to chase and attack. Face the lion and stand upright.
- o **DO ALL YOU CAN TO APPEAR LARGER.** Raise your arms. Open your jacket if you're wearing one. If you have small children with you, protect them by picking them up so they won't panic and run.
- o If the lion behaves aggressively, throw stones, branches or whatever you can get your hands on without crouching down or turning your back. Wave your arms slowly and speak firmly. What you want to do is convince the lion you are not prey and that you may in fact be a danger to the lion.
- o **FIGHT BACK** if a lion attacks you. Lions have been driven away by prey that fights back. People have fought back with rocks, sticks, caps or jackets, garden tools and their barehands successfully. Remain standing or try to get back up!

WHO DO YOU CALL?

Colorado law states the Division of Wildlife is responsible for managing, conserving and protecting most wildlife. Your concerns about wildlife are ours too.

If you have an encounter with a lion or an attack occurs, please immediately contact the Colorado Division of Wildlife, Monday through Friday, 8AM - 5PM, as listed below. After hours, contact the Colorado State Patrol or your local Sheriff's Department. To report a sighting, please contact the Division during normal business hours. Your information is very valuable to us.

Northeast Region and Denver Service Center
6060 Broadway
Denver, CO 80216
(303) 291-7230

West Region and Grand Junction Service Center
711 Independent Ave.
Grand Junction, CO 81505
(970) 248-7175

Southeast Region and Colorado Springs Service Center
2126 North Weber Street
Colorado Spring, CO 80907
(719) 473-2945

TO LEARN MORE ABOUT MOUNTAIN LIONS

For the most part, people and wildlife can coexist. Coexisting with wildlife is an enjoyable part of living in Colorado. The key is to respect the wildness of wildlife. You can learn more about lions by reading any of the following books.

America's Great Cats, 1986, by Gary Turbak and Alan Carey, Northland Press, Flagstaff, AZ

Soul Among Lions: The Cougar as Peaceful Adversary, 1989, by Harley G. Shaw, Johnson Books, Boulder, CO

The Puma: Legendary Lion of the Americas, 1987, by J. B. Tinsley, Texas Western Press, El Paso, TX

The Wonder Series: Mountain Lion, A Story and Activities by Sandra Chisholm Robinson, Denver Museum of Natural History, CO

Artwork: Cover by Dale Thompson, Courtesy of Southwest Parks and Monument Association. Other lion drawings by Linnea Fronce.

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LIVING WITH WILDLIFE



IN LION COUNTRY

Much of Colorado, including the Front Range, is prime mountain lion country. This simple fact is a surprise to many residents and visitors. These large, powerful predators have always lived here, preying on plentiful deer and playing an important role in the ecosystem.

You may live in or recreate in lion country. Like any wildlife, mountain lions can be dangerous. With a better understanding of mountain lions and their habitat, we can coexist with these magnificent animals.



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WHAT WE KNOW ABOUT MOUNTAIN LIONS

The mountain lion, commonly known as cougar, panther or puma, exists only in the Western Hemisphere and is one of North America's biggest cats. In Colorado, population estimates range from 1,500 to 3,000 mountain lions. A lion's natural life span is probably about 12 years in the wild and up to 25 years in captivity. Lions are very powerful and usually kill large animals, such as deer and elk. Natural enemies include other large predators such as bears, lions and wolves. They also fall victim to accidents, disease, road hazards and people.

The status of the mountain lion in Colorado evolved from that of varmint, on which a \$50 bounty was offered from 1929, to designation as a big game species in 1965. The change in legal status reflected growing public appreciation and concern for sound mountain lion management.

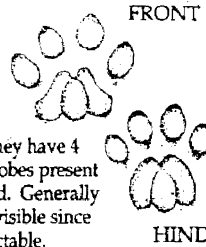
PHYSICAL APPEARANCE

- o The lion's scientific name, *Felis concolor*, means "cat of one color." Mountain lions in this area are usually tawny to light-cinnamon in color with black-tipped ears and tails.
- o Mountain lions vary in size and weight, with males being larger than females. Adult males may be more than 8 feet in length and weigh an average of 150 pounds. Adult females may be up to 7 feet long and weigh an average of 90 pounds.
- o Mountain lions are easily distinguished from other wild cat species in Colorado. Lions are much larger than lynx or bobcats and have a long tail, which may measure one-third of their total length.



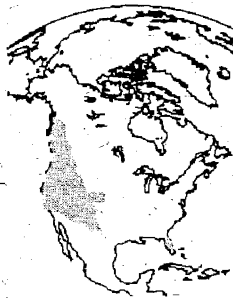
TRACKS

- o In an unhurried walk, lions usually place the hind paw in the imprint made by the front paw. They have 4 toes with 3 distinct lobes present at the base of the pad. Generally claw marks are not visible since their claws are retractable.
- o Generally, the mountain lion is a solitary animal. Adult males almost always travel alone. If tracks indicate two or more lions traveling together, it's probably a female with kittens.



HABITAT

- o The mountain lion's habitat ranges from desert, chaparral and badland breaks to subalpine mountains and tropical rain forests.



- o In Colorado, lions are found in areas of pinyon pine, juniper, mountain mahogany, ponderosa pine and oak brush. Lions generally will be most abundant in areas with plentiful deer.
- o Individual lions range in areas varying in size from 10 to 370 square miles. Females with young kittens use the smallest areas; adult males occupy the largest areas.
- o Size of the home range depends on the terrain and how much food is available. Boundaries of male home range are marked with piles of dirt and twigs, called scrapes, which signal to other lions that this area is occupied.

HUNTING AND FEEDING HABITS

- o Lions are most active from dusk to dawn, although they travel and hunt in daylight. Lions prefer to eat deer; however, they also kill elk, porcupines, small mammals, livestock and a variety of domestic animals such as pets.
- o Mountain lions prefer to kill their own prey. Like most cats, they take their prey by ambush rather than by a long pursuit. After spotting prey, a lion stalks using available cover, then attacks with a rush, often from behind.
- o Lions usually kill with a powerful bite below the base of the skull, breaking the neck. Lions drag the carcass to a sheltered spot beneath a tree or overhang to feed on it. They cover the carcass with dirt, leaves or snow and may return to feed on it over the course of a few days. Generally, they move the carcass and re-cover it after each feeding.
- o Lions feeding on a kill can be dangerous to people. Lions that have been fed by people or seem "tame" may become aggressive unexpectedly.

MATING AND BREEDING

- o Female lions generally reproduce when they are about 2-1/2 years old.
- o Courtship begins when a roaming female in heat makes frequent sounds and leaves a scent that attracts males. After locating the female, the male accompanies her for just a few days when mating occurs.
- o Breeding can take place throughout the year but most females give birth between April and July, following a 3-month gestation period.

BIRTH TO MATURITY

- o The female gives birth to an average of 2 to 3 young, called kittens. She usually chooses a secluded spot beneath an uprooted tree or a rocky depression. Care of the kittens rests solely with the female. She defends them vigorously against male lions, which may kill them.
- o Newborn kittens are about 1 foot long and weigh about 1 pound. They are covered with blackish-brown spots and have dark rings around their short tails. The young stir only to nurse until they are about 2 weeks old, when their eyes open and they become alert and playful. Weaning occurs at about 2 months.
- o Kittens learn hunting skills through play and exploration, and by watching their mother. When the young are about 6 weeks old, she

begins taking them to her kills to feed.

o As the kittens mature, their spots fade. At 6 months, they weigh over 30 pounds and are becoming capable hunters. Kittens remain with their mother for another year, improving their hunting skills.



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WHAT TO DO IF YOU LIVE IN BEAR COUNTRY

If you choose to live, or have a summer home, in bear country, make sure you don't contribute to resident bears becoming "garbage" bears. Most conflicts between bears and people are linked to careless handling of food or garbage. Don't let your carelessness cause the unnecessary death of a bear. Learn to live responsibly with wildlife!

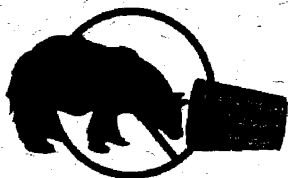
Black bears eat almost anything. They will eat human food, garbage, hummingbird food, and pet and livestock food when available. Once a bear has found the easily accessible, consistent food source that human settlements can offer, it may overcome its wariness of people and visit regularly, increasing the chance of a human/bear encounter. You and your neighbors can make a difference. Your actions may prevent the unnecessary death of a bear!

- Make your property safe by keeping garbage out of reach and smell of bears. Use bear-proof trash containers. Contact Division of Wildlife for designs. Be sure garbage cans are emptied regularly. Periodically clean garbage cans to reduce residual odor — using hot water and chlorine bleach or by burning. Store trash in a closed garage or shed. Use a chain link enclosure with a top if a garage or shed is not available.

- If you have pets, do not store their food or feed them outside. Clean your BBQ grill of grease and store inside. Hang bird seed, suet and hummingbird feeders on a wire between trees instead of on your deck or porch. Bring all bird feeders in at night. Do not put fruit, melon rinds and other tasty items in mulch or compost piles.

- As you might guess, beehives attract bears. You can protect your bees, honey and equipment if you surround the hives with fences designed to keep bears out. Contact Division of Wildlife for designs.

- Most bears sighted in residential areas within bear habitat do not cause any damage. If a bear doesn't find abundant food, it will move on.



**DON'T
FEED
ANY
WILDLIFE!**



WHAT TO DO WHEN CAMPING AND HIKING IN BEAR COUNTRY

Although black bears are generally shy and avoid human contacts, there are some precautions you can take to avoid encounters if you camp and hike in bear country. You are responsible for doing all you can to prevent conflicts with bears. If a bear gets food from you, it's likely to behave more aggressively toward the next person it meets. Don't reward a bear for associating with people.

CAMPING:

- **KEEP YOUR CAMP CLEAN.** Store your food and garbage properly at all times. Keep your tent and sleeping bag free of all food smells. Store the clothes you wore while cooking or eating with your food. Burn all grease off grills and camp stoves. Wipe table and clean up eating area thoroughly.

- **STORE YOUR FOOD SAFELY.** Store all your food and coolers in your car trunk or suspended from a tree — at least 10 feet off the ground and 4 feet from the tree trunk. Don't underestimate the ingenuity of a bear!

- **DISPOSE OF GARBAGE PROPERLY.** Put in bear-proof garbage cans where available or secure it with your food then pack it out. Don't burn or bury garbage. Bears will dig it up.

- **SLEEP WELL AWAY FROM FOOD AREAS.** Move some distance away from your cooking area or food storage site.

- **STORE ANY TOILETRIES SAFELY.** Store them with your food — the smell of toiletries may attract bears. Abstain from sexual activity. Practice good personal hygiene.

HIKING:

- **ENJOY THE WOODS!** Hiking at dawn or dusk may increase your chances of meeting a bear. Use extra caution in places where hearing or visibility is limited: in brushy areas, near streams, where trails round a bend or on windy days. Reduce your chances of surprising a bear by making noise — talk or sing.

- Make sure children are close to you or within your sight at all times. Leave your dog at home or have it on a leash.

WHAT TO DO IF YOU MEET A BLACK BEAR

There are no definite rules about what to do if you meet a bear. In almost all cases, the bear will detect you first and will leave the area. Bear attacks are rare compared to the number of close encounters. However, if you do meet a bear before it has had time to leave an area, here are some suggestions. **Remember:** Every situation is different with respect to the bear, the terrain, the people and their activity.

- **STAY CALM.** If you see a bear and it hasn't seen you, calmly leave the area. As you move away, talk aloud to let the bear discover your presence.

- **STOP.** Back away slowly while facing the bear. Avoid direct eye contact as bears may perceive this as a threat. Give the bear plenty of room to escape. Wild bears rarely attack people unless they feel threatened or provoked.

- If on a trail, step off the trail on the downhill side and slowly leave the area. Don't run or make any sudden movements. Running is likely to prompt the bear to give chase and you can't outrun a bear.

- **SPEAK SOFTLY.** This may reassure the bear that no harm is meant to it. Try not to show fear.

- Coming between a female and her cubs can be dangerous. If a cub is nearby, try to move away from it. Be alert — other cubs may be in the area.

- Bears use all their senses to try to identify what you are. **Remember:** Their eyesight is good and their sense of smell is acute. If a bear stands upright or moves closer, it may be trying to detect smells in the air. This isn't a sign of aggression. Once it identifies you, it may leave the area or try to intimidate you by charging to within a few feet before it withdraws.

- **FIGHT BACK** if a black bear attacks you. Black bears have been driven away when people have fought back with rocks, sticks, binoculars and even their bare hands.

WHO DO YOU CALL?

The Division of Wildlife is responsible for managing, conserving and protecting wildlife. Your concerns about wildlife are our concerns as well.

If you have a potentially life-threatening situation with a black bear or if an injury occurs, please contact the Division of Wildlife, Monday through Friday, 8 AM - 5 PM, as listed below. After hours, contact the Colorado State Patrol or your local Sheriff's Department. To report property damage, please contact the Division during normal business hours. Your information is very valuable to us.

Northeast Regional Service Center
6060 Broadway
Denver, CO 80216
(303) 291-7227

West Regional Service Center
711 Independent Ave.
Grand Junction, CO 81505
(970) 248-7175

Montrose Service Center
2300 S. Townsend Ave.
Montrose, CO 81401
(970) 249-3431

Ft. Collins Service Center
317 W. Prospect Rd.
Fort Collins, CO 80526
(970) 484-2836

S.E. Regional Service Center
2126 N. Weber St.
Colorado Springs, CO 80907
(719) 473-2945

LIVING WITH WILDLIFE



IN BEAR COUNTRY

Colorado has been home to bears since their earliest ancestors evolved in North America. These large, powerful animals play an important role in the ecosystem.

Today, increasing numbers of people routinely live and play in bear country. For many people, seeing a bear is rare and the highlight of an outdoor experience. Learning about bears and being aware of their habits will help you fully appreciate these unique animals and the habitat in which they live.



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BLACK BEARS AT A GLANCE

Black bears are the most common and generally the smallest of North American bears. Others include the grizzly/brown and the polar bear. Today, only the black bear is known to exist in Colorado. Although we do not know exactly how many black bears live in Colorado, population estimates range from 8,000 to 12,000 bears. A black bear may live to be 20 years in the wild, although very few do, and up to 25-30 years in captivity. Black bears are very agile, can run in bursts up to 35 mph and can run up or down hills quickly and easily. Their short, curved claws help them to climb trees. Black bears are strong swimmers.

Threats to black bears include accidents, disease, motor vehicles and starvation. Natural enemies include other bears and mountain lions. Humans are responsible for the deaths of most black bears: loss of habitat, feeding, illegal killing, destruction of bears that pose a threat to people or livestock and property, and hunting. Prior to 1935, there was unlimited hunting of black bears. The designation of bears as game animals in 1935 provided for their management. Current regulations protect cubs and females with cubs.



SIGNS AND SOUNDS

- Black bear tracks are very distinctive — the hind foot-print resembles that of a human. All bears have 5 toes, with the front foot short and about 4-5 inches wide. The hind foot is long and narrow, measuring about 7 inches. Claw marks may or may not be visible.



FRONT

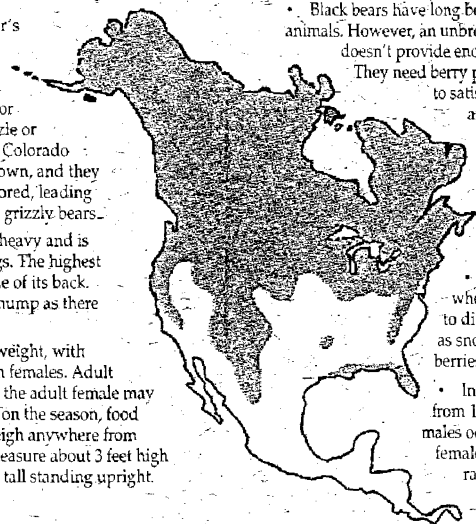


HIND

- Bears use trails just as people do since it's easier to travel on a trail than through underbrush. Being aware of tracks, droppings and other bear signs (claw marks on trees, rotten logs ripped apart and hair on tree bark from rubbing), will allow you to determine better the presence of bears.
- It's easy to recognize a black bear's sizable droppings of plant leaves, partly digested berries, seeds or animal hair.
- Black bears are solitary. They don't associate with other bears except sows with cubs or during breeding. Bears may gather at a place with abundant food — for feeding.
- Bears are intelligent and curious. They can see colors, form and movement. Although their vision is good, they generally rely on their acute senses of smell and hearing to locate food and warn them of danger.
- Adult black bears make a variety of sounds. However, the most commonly heard sounds are woofing and jaw-popping. The young ones whimper or bawl.

HABITAT

- Black bears have long been viewed as forest dwelling animals. However, an unbroken expanse of forest doesn't provide enough food for black bears. They need berry patches and stream bottoms to satisfy their appetites for plants and insects.
- In Colorado, the largest black bear populations are found in areas dominated by Gambel's oak and aspen near open areas of chokecherry and serviceberry bushes.
- Every bear has a home range where it finds all it needs. It travels to different areas of its home range as snow recedes, plants sprout and berries ripen.
- In general, black bears may range from 10 to 100 square miles. Adult males occupy the largest areas, while females usually establish their home range close to their mothers.



PHYSICAL APPEARANCE

- Ursus americanus*, meaning "American black bear" is the bear's scientific name. Despite the common name, black bear, they aren't always black. They may be honey-colored, blond, brown or black. They may have a tan muzzle or a white spot on their chest. Most Colorado black bears are some shade of brown, and they sometimes appear cinnamon-colored, leading some people to mistake them for grizzly bears.
- A black bear's body appears heavy and is supported by short, powerful legs. The highest point of a black bear is the middle of its back. There is no prominent shoulder hump as there is on the larger grizzly bear.
- Black bears vary in size and weight, with males generally being larger than females. Adult males average 275 pounds while the adult female may average 175 pounds. Depending on the season, food supply and gender, they may weigh anywhere from 125 to 450 pounds. Black bears measure about 3 feet high when on all 4 feet or about 5 feet tall standing upright.

HUNTING AND FEEDING HABITS

- Bears may be active anytime, day or night, most often during morning and evening twilight. When not feeding or looking for food, they rest in day beds — next to a log in a windfall, in dense brush or in the depression left by an uprooted tree.
- Black bears are omnivores — they eat both plants and animals. About 90% of a bear's diet is made up of nutritious plants, while about 10% of its diet consists of animals.
- Bears will eat broad-leaved flowering plants, berries, nuts, insects, carrion (dead animal carcasses) and grasses. They opportunistically eat anything edible!
- In late summer, black bears are trying to fatten up for winter hibernation. During this period, they may be actively feeding for up to 20 hours per day and may ingest 20,000 calories daily.

BEARS AND WINTER

- Since little food is available during winter, bears would have difficulty surviving if they remained active, so they hibernate. In Colorado, female bears enter their dens in late October and males in early November.
- Black bears commonly den in rock caverns, excavated holes beneath shrubs or trees, in hollow logs or rotten trees and in brush thickets. Rock caverns are the most common kind of den in western Colorado.
- A hibernating bear's heart rate and breathing slow, and its body temperature drops 4 - 12° F. During this time, bears do not eat, drink or eliminate body wastes. They maintain their energy levels and water balance by using stored fat.
- When bears leave the den, snow may still be on the ground, but greenup has usually begun at lower elevations. Many bears will move to lower areas in spring. Also, it's a couple of weeks before the bear's digestive system becomes active. During this critical period, the bear must rely on the remaining stored fat.

MATING AND BREEDING

- In Colorado, male bears are capable of breeding at 3 years of age. A few female bears may have cubs at 3 or 4 years, although 5 years is more common.
- Bears mate in early summer, but development of the fertilized egg is delayed until November. If the female enters the den in poor condition, it is believed she will reabsorb the fertilized egg rather than continue development of a fetus.
- The female bear generally does not breed again while her cubs are with her.

BIRTH TO MATURITY

- After a 2-3 month gestation period, 1 to 5 (usually 2) tiny cubs are born in midwinter. They are blind, toothless and covered with very fine hair at birth.
- Nurtured with their mother's rich milk, they grow from less than 1 pound at birth to an average of 10-20 pounds by the time they all emerge from the den in mid-May.
- Care of the cubs rests solely with the female. The cubs watch their mother and learn by mimicking her. Most black bear cubs stay with their mother for 1 year. The young may climb trees for protection or when they are threatened.
- By the time the black bear cubs' second spring arrives, they have become more self-reliant. Littermates may stay together through the summer and perhaps even den together. Cubs will usually not reunite with their mother. Some cubs separate from their mother in their first autumn and become independent.

WHEN BLACK BEARS MEET PEOPLE

Where bears and people share habitat, following these simple precautions will reduce your risk of conflicts. Learn as much as you can about bears and their habitat. When you are in bear country, know what areas a bear may use during the different seasons. Watch for bear sign (tracks and droppings). Be aware of your surroundings and try to determine if bears may be present.

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