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DECLARATION OF PROTECTIVE
COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CREEKSIDE MEADOWS
(Residential Blocks)

This is a Declaration of Protective Covenants, Conditions and Restrictions regulating and controlling the use and Development of real property, made effective this 30th day of August, 2002, by CREEKSIDE MEADOWS, LLC a Wyoming limited liability company, herein referred to as "Declarant."

ARTICLE I - PURPOSE AND DECLARATION

Declarant is the owner of certain real property located in Teton County, Idaho, more particularly described in Exhibit "A" attached hereto, which is hereinafter referred to as the "Property." The Property is a part of the area described in the Master Plan for Creekside Meadows Planned Village Community, and is a highly desirable rural residential area, having great scenic and natural value. Declarant is adopting the following Protective Covenants, Conditions and Restrictions to preserve and maintain the desirable qualities, and the scenic and natural values of the Property for the benefit of all owners of the Property. Until other land is specifically subjected to these Protective Covenants, Conditions and Restrictions by recordation of a Supplemental Declaration, as described below, these Covenants shall not apply to the development and use of such land.

Declarant hereby declares that the Property, and any part thereof, shall be owned, sold, conveyed, encumbered, leased, used, occupied and developed subject to the following Protective Covenants, Conditions and Restrictions, which are sometimes referred to herein as the "Covenants." The Covenants shall run with the Property and any portion thereof, and shall be binding upon all parties having or acquiring any legal or equitable interest in or title to the Property or any part thereof, and shall inure to the benefit of every owner of any part of the Property.

ARTICLE II - DEFINITIONS

The following terms and phrases used in these Covenants shall be defined as follows:

- a. "Association" shall mean the Creekside Meadows Homeowner's Association, a nonprofit corporation or association, composed of the Owners of residential Lots and Units in the Creekside Meadows Village Project, established to administer and enforce the terms and conditions of these Covenants; administer the Property and provide the Common Services.

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- b. "Board" shall mean the Board of Directors of the Association.
- c. "Building Envelope" shall be defined as an outlined area within certain Lots identified on a Building Envelope Designation map in the custody of the Design Committee, within which substantially all Development shall occur.
- d. "Common Areas" shall mean those portions of the Project set aside for the common use and enjoyment of all Owners, including the Open Space Common Area, the Picnic Shelter Area, the Playground Area, the landscaped areas along the roads and at the south end of Blocks 1, 5 and 6, the Bike and Pedestrian Paths and, if not taken over by the City of Driggs, the Park, all as shown on the Subdivision Plats and the Master Plan for the Project.
- e. "Common Roads" shall mean all of the roadways within the Project which provide access to or are utilized by more than one Lot, as shown on the Subdivision Plats, including all bridges or culverts which are commonly used. Certain of the Common Roads are to be dedicated to the City of Driggs, which will, thereafter administer and maintain them as city streets. Certain Common Roads are designed with cul-de-sac extensions to provide for potential future expansion of the Project to adjoining properties.
- f. "Common Services" shall mean maintenance, repair and operation of the Common Areas (except the Park and paths, if taken over by the City of Driggs) and all common utility facilities services, if any, as well as all common trash collection areas, common mailbox areas, irrigation, weed control, stream and stream bank maintenance, architectural design control, Covenant enforcement and other duties, rights and responsibilities provided for herein or reasonably inferred herein in order to carry out the purposes of these Covenants. In the event the City of Driggs should ever fail or refuse to maintain any the Common Roads, Park or paths, or to operate and maintain the commonly used water and sewer systems, or if any public or private utility should fail or refuse to operate or maintain a reasonably necessary utility such as electricity or telephone service, such services and facilities shall, also, become Common Services.
- g. "Design Committee" shall mean a committee appointed by the Board to review all applications by Owners for compliance with these Covenants and the Design Guidelines, and to issue Development Permits for Development.
- h. "Design Guidelines" shall mean those guidelines appended hereto, as well as any additional guidelines contained in any Supplemental Declarations for later phases of the Project, or any additional guidelines adopted from time to time by the Design Committee.
- i. "Development" shall mean construction of all buildings or structures, or other site improvements, built, installed or placed on any Lot or Unit, including signs, fences, remodeling, alteration and exterior refinishing, staining or painting of any improvements (but not including improvements or renovations entirely within a building after its initial construction), as well as any alteration of the natural land surface of a Lot, including clearing, grading, excavation, site preparation, and landscaping.

- j. "Lot" shall mean one of the lots shown on any of the Subdivision Plats and described in this Declaration or a Supplemental Declaration subjecting such property to the provisions of this Declaration.
- k. "Multifamily Residential Area" shall mean those Blocks and Lots within the Project that are intended for Development for apartments, condominiums, townhouses and other multifamily residential use. The Lots and Blocks comprising the Multifamily Residential Area are described on the various Subdivision Plats for phases of the Project.
- l. "Owner" shall mean the owner of a Lot or a Unit shown on any of the Subdivision Plats describing land within the Project, including a contract purchaser, but excluding anyone having an interest in a Lot as security for the performance of an obligation.
- m. "Project" shall mean the Residential portions of the Creekside Meadows development in Driggs, Idaho, generally as shown on the Master Plan for Creekside Meadows Planned Village Development approved by the City of Driggs, as amended from time to time - including not only those lands described on Exhibit "A", but, also, those incorporated by any Supplemental Declaration annexing additional phases of the residential portion of the Project as currently approved or subsequently amended, as well as any surrounding lands, in the manner described herein. Notwithstanding any references to them herein, until land is specifically subjected to these Protective Covenants, Conditions and Restrictions by recordation of a Supplemental Declaration containing a specific legal description of the land attached as an exhibit thereto and the recordation of a formal Subdivision Plat therefore, as described below, these Covenants shall not apply to the development and use of such land.
- n. "Property" shall mean the real property described in Exhibit "A" attached hereto, or on any exhibit appended to any future Supplemental Declaration incorporating additional real property in future phases annexed to the Project.
- o. "Single Family Residential Area" shall mean those portions of the Project that are limited to use for Development for individual, detached, single family dwellings and use either in this Declaration or in future Supplemental Declarations annexing future phases to the Project.
- p. "Structure" shall mean anything built or placed on the ground, not including landscaping or underground installations.
- q. "Subdivision Plats" shall mean plat maps (including condominium maps) recorded in the Office of the Clerk of Teton County legally establishing the division of property into Lots or Units in various phases of the Project, as it they be amended from time to time.
- r. "Unit" shall mean a condominium, one of the units of a twin home or townhouse or duplex building, as shown on any of the Subdivision Plats and described in this Declaration or a Supplemental Declaration subjecting such property to the provisions of these Covenants.

ARTICLE III - HOMEOWNERS ASSOCIATION

3.1 **Formation.** A non-profit homeowners association created by the Declarant shall have as its members all Owners. The rights, duties, assessments, and other obligations of the Association and its members and Board of Directors shall be governed by these Covenants and by any articles of organization or bylaws adopted as part of its formation as amended from time to time.

The Owners do not otherwise constitute an association or entity of any kind, and the sole legal entity created hereunder is the Association. The name of the Association shall be the name in which contracts shall be entered into, title to property shall be acquired, held, dealt in and disposed of, bank accounts shall be opened and suit shall be brought and defended by the Association, through the Board of Directors or officers thereof on behalf of and as agents for the Owners in the manner specified in this Declaration, the charter, the bylaws or by applicable law.

3.2 **Membership.** Every Owner shall be a member of the Association. Membership in the Association shall be appurtenant to each Lot and Unit and shall not be subject to severance from the ownership of such Lot or Unit. The combined ownership of each Lot or Unit shall constitute one member for purposes of voting.

3.3 **Members Voting.** Except as may otherwise be provided in these Covenants or the articles of organization of the Association or its bylaws, the member(s) owning each Lot or Unit shall have one vote for each Lot or Unit to cast upon any matter to be decided by a vote of the members entitled to vote on a particular matter. In certain cases primarily affecting Owners of certain types of Lots or Units, only Owners of Lots or Units within one or more areas (e.g. Multifamily or Single Family Residential Areas) may be entitled to vote. If there is more than one person or entity owning a Lot or Unit, the vote of such members shall be cast as determined by the owners of such Lot or Unit. In the event of any dispute among joint owners, the Board shall have the right to disqualify such members from voting on an issue unless or until the joint owners of such Lot or Unit have reached agreement as to such members' vote.

3.4 **Board of Directors of the Association.** The management of the business and affairs of the Association, the management and maintenance of the Property and Common Areas and providing all Common Services shall be the sole responsibility of the Board of Directors, who may act in cooperation or in conjunction with any associations administering commonly used facilities or services, such as associations of owners of other commercial or residential properties in the surrounding area.

3.5 **Authority and Duties.** Pursuant to the powers and authority vested in it by Idaho law and by the articles of organization and bylaws of the Association, the Board shall have the full power and authority to manage the business and affairs of the Association and shall be responsible for the enforcement and administration of the requirements of these Covenants and other covenants for which the Board is legally responsible. The Board shall appoint a Design Committee to review plans for Development in compliance with these Covenants (including the Design Guidelines appended hereto or subsequently adopted) and issue necessary permits for

Development, for the harmonious and attractive development of the Project. The Board may contract for and supervise the operation of all common facilities and property owned by the Association, contract for and supervise the providing of all Common Services; enforce the Development Standards and Use Restrictions on behalf of the Owners, provide for necessary insurance, and take all other actions necessary to administer and enforce these Covenants. The Board of Directors shall act by majority vote.

3.6 **Election of the Board.** The Board of Directors shall be composed of three (3) persons. Initially, the Declarant shall appoint all Directors in order to establish suitable and compatible Development design review and uses strictly in conformity with these Covenants and assure a high quality project. However, not later than sixty (60) days after conveyance of seventy (70) of the Lots to Owners other than the Declarant, at least one member of the Board of Directors may be elected by vote of the Lot Owners. Not later than either sixty (60) days after conveyance of ninety (90) of the Lots to Owners other than the Declarant, no less than two (2) of the members of the Board of Directors must be elected by vote of the Owners. Not later than either sixty (60) days after the earlier of the conveyance of ninety-five (95) of the Lots to Owners other than the Declarant or fifteen (15) years after the first conveyance of a Lot by the Declarant in the ordinary course of business, the Owners may elect the entire Board of Directors.

3.7 **Limited Liability of Board of Directors, etc.** Members of the Board, the Design Committee, and their officers, assistant officers, agents and employees acting in good faith on behalf of the Association:

- (1) shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith;
- (2) shall have no personal liability in contract to an Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such;
- (3) shall have no personal liability in tort to any Owner or any person or entity, except for their own willful misconduct or bad faith.
- (4) shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

3.8 **Budget.** The Association must prepare an annual budget. Within thirty (30) days after adoption of any proposed budget for the Association, the Board of Directors shall mail, by ordinary first-class mail or otherwise deliver a summary of the budget to all the members.

3.9 **Duties of the Board.** The Board shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration, have the obligations, duties and functions to do and perform each of the following for the benefit of the Owners, and for the

maintenance, administration and improvement of the Property and the Common Areas and providing the Common Services, as may be required or is reasonably appropriate:

(a) Receive, Hold and Maintain Property. The Board shall be obligated to and shall accept title to any real property or interest therein, including improvements thereon (such as any common areas or easements), or to any personal property or equipment existing on the Property when, as and if granted or furnished by Declarant. The Association shall also be obligated to and shall accept the benefits and burdens associated with any water rights, licenses, easements or other instruments conveying rights in and to real property made by Declarant. In each and every instance, the Association shall hold the title, interest or rights granted, furnished or conveyed for the benefit of its members and shall maintain and preserve the same for the benefit of its members. With respect to any such property or rights, and any other property or rights acquired or held by the Association, the Board shall be obligated insofar as applicable in the particular circumstance to pay all rents, fees, taxes and assessments relating to, and necessary to preserve therein, and provide for the best and highest quality care, operation, management, insurance, maintenance, repair and placement of the same.

(b) Provide the Common Services. The Board shall provide or procure all of the Common Services benefiting the Project, and any of the Owners, as generally described in Article II, Section f. It may engage the services of a manager or other contractors, and enter into agreements with any party, as it deems appropriate, including any association of owners of surrounding properties, to provide such Common Services, and may agree to sharing such costs on such equitable basis as the Board may agree to.

Open space areas shall be maintained in a natural condition to serve as habitat for bird-life and animals. All recreation shall be conducted in such a manner that wildlife values are not compromised. All fishing shall be catch and release fly-fishing or by artificial lures both with barb-less hooks. All fish must be safely returned to the water unharmed.

The Homeowner's Association shall maintain the channel of Teton Creek as necessary. Such maintenance shall include, but not be limited to, cutting and removal of snags and other wood debris, gravel removal to accomplish channel enhancement, and placement of gabions and other bank stabilization devices.

(c) Assessments. The Board shall establish a budget for providing the Common Services and otherwise administering these Covenants and carrying out the functions and duties specified or reasonably implied herein and shall assess the Owners their appropriate and equitable share of such amounts and bill and collect such amounts.

(d) Insurance Function. The Board shall be obligated to and shall obtain and keep in full force and effect at all times at least the following insurance coverage. The Board shall obtain casualty insurance with respect to all insurable property of the Association insuring the full replacement value thereof, including coverage for fire and extended coverage, vandalism and malicious mischief. The Board shall obtain broad form comprehensive liability insurance coverage, covering both public liability and automobile liability, with limits of not less than \$1,000,000 for each person and not less than \$2,000,000 for each occurrence and with property

damage limits of not less than \$500,000 for each accident. The Board shall provide errors and omissions insurance for the Board members. All insurance may contain such deductible provisions as good business practice may dictate. All liability insurance shall name the Association and Declarant as insureds. The Board shall provide Declarant, upon request, with certificates evidencing such insurance and copies of the insurance policies.

(e) Appointment of Design Committee to Review Development. The Board shall appoint a Design Committee that shall review applications for Development of any Lot or Unit to assure compliance with these Protective Covenants and issue or deny permits for Development as it sees fit. The Design Committee members shall serve at the will of the Board, need not be comprised of Owners, and may include design professionals.

(f) Taxes. To the extent not assessed to or paid by Owners, the Board shall pay all real property taxes and assessments levied on the Association property.

(g) Refuse Disposal. Unless provided by a municipal, county or other governmental body and unless the cost thereof is assessed directly or indirectly against the Owners by such body, the Association shall have the right to contract for, employ and otherwise provide for refuse disposal services and may provide a common trash storage and pick-up area for that purpose.

(h) Weed Control. The Association shall implement and follow a program of noxious weed control which may address the control and elimination of Canadian Thistle and other undesirable weeds. The Association shall have the right to enter upon any Lot and conduct a weed control program within the area of such Lot.

(i) Adopt rules and Regulations. The Association may adopt rules and regulations regarding use of the Common Areas.

3.10 Meetings. The members of the Association and the Board of Directors of the Association shall hold meetings at least annually, as set forth in the Bylaws of the Association. All matters pertaining to all such meetings, including notices thereof, quorums, and provisions for voting in person or by proxy, shall be set forth in the Bylaws of the Association.

3.11 Agent for Members. Every Owner by purchase of any of the Lots or Units and acceptance of a deed of conveyance therefore agrees that, if the Board determines that it is in the best interest of the Project, or the Association and the Owners to do so, its Chairman may enter into certain agreements and undertakings and grant approvals for and on behalf of the Owners individually and as a group. Such agreements and undertakings include approval of and signatures upon any applications for approval of any amended Master plan or Subdivision Plats or amendment or re-plat of any portion of the Subdivision Plats; formation of any special district, change in water rights or irrigation rights, or granting of easements over the Common Roads. Each Owner individually grants the Board and its chairman an irrevocable power of attorney to approve, vote for, enter into and to sign as agent on their behalf and to deliver any application,

instrument, petition, plat or other document necessary to effect any of the foregoing as if it had been done by the Owner.

In addition, every Owner by purchase of any of the Lots or Units and acceptance of a deed of conveyance therefore agrees that the Declarant may, for and on behalf of the Owners individually and as a group, make such modifications, additions or deletions in or to the Subdivision plats, the Declaration of Covenants, Conditions and Restriction, as well as any Articles, Bylaws and Rules and Regulations of the Association as may be deemed desirable by the Seller, or approved or required by the lending institution financing the improvement and infrastructure of the Development or the Lots, or by the County or other public authorities; provided that none of the same shall:

- (a) Materially increase the proportion of the common expenses to be borne by the Lot being sold to Buyer;
- (b) Increase the cost of the Lot being sold hereunder;
- (c) Entail a material physical modification of the area or location of the Lot.
- (d) Materially adversely affect the normal use, value or development of the Lot.

Each Owner grants the Declarant an irrevocable power of attorney to accomplish the foregoing as agent on their behalf and to deliver any application, instrument, petition, plat or other document necessary to effect any of the foregoing as if it had been done by the Owner.

ARTICLE IV - PROPERTY RIGHTS AND EASEMENTS

4.1 Reserved Easements. Declarant hereby reserves to Declarant, its successors and assigns, the Association, and all Owners of Lots the following easements over and across the Lots and the Property which shall pass with the title to every Lot or other land within the Property:

4.1.1 Easements for Utilities. In addition to easements shown on the Plats, Declarant hereby grants to the City of Driggs and reserves to itself, its successors and assigns, and all Owners, perpetual easements ten (10) feet in width within immediately adjacent to each Lot boundary line, for the purpose of installing, using, testing, repairing and maintaining water and sewer lines, hydrants, pump stations, electrical and other utilities and related equipment and facilities as may be necessary to serve Lots and Units and to provide Common Services.

4.1.2 Easements for Common Roads, Common Areas and Paths. Declarant hereby reserves to itself, its successors and assigns, including all Owners and the Association, perpetual easements across the Common Roads for access, and across the Common Areas and the Bike and Pedestrian Paths within the Project for limited recreational purposes and for landscaping, including maintenance and irrigation. The easement for the Bike and Pedestrian Paths shall permit use for Bicycles and pedestrian use only and shall be subject to rules and regulations adopted by the Association regarding use. No vehicles or horses shall be permitted. Picnicking shall be permitted on the Park, however no fires shall be permitted in the Park, except in designated areas. No loud, boisterous or annoying activities may take place within the Open Space, Paths or Park. Open space areas shall be maintained in a natural condition to serve as

habitat for bird-life and animals. All recreation shall be conducted in such a manner that wildlife values are not compromised. All fishing shall be catch and release fly-fishing or by artificial lures both with barb-less hooks. All fish must be safely returned to the water unharmed.

4.1.3 Easement for General Association Operations. The Association shall have the right of access to all Common Areas and to each Lot from time to time during reasonable hours as may be necessary to perform the duties and functions which it is required or permitted to perform pursuant to these Covenants.

4.2 Delegation of Use. Except as otherwise provided, any Owner may delegate to members of the Owner's family, guests or invitees, tenants, servants, employees and contractors of the Owner, or any occupant of the residence of any Lot or Unit, the same right to the use and enjoyment of the aforesaid easements.

ARTICLE V - OWNER'S ASSESSMENTS

In order to provide the Common Services and properly carry out its duties for the benefit of all Owners, the Association, by and through the Board, shall have the authority to levy assessments and each Owner, by acceptance of a deed to their Lot or Unit, shall be deemed to have granted a lien to the Association to secure payment of the assessments in accordance with the following terms and conditions. Lots and Units owned by the Declarant shall not be assessed until sold, unless sooner developed with residential structures by Declarant and rented.

5.1 Purpose of Assessments. The assessments levied by the Board shall be used exclusively for the administration and operation of the Association, and for providing the Common Services and meeting all expenses of the management, operation and maintenance of the Project and enforcement of these Covenants.

5.2 Annual Budget. The Board shall prepare an annual budget estimate for Common Services and the administration of the Association, including taxes and insurance coverage as needed, and fix the amount of the annual assessment based upon this estimate. The budget estimate may include a reserve for future contingencies. Such budget shall be prepared and approved by the Board at least thirty (30) days in advance of each annual assessment period.

5.3 Uniform or Equitable Rate of Assessment. The Board may, in its discretion, if equitable and appropriate, assess the Owners of Lots or Units in the Multifamily and Single Family Residential Areas differently, and may further distinguish between and assess differently the Owners within Blocks of the Project substantially comprised of larger or smaller Single Family Residential Lots. Both annual and special assessments should be fixed at a uniform rate for all Lots within each area [with the exception of Lots owned by Declarant, which will not be assessed until sold or rented], and further provided that certain assessments may be, in the absolute discretion of the board, determined to be more equitably assessed to Lots that have been or are in the process of being improved, whether occupied or not. These assessments may be billed and collected on a monthly, quarterly, or annual basis at the discretion of the Board.

5.4 **Date of Commencement of Annual Assessment and Due Dates.** The annual assessments provided for herein shall commence as to all Owners subject to assessment on the first day of the month following the conveyance of the first Lot. The Board shall operate on a calendar year basis. The Board shall fix the amount of the annual assessment against each Lot or Unit at least thirty (30) days in advance of each annual assessment period and written notice of the annual assessment shall be sent to every Owner, purchaser or mortgagee, and for a reasonable charge, shall furnish a certificate signed by a member of the Board setting forth whether the assessments on a specified Lot or Unit have been paid. Each Owner shall have a continuing obligation to provide the Association with their current mailing address, telephone number, fax number and e-mail address (if available).

5.5 **Special Assessments for Capital Improvements.** In addition to the annual assessments, the Board may levy, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any Common Areas or facilities upon the Project; provided that any such special assessment shall have the assent of a majority of the affected Lot or Unit Owners who are voting in person or by proxy at meeting duly called for this purpose.

5.6 **Notice and Quorum for Any Special Assessment.** Written notice of any meeting called for the purpose of taking any action authorized under the foregoing paragraph shall be sent to all affected Lot or Unit Owners within the areas to be assessed not less than thirty (30) days or no more than sixty (60) days in advance of the meeting. At the first such meeting, the presence of Owners or of proxies entitled to cast a majority of all the votes of the Association shall constitute a quorum. Each affected Lot or Unit shall be entitled to one (1) vote. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting.

5.7 **Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date therefore shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Board may bring an action on behalf of the Association against the Owner personally obligated to pay the same or may foreclose the lien against the Lot. In any action instituted by the Board against an Owner, the Association will be entitled to recover its attorneys fees, costs, and expenses, including but not limited to charges submitted by any experts or consultants retained in connection with such action if the Association prevails on any claim asserted. Each Owner by the acquisition of a Lot or Unit consents to personal jurisdiction and venue in the District Court of Teton County, State of Idaho.

5.8 **Creation of the Lien and Personal Obligation for Assessments.** Each Owner, by acceptance of a deed therefore or by a contract for deed, whether or not it shall be so expressed in such deed or contract for deed, is deemed to have consented to be subject to these Covenants and agrees to pay the Association: (a) Annual assessments or charges; (b) special assessments for capital improvements, repairs and maintenance, and (c) any fines, charges or damages lawfully assessed by the Board pursuant to these Covenants.

(i) The annual and special assessments, charges and fines, together with interest, costs, expenses and reasonable attorneys' fees (as set forth in 5.7 above), shall constitute a continuing lien against such Lot superior to all other liens and encumbrances except: (i) liens and encumbrances recorded before the recordation of the Declaration; (ii) a security interest on the Lot or Unit which has priority over all other security interests and which was recorded before the date on which the assessment sought to be enforced became delinquent; and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot or Unit.

(ii) This section does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the Association.

(iii) Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation is required.

(iv) The Association's lien may be foreclosed in like manner as a mortgage on real estate, including by advertisement and sale.

(v) Assessments shall be a personal obligation of each Owner, and suit to recover money judgment shall be maintainable without waiving the lien securing it.

ARTICLE VI - DEVELOPMENT REVIEW AND PERMITTING

6.1 **Development Permit Required.** No Development of any kind shall occur or be permitted to remain on any Lot or Unit until a Development permit has been issued therefore by the Design Committee in accordance with the provisions set forth in these Covenants.

6.2 **Plans and Specifications.** A form of Development Application provided by the Design Committee, together with two sets of plans and specifications for any Development shall be submitted to the Design Committee. The final plans required to be submitted after a pre-application conference, as described below, shall include:

(a) a plot plan showing precisely the proposed location of the proposed Development or improvements within the Lot, as well as the locations of all, property boundaries and dimensions, roads, water, sewer and utility lines;

(b) plans for any building or structure, so drawn as to provide a reasonably accurate depiction of the proposed Development in sufficient detail and with sufficient information to demonstrate compliance with all of the requirements of these Covenants and the Design Guidelines. Such information shall include:

(i) scaled floor plans,

(ii) exterior elevations showing building height and all external features and materials,

(iii) a list of all exterior materials with samples and color selections,

(iv) specifications for specific exterior lighting plans.

(c) site plans showing existing and finished grades, drainage and elevation plans, existing trees or shrubs, the precise locations of all existing and proposed drives, parking areas, fences, utilities, existing trees and shrubs and proposed landscaping and tree plantings, berms and other finishes, including a statement of the type of Plant Units to be installed.

If, in the discretion of the reviewing Design Committee, they are not acceptable for such purpose, must be resubmitted before any review or approval may proceed.

A fee of up to Fifty Dollars (\$50.00) per Single Family Lot, or One Hundred Fifty Dollars (\$150.00) per Multifamily Lot, plus the cost of any consultants hired by the Design Committee, may be required to be paid to the Design Committee for the processing and review of all authorized Development within the Lot. Such amounts may be increased from time to time by the Design Committee. All subsequent revisions to any of the foregoing matters shall be similarly presented to the Design Committee for its approval prior to implementing any such revisions; which must be separately approved.

Each application shall specify the name, address, telephone and fax number of the person designated at the party to or through whom the Board or its consultants is to communicate with the Lot Owner/applicant for the Development approval.

6.3 Plan Review and Approval. In order to avoid the unnecessary cost of false starts and assure that Owner and their designers and contractors are fully aware of the rules applicable to them and their responsibilities, a pre-application conference with one or more members of the Design Committee is required. Review of preliminary drawings will be helpful for both the Owner and the Design Committee. This gives an opportunity for both parties to consider concepts and designs prior to a large expenditure of time and money in detailed working drawings. The preliminary drawings for structures need to include all four elevations, a site plan and a floor plan. If considered to be in compliance with the Covenants and these design guidelines, the Design Committee will issue preliminary approval based on preliminary drawings.

The Design Committee shall review the final plans and drawings and specifications within 30 days from the submission of the foregoing materials deemed complete by the Design Committee, and the Design Committee shall determine if the proposed location, design of structures, use, landscaping and screening conform to the requirements of these Covenants and any design guidelines duly adopted by the Board. Such Development and each subsequently approved revision or modification, shall be authorized only upon issuance of a written approval or Development permit issued by the Design Committee, setting forth, with specificity, the items approved along with any conditions or modifications it may require in order to assure compliance with these Covenants and any additional design guidelines adopted in the future by the Board. Such approval shall be valid for a period of twelve (12) months from its date of issuance, unless extended in writing by the Board upon a showing of good cause by the Owner. The applicant shall, also, submit a good faith estimate of the timing of commencement and schedule of Development, so that the Design Committee can attempt to schedule consultants for inspections

If the Design Committee fails, without notice to the applicant of good cause therefore and extension of such period, to review the plans and specifications within 30 days from the submission of an acceptable and complete submission and inform the owner of the Design Committee's approval or disapproval, the plans as submitted shall be deemed to have been automatically approved.

Any modifications to or deviation from the Development approved by the Design Committee, including orientation, location, materials, colors, etc., must be approved in writing by the Design Committee. No approval shall ever be amended or superceded by any action or requirement of any governmental agency, including the City of Driggs, unless the Owner makes the required application required by section 6.2 above and receives a new approval and Development Permit therefore from the Design Committee in accordance with these Covenants.

6.4 **Professional Consultants.** The Design Committee may find it necessary to engage the services of architects, engineers, landscape architects, surveyors or others in order to review certain elements of any submissions for Development. The Design Committee is authorized to do so and, if it deems it reasonably appropriate to do so, may require the applicant Owner to pay the costs of such consultant as a condition of issuance of the Development Permit.

6.5 **Compliance.** The Owner and the Owner's architect, landscape architects, engineers and contractors shall be solely and exclusively responsible for compliance with these Covenants, the requirements of any design guidelines, the written Development Permit, as well as all applicable local state and federal rules, codes and regulations. Neither the Owner applicant nor any other Owner shall have any claim against the Design Committee or the Board as a result the grant or denial of any permit or of any failure of compliance with any of the foregoing. Each Owner shall be responsible for providing a copy of these Covenants and any design guidelines to their architect, landscape architects, consultants, or contractors in advance of the preparation of any plans, designs, specifications, or applications for approval of any Development.

Any approval given by the Design Committee shall not constitute a warranty, express or implied, of compliance with any applicable building or safety codes or for any other purposes other than the authority for the person submitting the plan to commence construction.

6.6 **Non-Waiver.** The approval by the Design Committee of any plans, drawings or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the Design Committee under the Covenants, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additional submitted for approval. No site inspection or visit by any member of the Design Committee, or any consultant or inspector, and no oral discussions or failure to complain shall ever be deemed an acceptance of any condition of non-compliance or any deviation from the approved plans or Development Permit - all of which must be approved in writing by the Design Committee after submission of an appropriate application and review.

6.7 **Liability.** Neither the Design Committee nor the Board nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice

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suffered or claimed on account of (a) the approval or denial of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the Development, or manner of development, of any property within the Subdivision, or (d) the execution and filing of an estoppel certificate pursuant to this Declaration, whether or not the facts therein are correct; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith. Without in any way limiting the generality of the foregoing, the Design Committee or any member thereof may, but is not required to, consult with or hear the Board or any Owner with respect to any plans, drawings or specifications, or any other proposal submitted to the Design Committee.

6.8 **Prosecution of Work After Approval.** After approval by the Design Committee, any Development shall be accomplished as promptly and diligently as possible and in substantial conformity with the description of the Development and with any plans and specifications therefore given to the Design Committee. Failure to accomplish Development within eighteen (18) months after the date of approval, including all landscaping and irrigation, (unless such period is extended for good cause shown) or to complete the Development substantially in conformity with the description thereof and plans and specifications therefore shall operate to automatically revoke the approval of the Development and, upon demand by the Design Committee, the property shall be restored as nearly as possible to its state existing prior to any work in connection with the Development. The Board and its duly appointed agents may enter upon any property at any reasonable time or times to inspect the progress or status of any Development being made or which may have been made.

6.9 **Failure to Comply.** If the Design Committee shall find that any Development shall have been undertaken without the approval of the Design Committee in violation of the provisions of this Article, the Board shall have the right to remove any such Development at the sole cost and expense of the Owner or Owners of the Lot. If the Design Committee shall find that a Development was not completed in substantial conformity with the description thereof and any plans and specifications therefore as approved by the Design Committee, it shall notify the Owner or Owners of such noncompliance and require remedy of such noncompliance. If within thirty (30) days from the date of such notification, the Owner or Owners shall have failed to remedy the noncompliance, the Design Committee shall notify the Board which shall have the right, at its option, to remove the Development or to abate or remedy the noncompliance, in either case at the sole cost and expense of the Owner. In either of the foregoing cases, the offending Owner shall promptly indemnify the Design Committee and Board for all costs it incurred in removing, correcting or abating such non-compliance.

6.10 **Variations by Design Committee.** The Design Committee may authorize variances, in writing, from compliance with any of these Covenants (including the time constraints provided herein) when circumstances such as topography, natural obstructions, nature of the Development or hardship (excluding primarily financial hardship) may require; provided, however that such variances shall be authorized in conformity with the intent and purposes of the Covenants and provided further that in every instance such variance will not be materially detrimental or injurious to the other portions of the Project protected by these Covenants. Each variance must be requested in writing by the Owner or Owner's representative, and must specify,

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in detail, the precise variance requested and the reasons for the variance. Notice of the request must be given in writing to each nearby Lot Owner who may be affected - each of whom shall be permitted to make written comments to the Design Committee. All variances must be in writing. Each variance request shall be considered upon its unique circumstances and no grant of a variance to one Owner shall be considered grounds for a grant of variance to another Owner.

6.11 Effect of Variances. If a variance is granted by the Design Committee, no violation of the provisions contained in these Covenants shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the Covenants for any purpose except as to the particular property and particular provision covered by the variance.

6.12. Occupancy after Completion and Inspection. An Occupancy Certificate must be obtained from the Design Committee before any improvement may be occupied. No improvements shall be occupied until all exterior improvements, including fireplaces, are completed and the yard light is installed. The Occupancy Certificate will contain a certification by the owner that the improvements comply with all Covenants, except those for which variances have been granted, and that the exterior of the improvement has been completed according to the approved specifications. No water or sewer hookups will become effective until an Occupancy Certificate has been issued; water may be hooked up during construction for activities such as drywall and masonry. All such hookups must be inspected and approved by a designated Association Inspector. Additional inspection is required by the City of Driggs, and, if such approval is required, no water or sewer hookups shall become effective until such inspection and approval is completed.

ARTICLE VII - DEVELOPMENT STANDARDS

The intent of the Declarant in establishing these Covenants is to create and maintain a development with an atmosphere and charm entirely compatible with the rural setting and natural environment, and further to provide every practical and legal means to safeguard and protect the interests of all Owners and the desirability and compatibility of buildings and uses in the Project. In addition to the requirements of these Covenants, conformity with the any and all applicable land use regulations and building codes of Teton County or the City of Driggs, if applicable, shall be required. In case of any conflict, the more stringent requirements shall govern.

If a Supplemental Declaration incorporating a new phase of the Project contains new or additional Development Standards or Design Guidelines applicable to the Lots or Units within such phase, such new provisions shall apply in addition to those contained herein; however, in the event the Development Standards or Guidelines conflict with, or clearly modify the effect of those contained in these Covenants, such new or additional provisions shall supercede the Standards and guidelines set forth herein with which they are in conflict and shall govern, as to the Lots or Units described in the Supplemental Declaration.

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7.1 General Building Development Standards. Unless specifically provided otherwise in any Supplemental Declaration for a particular phase, all Development must conform to the following General Building Development Standards:

- (a) All Development shall be in compliance with these Covenants and consistent with the Design Guidelines attached hereto (as amended from time to time) established to implement these standards and provide for the harmonious and attractive development of the Lots.
- (b) All improvements shall be of new construction. Pre-built, component, or modular construction shall be permitted only when it cannot be distinguished from conventional site-built construction and only upon specific approval of the Design Committee, which approval of pre-built or modular construction may be withheld completely in the discretion of the Design Committee.
- (c) Exterior materials shall be new material except for architectural detailing which may utilize used materials provided they are approved by the Design Committee. All exterior siding, fascia and trim shall be secured with non-bleeding fasteners or nails, and shall be maintained in a manner as to not show signs of aging, fading, bleaching, cupping or deteriorating. All steps and risers shall be backed and all ground level porch or deck foundation overhangs shall be enclosed or adequately screened by viable low shrubs.
- (d) Exterior finishes shall be of natural wood, peeled log, stone, stucco, "hardiplank" or similar materials. Vinyl or aluminum siding plywood, pressed wood or pressed board, T-111 siding or its equivalent shall not be permitted as exterior siding, fascia, porches, decks or any other exterior areas, except soffits and garage doors may be constructed of pressed wood if appropriately finished to blend with siding. Other types of high quality siding may be allowed at the discretion of the Design Committee. Roof materials shall be cedar shake or shingle, asphalt shingle, architectural ribbed metal with a flat non-reflective colored finish. All roofing materials must meet a minimum Class B, fire-resistive classification.
- (e) Exterior finishes, including all trim, shall be in colors of subdued earth tones or greys, or traditional ranch colors of deep red, forest green and ocher, in semi-transparent or heavy bodied stains, or pigmented or clear non-glossy preservatives. Glossy finishes shall not be permitted. All exposed metals shall have a dull colored finish, or shall be flat color anodized, oxidized or painted so that there are no reflective surfaces. All doors must be stained or painted to blend in with siding colors and must be maintained according to the manufacturer's specifications.
- (f) All exterior mechanical equipment or services (such as swamp coolers, large vents, etc.) shall be painted or screened from view or otherwise made unobtrusive).
- (g) Roofs shall have a minimum pitch of four (4) feet in twelve (12) feet. All primary roofs shall have a minimum overhang of not less than twelve (12) inches. All roofs shall be designed with sufficient venting to be a "cold roof".

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(h) All buildings shall be built on a permanent foundation. Exposed foundations of concrete or masonry construction shall not have an exposed surface which exceeds a height of eight (8) inches above finished grade and shall, otherwise be sheathed in stone, stucco or wood.

(i) No independent water or sewage disposal system shall be permanently installed on any site. Each Lot and Unit shall be connected to the City of Driggs water and sewage disposal system and shall be subject to an initial City connection fee and monthly service charge.

(j) All fireplaces and stoves shall comply with the Uniform building and Fire Codes and have spark arresters. No flues shall be exposed except for a maximum of 12 inches.

7.2 **Single Family Residential Building Development Standards.** In addition to the foregoing General Building Development Standards, unless specifically provided otherwise in any Supplemental Declaration for a particular phase, all Development of Single Family Residential Lots must conform to the following Development standards:

(a) Not more than one (1) Principal Residence shall be constructed on any residential Lot. A detached guest-house (except on Blocks 2, 4, 5 and 6 which shall not have a guest house), attached or detached garage and associated outbuildings including a shed of up to 200 square feet in floor area, not to exceed a total of four (4) structures on any Lot, may be permitted if of similar design character to the principal residence.

(b) The minimum and maximum floor area of habitable floor space of the residence, not including a garage, carport or un-enclosed porches or decks, shall be not less than the following, at least 60% of which must be on the ground floor:

	Minimum Floor Area	Maximum Floor Area
Blocks 2, 4, 5 and 6	1,200 sq.ft.	2,500 sq.ft.
Blocks 7, 8 and 9	1,500 sq.ft.	6,000 sq.ft.

(c) The maximum building height of any residential structure shall not exceed thirty (30) feet and the principal residence may be two stories as to not more than 60% of the perimeter of building "footprint" so as to assure varied roof-lines and adequate porches, etc., and avoid "Saltbox" type of construction. The maximum height of detached garages, car ports or accessory buildings shall not exceed eighteen (18) feet. All heights shall be measured at any cross section of the structure from the approved finished grade to the highest point of the structure immediately above. Minor projections such as chimneys, etc. not enclosing habitable space shall be excluded in determining the maximum height. Solar collectors shall be recessed two (2) feet below the ridge line and shall be placed at least four (4) feet above the bottom of the eave end.

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(d) Development of any Single Family Residential Lot shall provide for outdoor automobile parking for a minimum of two (2) outdoor parking spaces and shall include a garage for indoor parking of at least one (1) indoor parking spaces, for each dwelling unit within Blocks 2, 4, 5 and 6, and two (2) indoor parking spaces, for each dwelling unit within Blocks 7, 8 and 9. Parking spaces, whether interior or exterior, shall have a minimum dimension not less than ten (10) feet wide by twenty (20) feet long and shall be readily accessible by a driveway.

7.3 **Multifamily Residential Building Development Standards.** In addition to the foregoing General Development Standards, unless specifically provided otherwise in any Supplemental Declaration for a particular phase, all Development of the Multifamily Residential Lots must conform to the following building Development standards:

(a) The minimum and maximum floor area of habitable floor space of the residence, not including a garage, carport or un-enclosed porches or decks, shall be not less than the following:

	Minimum Floor Area	Maximum Floor Area
Blocks 1 and 3	600 sq.ft. for Units	none
	450 sq.ft. for apartments	none

(b) The maximum building height of any multifamily residential structure shall not exceed thirty-five (35) feet. The maximum height of detached garages, car ports or accessory buildings shall not exceed eighteen (18) feet. All heights shall be measured at any cross section of the structure from the approved finished grade to the highest point of the structure immediately above. Minor projections such as chimneys, etc. not enclosing habitable space shall be excluded in determining the maximum height. Solar collectors shall be recessed two (2) feet below the ridge line and shall be placed at least four (4) feet above the bottom of the eave end.

(c) Development of any Multifamily Family Residential Lot shall provide for outdoor automobile parking for a minimum of two (2) outdoor parking spaces. Parking spaces shall have a minimum dimension not less than ten (10) feet wide by twenty (20) feet long and shall be readily accessible by a driveway.

7.5 **General Site Development Standards.** Unless specifically provided otherwise in any Supplemental Declaration for a particular phase, all Site Development must conform to the following Site Development Standards:

(a) **Designated Building Envelopes.** Building Envelopes have been established for certain Lots as shown on a Building Envelope Designation map in the custody of the Design Committee. No structure of any kind shall be constructed outside of the Building Envelopes as designated. Amendments to Building Envelopes by the Declarant or the Design Committee may be accomplished by recording a document amending the building envelope that

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Shall have the approval of the Owner of the Lot in which the building envelope is to be modified, as well as adjacent Lot Owners. No Development shall be permitted on any Lot outside of the Building Envelope except access driveways, utility installations, fences, mailbox and address elements (unless established elsewhere), tree and shrub plantings and approved landscaping.

(b) Building Set-Backs. All building construction shall be within any designated Building Envelope or, if none, shall be set back from the Lot boundary line the following distances:

	Street Set-back	Side Set-back	Rear Set-back
Single Family			
Blocks 2, 4, 5 and 6	15 ft.	10 ft.	15 ft.
Blocks 7, 8 and 9	25 ft.	20 ft.	20 ft.
Multifamily			
Blocks 1 and 3	15 ft.	10 ft.*	15 ft.

* not applicable to zero lot line twin home, townhouse type or duplex Units

As may be provided in the Design Guidelines, lesser street set-back distances may be approved if the garage faces the side property line rather than the street. Setbacks from common area property lines may be waived, and other setbacks may be increased at the discretion of the Design Committee in order to enhance variety in the Project, create an interesting streetscape and preserve views from neighboring lots.

(c) Grading. In order to encourage positive drainage away from buildings, the finished floor elevations should be raised a minimum of 1 1/2 feet (18") above the existing grade. Finish grading on all buildings shall assure drainage of surface water from the buildings and avoid concentrating runoff onto adjacent properties. For a distance of ten (10) feet a minimum fall of six (6) inches in ten (10) feet shall be provided at the perimeter of all buildings and one (1) inch in ten (10) feet for impervious surfaces. The entire site, including landscaping and driveways, shall have positive drainage to common open space or right-of-way and shall utilize swales as required. Retention ponds may be utilized as a part of the drainage system. Such improvements will be maintained in perpetuity. The Design Committee, upon determination that drainage has been adequately accommodated on site will permit variances on a case by case basis to this guideline.

(d) Minimum Prescribed Foundation Heights. The Design Committee may determine a minimum foundation height and floor elevation.

(e) Parking and Driveways. Development of Single Family Lots in Blocks 7, 8, and 9 shall provide for automobile parking for a minimum of two (2) parking spaces indoors and two (2) parking spaces outdoors for each dwelling unit. Development of Single

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Family Lots in Blocks 2, 4, 5, and 6 and Multifamily Lots in Blocks 1 and 3 shall provide for automobile parking for a minimum of one (1) parking space indoor and one (1) parking space outdoor for each dwelling unit. Parking spaces shall have a minimum dimension not less than ten (10) feet wide by twenty (20) feet long and shall be readily accessible by a driveway. All parking spaces and driveways shall be graveled, asphalted or concrete, or covered with pavers approved by the Design Committee.

(f) Landscaping/ Clearing/ Screening. All disturbed areas shall be re-vegetated in accordance with the Design Guidelines. Each Owner of a residential Lot shall install, as part of its landscaping, at least one (1) "Standard Plant Units", as defined and described in the Design Guidelines, and shall provide for the adequate irrigation, care and maintenance of all landscaping. In the clearing of a Lot for a driveway or construction of approved structures and improvements, no trees greater than 4 inches in girth at the base shall be removed without approval of the Board and care shall be exercised not to unnecessarily disturb the natural landscape. Within one year after such clearing or construction, the landscaping on the disturbed area shall be restored with native species. Other than clearing for construction, trees may not be removed from a Lot except that such tree trimming may be allowed by the board as will enhance views from a home site. As a condition of approval of the location of a structure, the Board may require that an owner provide an additional landscape screen of appropriate materials and plant species. Proposed landscaping or tree trimming or clearing may be denied approval where it would unnecessarily have a material adverse effect on other Lot Owners.

(g) Fencing. Fencing on Single Family Residential Lots shall comply with the following requirements:

(1) No boundary fences around the perimeter lot lines of any Lot shall be permitted. The following are the only fences permitted on any Lot, provided that size and type of construction and location are approved by the Board:

(i) Limited privacy or child enclosure fences shall be permitted adjacent and contiguous to structures on a Lot;

(ii) A dog run or electronic "invisible fence" shall be required for any Owner having a dog. A fenced dog run must be relatively compact in size and the fencing made of wood or other natural looking materials.

(h) Exterior Lighting. No bright exterior lighting shall be permitted on any Lot. Freestanding exterior lighting fixtures may be placed on the front of each lot, and the style and location of each shall be approved by the Design Committee in order to standardize such lighting fixtures. Exterior lighting shall not exceed 75 watts. All exterior lighting, both freestanding and attached to structures, must shine down to illuminate the ground and must not shine out so as to have an exposed bulb visible from adjoining properties. All interior lights shall be designed to avoid emission of glare or unreasonable brightness from any window, door, or other opening in the building.

(i) Utilities. Utilities shall be installed underground.

(j) Watercourse and Pond Alterations. No one may alter or materially affect the flow of water into or through any pond or watercourse without first receiving the approval of the Design Committee.

7.6 Construction Practices and Standards.

The following requirements must be observed during the Development of any Lot:

(a) Damage Deposit. Because construction activities can cause damage to subdivision roads and landscaping, a refundable damage deposit of one thousand dollars (\$1,000.00) is required prior to the issuance of a building permit by the Design Committee. The \$1,000 deposit does not limit the lot owner's liability; all costs incurred to repair damage off-site are the responsibility of the lot owner. Upon final completion and compliance with all requirements the \$1,000 will be refunded to owner.

(b) Construction Access. A driveway base for site access must be completed prior to initiation of any other construction activities on any Lot. Said base must be inspected and approved by representative of the Design Committee prior to initiation of any other construction. After completion of the driveway base, all vehicles shall use the driveway base as the sole means of access to the Lot from adjoining streets. A special assessment will be levied against the lot and its owner for the purpose of repairing any damage caused to adjoining asphalt street as the result of the failure to observe this requirement.

(c) Construction Noise. Construction activities generating any noise perceptible outside the building under construction shall be prohibited between 6:00 p.m. and 8:00 a.m. and on weekends, except as may be approved by the Design Committee, in the event of extenuating circumstances. Unmuffled equipment, trucks, cars and motorcycles are prohibited. The Design Committee has the absolute authority to control or eliminate construction radios, which are played too loud.

(d) Contractor's Pet Control. Contractors bringing pets to the site must keep them restrained, both in terms of noise and roaming.

(e) Refuse Removal. No lumber, scraps, construction debris, refuse or trash shall be kept, stored or allowed to accumulate on any lot for more than fourteen (14) days, during the construction period.

(f) Construction Dumpsters. No construction dumpsters are allowed to be stored on paved streets or on adjacent lots.

(g) Vehicles. Construction vehicles shall not be allowed park on or impede traffic on roads.

(h) Oversight. It shall be the sole responsibility of the Owner to maintain all

the requirements of the Design Guidelines and these Covenants during construction. Failure to do so shall result in stoppage of construction. The Design Committee shall have the authority to make judgments in the best interest of all the property owners in Creekside Meadows.

(i) Inspections. Prior to beginning any work upon the site, the owner shall advise the Design Committee of the construction schedule. The Design Committee or a representative member may make periodic inspections, to ensure compliance with the final design. Field problems and/or any reasonable request for changes to the approved plans shall be brought to the attention of Design Committee and specifically approved in writing prior to action. Non-compliance with approved drawings will result in stoppage of construction.

(j) Site Protection. The general contractor shall be responsible to protect the site and natural vegetation as much as possible during construction by controlling parking and the storing of materials. No fill, dirt, construction material or other items may be placed on any site until a Building Permit has been issued by the Design Committee.

(k) Principal Building Constructed First. No accessory structure, building, garage or shed shall be constructed, placed or maintained upon any Lot until after commencement of construction of the principal building on the same Lot, which shall be diligently pursued to completion.

ARTICLE VIII - USE RESTRICTIONS

8.1 Residential Use. Each Lot in the Single Family Residential Areas and each Unit in the Multifamily Residential Area shall be used exclusively for residential purposes. No more than one (1) family, including its transient guests, shall occupy each such residence at any time. No commercial, retail or other business activities shall be conducted on or from any residential Lot or Unit in a multiple dwelling Lot; provided provided, however, that nothing in these paragraphs shall be deemed to prevent the following:

(a) Any artist, artisan or craftsman may pursue their artistic calling upon within not more than 25% of the total floor area of the dwelling, if such occupant also uses such dwelling unit for primarily residential purposes, is self employed and has no employees working in such dwelling unit, and does not solicit or attract to the public to come upon such Lot or Unit, and does not generate any perceptible additional delivery or other traffic within the Subdivision and, or otherwise operate in such a manner as to permit such activity to be apparent from any roadway or any other Lot or Unit.

(b) Interval ownership or the leasing of any Residence, from time to time, by the Owner.

(c) A home office for a professional practice, a studio, a workshop or other type of business or professional use which is not advertised and where no customers, clients, patients or others visit the site; that does not generate any substantial additional delivery or other

traffic within the Subdivision, or otherwise operate in such a manner as to permit such activity to be apparent from any roadway or any other Lot or Unit, and does not require the employment of labor other than the Owner or occupant, except for not more than one (1) clerical employee, subject to required permitting by the City of Driggs. Notwithstanding the foregoing, it is not intended that any use permitted by the City of Driggs as a home occupation or similar use shall also be permitted on any Lot or Unit, whether actually issued a permit by such governmental body or not.

8.2 **Prohibited Structures.** No mobile home, house trailer, motor home, recreational vehicle, travel trailer, camper, tent, teepee, yurt, shack or other temporary or mobile structure shall be used for a residence or habitation either temporarily or permanently at any time, except that guests of the Owner of a Lot in the Single Family Residential Area may do so for a period of not more than seven (7) days during any 30 day period, and further provided, however, the provision of this paragraph shall not apply to temporary construction shelters maintained during, and used exclusively in connection with, the construction of any work or improvement permitted by these Covenants. No person shall reside in or live in such temporary construction shelters or facilities unless application is made thereof and approved by the Design Committee. Any temporary construction shelter must be removed within 30 days of Occupancy Permit.

8.3 **Maintenance.** Each Lot or Unit, its yard and landscaped areas, and the exteriors of all buildings and improvements thereon shall be maintained in a neat, clean, safe and well maintained condition. Maintenance by the Owner shall include, but not be limited to, periodic staining or painting of any exterior siding, and the landscaping and maintenance of yards, including weed control, and free of refuse, garbage, trash and other unsightliness. Landscaping, including finish grading and seeding of a lawn, must be completed within thirty (30) days after the Occupancy Certificate has been issued for that lot or by June 1st of the following year of the Occupancy Permit is issued after September 1st. Service areas, storage piles, compost piles and facilities for hanging, and drying clothing shall be appropriately screened from view. No haystacks or hay bales, troughs, un-stacked firewood, lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials, scraps, refuse or trash shall be kept, stored or allowed to accumulate on any Lot or Unit. All firewood must be neatly stacked in such a way as to be substantially screened from view of the other Lots or Units. Colored tarps covering firewood must not be visible from neighboring property. If any owner fails to perform maintenance responsibilities, after written request by the Association to do so, the Association may perform maintenance work at the owner's expense.

8.4 **Storage of Equipment.** All equipment, recreational vehicles, golf carts, campers, motor homes, boats, trucks, trailers, snowmobiles, horse trailers, motorcycles and other possessions shall be kept stored within a residence, garage or approved storage building on the Lot or Unit or shall be kept screened by adequate planting or approved fencing so as to conceal them from the view of neighboring Lots and Common Road. A 6 foot high wooden privacy fence shall be deemed adequate for making the above recreation vehicles properly screened. A recreational vehicle may be parked for a period of 14 days without screening.

8.5 **Trash.** All garbage and trash shall be placed and kept in covered containers which shall be maintained so as not to be visible from neighboring properties or, if provided, at one or more central trash collection buildings. The collection and disposal of garbage and trash shall be in strict compliance with such rules as may be adopted by the Association, which may provide for common collection points. The maintenance of accumulated waste plant materials is prohibited. The cost of garbage and trash collection shall be paid by each Owner, in accordance with the billing of the trash collector or the Association.

8.6 **Tanks.** No storage tanks of any kind shall be erected, placed, or permitted upon any Lot or Unit, except that propane tanks may be permitted if for barbeques, or if buried or within a screened service yard.

8.7 **Parking and Traffic Control.** All Vehicles shall be parked and stored within the garage or upon the parking area designated within a Building Envelope in the approved site Development plan. An Owner shall not permit designated parking spaces to be used for purposes other than to park vehicles. The Board shall have full power and authority to regulate the use of roadways by imposing and enforcing speed limits and other restrictions, all with full power and authority to impose and enforce (by special assessments hereunder or otherwise) fines and other penalties for violations of such regulations.

8.8 **Parking on Roads.** Owners shall not and shall not permit their visitors or contractors to obstruct or park on Common Roadways. Owners shall not place, park or store anything within the roadways without the prior written consent of the Board or its designee.

8.9 **Road Damage.** Each Owner is responsible for any damage caused to the Common Roads and Pathways within the Project during the construction of improvements upon such Owner's property by any vehicle or equipment belonging either to said Owner or to any person or entity using the roads within the Project while engaged in any activity benefiting the Owner. Each Owner shall also be responsible for any damage caused by utility cuts in roads, washouts and run off damage caused by failure to install culverts properly and in a timely manner as may be necessary in connection with the construction of improvements upon or any other uses made by such Owner.

8.10 **Noxious Weeds.** Owners shall take all actions necessary to control noxious weeds as defined by the Teton County Weed and Pest Control Board and/or the Board. Because the timing for effective control of noxious weeds is very critical, if a Owner fails to respond immediately to a written request for weed control from the Board, the Board shall have the right to contract for such control services and the company so contracted shall have the right to enter upon any such Lot to treat noxious weeds without any liability for trespass. In the event that the Board provides for noxious weed treatment as described herein, the Owner of a Lot treated for noxious weed control shall pay all costs incurred by the Board. Noxious weed treatment shall be strictly limited to herbicides approved by the Teton County Weed and Pest Control Board. Under no circumstance, however, shall materials or methods be utilized to control noxious weeds which would endanger wildlife or sensitive wetlands habitat on the Property or adjacent lands.

8.11 Pets and Livestock. No horses, livestock or pets shall be kept or maintained on any Lot or Unit except as provided herein. Any pets permitted to be kept on a Lot or Unit shall be restrained and closely controlled at all times so that they do not cause a nuisance to neighboring Lot or Unit owners, and so that the presence or activity of any such pets does not harass or endanger wildlife. Not more than two dogs and/or two cats, or other domestic animals which are normally kept and maintained indoors within a residence, may be kept on any Lot or Unit; provided, however, that a litter of puppies or kittens born to a dog or cat owned by an Owner may be kept or maintained for a period not to exceed four months, provided that said puppies or kittens are maintained and restrained in accordance with the provisions of these Covenants. If any dog is caught or identified as being a nuisance due to barking, chasing or otherwise harassing livestock, wildlife, other pets or people, the Board shall have the authority to have such animal or animals impounded at any available location, and shall assess a penalty against the owner of such animal or animals of not more than \$100.00, plus all costs of impoundment. If any such animal or animals are a chronic nuisance due to barking, or are caught or identified chasing or harassing wildlife, livestock, other pets or people on a second occasion, the Board shall have the authority to have such animal or animals impounded or destroyed, the determination of disposition being in the sole discretion of the Board. In the event that such animal or animals are not destroyed, the Board shall assess a penalty of not more than \$200.00 per animal, plus costs of impoundment. No owner of any animal or animals impounded or destroyed for chasing or harassing livestock, wildlife or people shall have the right of action against the Board or any member thereof, for the impoundment or destruction of any such animal or animals.

8.12 Nuisances, Noxious or Offensive Activities. No nuisance and no annoying, noxious, illegal or offensive activity shall be allowed to exist or continue to exist on any Lot or Unit, nor may anything be permitted on any Lot or Unit or the Property which creates a disturbance, embarrassment or annoyance to any Owner in their enjoyment of their Lot or Unit or any other portions of the Property. In determining whether there has been a violation of this paragraph, recognition must be given to the premise that owners, by virtue of their interest and participation in the Creekside Meadows, are entitled to the reasonable enjoyment of the natural benefits and surroundings of Creekside Meadows. Without limiting any of the foregoing, no unreasonably loud or annoying noises shall be emitted beyond the Lot lines of any Lot or the walls of any Unit, and no exterior speakers, horns, whistles, bells or other sound devices except security devices used exclusively to protect the security of the lots and improvements located thereon, shall be placed or used upon any lot. No noxious or offensive odors shall be emitted beyond the Lot lines of any Lot or the walls of any Unit.

8.13 Signs. No signs or advertising devices shall be erected or maintained on any Lot or Unit in the Multifamily and Single Family Residential Areas, except for a sign authorized by the Board which identifies the owner, except for temporary sales and directional signs placed by Declarant or its realtor in conjunction with the initial sale of Lots and Units.

8.14 Snowmobiles, Motorcycles and ATV's Prohibited. No all terrain vehicle, snowmobile, three-wheeler, or other similar recreational vehicle shall be operated on any Lot or Unit, road, driveway, pathway or any other portion of the Property for any purpose, nor may any

motorcycle be operated except on the roadways, nor may any of the lands adjoining the Project be accessed from the subdivision by any such motorized vehicle or any motorcycle.

8.15 **Wildlife Protection.** It is recognized by the Declarant and the purchasers or Owners within the Project that wildlife species may live near to or wander through portions of the Project during various times of the year. By acceptance of a deed to a Lot or Unit the Owner agrees that the Idaho Game and Fish Department shall not be responsible or liable for payment for any damage to shrubs, trees or ornamental plants caused by wildlife. The following limitations on use and development are intended, in addition to all the other requirements of these Covenants, to protect, preserve and maintain the existing wildlife habitat on the Project and to minimize the adverse effects of Development on wildlife and wildlife habitat in the vicinity:

- (1) No owner of any Lot or Unit shall remove or alter or allow others to remove or alter any of the existing vegetation thereon, except as is reasonably necessary for the clearing and preparation of the building site for the purposes of constructing authorized structures or roads thereon (but this clause shall not prohibit cutting or mowing of grasses);
- (2) Dogs and other domestic animals shall be controlled and restrained at all times, and shall not be allowed to run at large on any portion of any Lot or Unit, except within an enclosed dog run, or electric fence or similar arrangement;
- (3) No hunting or shooting of guns shall be allowed on any Lot or Unit or any common areas and no one may harass or injure wildlife.
- (4) No feeding of moose or deer may take place, nor may any Owner place a salt-lick or similar attractant upon the Property so as to habituate such animals to an unnatural food source.
- (5) Open space areas shall be maintained in a natural condition to serve as habitat for bird-life and animals. All recreation shall be conducted in such a manner that wildlife values are not compromised. All fishing shall be catch and release fly-fishing or by artificial lures both with barb-less hooks. All fish must be safely returned to the water unharmed.

8.16 **Utilities and Satellite Dishes.** All electrical, telephone and other utility lines shall be installed underground primarily in the common road right-of-ways or within utility easements serving individual Lots or Units. Connections from Lots or Unit within the Property to the underground utility lines shall be underground and shall be completed at the Owner's expense. No television or radio antenna, solar collectors, masts or similar items shall be permitted unless permitted in writing by the Design Committee. A small (18 inches or less in diameter) satellite dish shall be permitted on any Lot, provided that any satellite dish is substantially shielded visually from adjacent Lots or Unit as much as possible with shielding approved by the Board of Directors before such satellite dish is installed.

8.17 **Outside Clothes Lines.** Outside clothes-lines or other outside clothes drying or airing facilities shall be maintained exclusively within a fenced service yard and shall not be visible from neighboring property.

8.18 Fires. There shall be no exterior fires whatsoever except barbecue fires contained within designated receptacles and such fires as may from time to time be prohibited by the Association Rules.

ARTICLE IX - GENERAL PROVISIONS

9.1 Lot Splitting; Consolidation

(a) Two (2) or more contiguous Lots or Units may be combined, provided notice of intention to consolidate is filed with the Board and appropriate instruments are filed with the City of Driggs. Such consolidated Lots or Units shall thereafter be treated as one (1) Lot or Unit, and such Lot or Unit may be subjected to these restrictions as a single Lot or Unit, including for the purpose of voting and levying and collecting the Owner's assessments. In such event, if the Lots have a designated Building Envelope, the Owner must elect which Building Envelope will be utilized, unless the Owner requests a relocation of the Building envelope in writing. Such relocation of the Building envelope may be permitted by the Board after notice to adjoining Lot owners.

(b) Except for minor boundary adjustments, no Single Family Residential Lot shall be split or divided or subdivided, unless such Lot as split is then consolidated with a contiguous Lot, and unless the resulting area to be built upon shall comply with all County requirements.

(c) Multifamily Residential Lots may be further divided into building pads for individual buildings and further subdivided into multifamily dwelling Units such as condominiums, twin homes, duplexes or Townhouses.

9.2 Indemnification. The Association shall indemnify and save harmless Declarant, its members, officers, employees, successors and assigns, and the Association and its Board members, the Design Committee, officers, directors and employees, from and against any and all claims, suits, action, damages and/or causes of action arising from any personal injury, loss of life and/or damage to property sustained on or about the Project or any building or Development thereon, if any, or any appurtenances thereto or arising out of their existence, construction, installation, alteration, repair, or their operation or maintenance, or out of the providing of any Common Services, as well as from and against all costs, counsel fees, expenses and liabilities incurred in and about any such claim, the investigation thereof or the defense at any levels of any action or proceedings brought thereon, and from and against any orders, judgments and/or decrees which may be entered therein. Included in the foregoing provisions for indemnification are any expenses that Declarant, his successors or assigns, may be compelled to incur in bringing suit for the purpose of enforcing rights hereunder, or for the purpose of compelling the specific enforcement of the provisions, conditions, covenants and restrictions contained in this Declaration to be kept and performed by the Association, Board, Design Committee and/or the Owners.

Further, the costs to the Association of indemnifying its officers and members of the Board of Directors shall include all costs and expenses whatsoever incurred in the pursuance of their duties, obligations and functions hereunder, including institution, prosecution and defense of any enforcement action, and in any legal defense of any such actions (including, without limitation, counsel fees and costs at all levels of any trial or proceeding, costs of investigation and discovery, any recovery, consultants and experts, whether they testify at trial or not).

9.3 **Violations, Enforcement, Liens and Costs.** The restrictions and requirements for use and Development set forth in these Covenants shall be enforceable by the Declarant, by the Board, the Design Committee or by any Owner. Every Owner hereby consents to the entry of an injunction against them or their tenants or guests, to terminate and restrain any violation of these Covenants. Any Owner who uses or allows the Lot or Unit to be used or developed or neglected in violation of these Covenants further agrees to pay all costs incurred by the Board or the Declarant or other Owners in enforcing these Covenants, including reasonable attorney's fees, costs and expenses (including consultants and experts, whether they testify at trial or not). The Board shall have a lien against each Lot or Unit and the improvements thereon to secure the payment of any billing for regular assessments, special assessments, or charges or damages or penalty, or other sums due and payable by any Owner to the Association under these Covenants, which is not paid within the time provided by these Covenants, plus interest from the date of demand for payment at the rate of eighteen percent (18%). The Board is authorized to record a notice of lien in the Office of the County Recorder; which shall include a description of the property, the name of the Owner thereof, and the basis for the amount of the lien. A copy of the notice of lien as filed in the County Recorder's Office shall be sent to the owner by certified mail to the last known address of the Owner. Any lien may be foreclosed in the manner provided for foreclosures of mortgages by the laws of the State, including by advertisement and sale. In addition to the principal amount of the lien plus interest, the Board shall be entitled to the payment of all costs incurred in the establishment or enforcement of any lien, including costs, expenses and attorney's fees, as provided above.

9.4 **Litigation Against the Association.** In the event any Owner intends to institute any litigation against the Association, the Board or any of its committees or members to compel or enjoin any action or approval, or to declare any action or approval or any provision of these Covenants or any Design Guidelines void or non-enforceable, or for any other reason, such party shall be prohibited from doing so until they, first, submit a detailed statement of the issue for determination to the Board and participate in formal mediation in a good faith attempt to amicably settle any such dispute. In the event such dispute is not resolved by mediation and the Owner pursues litigation against the Association, the Board, any officer, or any committee or member thereof and fails to prevail as the successful party on all claims asserted, such party shall pay all costs, expenses and attorneys fees incurred by the party(ies) against whom the action was instituted.

9.5 **Duration of Covenants.** All of the Covenants, Conditions and Restrictions set forth herein shall continue and remain in full force and effect at all times against the Lots and Units and the Owners of any portion thereof, subject to the right of amendment as set forth herein. If required by law, these Covenants shall be deemed to remain in full force and effect for

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twenty-year periods, and shall be automatically renewed for additional consecutive twenty-year periods unless all of the Owners otherwise agree in writing.

9.6 **Severability.** Any decision by a court of competent jurisdiction invalidating any part or paragraph of these Covenants shall be limited to the part or paragraph affected by the decision of the court, and the remainder of these Covenants shall remain in full force and effect.

9.7 **Acceptance of Covenants and Jurisdiction and Venue.** Every Owner shall be bound by and subject to all of the provisions of these Covenants, and every Owner, through his or her purchase or ownership, expressly accepts and consents to the operation and enforcement of all of the provisions of these Covenants. Every Owner also consents to personal jurisdiction and venue in the District Court of Teton County, State of Idaho.

9.8 **Amendment or Revocation.** At any time while any provision, covenant, condition and restriction of these Covenants is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or the repeal, approved by the Board and executed by the Owners of not less than two-thirds (2/3) of the Lots. Notwithstanding the foregoing, during the Declarant's Development Period no Declarant Related Amendment shall be made to this Declaration or to any Bylaw or Document, nor shall any Declarant Related Document be executed, adopted or promulgated by the Association or the Board unless such Declarant Related Amendment or Document shall be specifically approved in writing by Declarant. For purposes of this subsection, an Amendment or Document which does any of the following shall be considered to be Declarant Related if it:

- (a) Discriminates or tends to discriminate against a Declarant or any successor Declarant as an Owner or otherwise.
- (b) Directly or indirectly by its provisions or in practical application relates to any Declarant or any successor Declarant in a manner different from the manner in which it relates to other Owners.
- (c) Modifies the definitions provided for in this Declaration in a manner which alters Declarant's or any successor Declarant's rights or status.
- (d) Modifies or repeals any provision of paragraph 3.6 of this Declaration regarding the Declarant's right to appoint members of the Board.
- (e) Alters the character and rights of membership as provided for in this Declaration or affects or modifies in any manner whatsoever the rights of Declarant or any successor Declarant as a member of the Association.
- (f) Alters any previously recorded or written agreement with any public or quasi-public agencies, utility company, political subdivisions, public authorities or other similar agencies or bodies, respecting zoning suspension, streets, roads, drives, easements or facilities, or alters any written agreement with Declarant or any Recreational Lease.

(g) Denies the right of Declarant or any successor Declarant to convey to the Association any lands within the Property.

(h) Modifies the basis or manner of assessment, as applicable to the Declarant or any successor Declarant or any Lots, Units, tracts or other land qualification owned by Declarant or any successor Declarant.

(i) Modifies the provisions hereof regarding design control as applicable to the Declarant or any successor or any Lots or Units owned by Declarant or any successor Declarant.

(j) Alters or repeals any of Declarant's or any successor Declarant's rights or any provision applicable to Declarant's or any successor Declarant's rights as provided for by any provision of this Declaration or of any other document applicable to Declarant.

During the pendency of the Declarant's Development Period, no action may be taken by the Board or the Association applicable to the Declarant or any of the Lots owned by the Declarant unless such action shall be approved in writing by the Declarant.

In addition to the foregoing, no such amendment or repeal shall be effective with respect to any Mortgagee or successor or assign of any Mortgagee under a Mortgage recorded prior to recording of the instrument specifying the amendment or repeal unless such Mortgagee or successor or assign executes the said instrument.

9.9 Declarant's Development Period.

The Declarant's Development Period shall be defined as a period commencing upon the recording of this instrument and ending upon the earlier of January 1, 2015 or when all Lots have been sold to parties not affiliated with Declarant. No special Declarant rights created or reserved under this section may be transferred except by an instrument evidencing the transfer recorded in the County in which the Subdivision is located and the instrument has been executed by the transferee. Upon transfer of any special Declarant right, the liabilities and rights of the transferor Declarant and the rights, liabilities and obligations of the transferee Declarant shall be as provided by law.

9.10 Declarant's Reserved Right to Amend. During Declarant's Development Period, Declarant may, without the consent or concurrence of the Board, the Members, Owners or any other party, amend, modify, clarify or revoke any part of this Declaration if reasonably necessary, in the sole discretion of Declarant, to conform to any requirement, law, ordinance, regulation, or policy of any governmental agency, department or body of the United States or the State of Idaho, or the City of Driggs, or in order to qualify for financing program arrangements.

9.11 Declarant's Right to Annex Additional Phases. Declarant reserves the right to subject additional real property, in future phases of the Project, to the terms, conditions and restrictions of these Covenants, thereby making the owners of Lots or Units within such property members of the Association, thereby conferring upon such owners all of the rights and privileges

and subjecting them to all obligations of Owners herein, and making such additional Owner's Lots, Units, roads, paths, additional lands, fences, utilities and other property and facilities the subject of the responsibility of the Association to provide Common Services. Such inclusion may be accomplished, in the sole discretion of the Declarant, its successors and assigns, by recording a Supplemental Declaration describing the property annexed, recording a Subdivision Plat therefore, and adopting these Covenants, together with such additional Covenants, Development Standards and Design Guidelines as Declarant sees fit. Upon such recordation, the additional properties shall be incorporated into the Project and shall be subject to these Covenants as if the same were originally set forth in full in this Declaration.

If a Supplemental Declaration incorporating a new phase of the Project contains new or additional Covenants, Development Standards or Design Guidelines applicable to the Lots or Units within such phase, such new provisions shall apply in addition to those contained herein; however, in the event the Covenants, Development Standards or Guidelines conflict with, or clearly modify the effect of those contained in these Covenants, such new or additional provisions shall supercede the Covenants, standards and guidelines set forth herein with which they are in conflict and shall govern.

9.12 **No Waiver.** The failure of the Board, the Design Committee, or its agents to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration or the Design Guidelines, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment, for the future, of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Board or its agent of the payment of any assessment, or of the payment of any application fee, from an Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board or Design committee of any provision hereof shall be deemed to have been made unless expressed in writing and duly signed by or on behalf of the Board or Design Committee.

IN WITNESS WHEREOF, Declarant has executed this Declaration of Protective Covenants, Conditions and Restrictions effective the date set forth above.

CREEKSIDE MEADOWS, LLC
A Wyoming limited liability company

By: 
Bruce Simon, Manager / Presiding Member

EXHIBIT "A"

(Description of land subject to Declaration)

All of Blocks A,1,2,3,4,5,6,7,8 and 9 of Creekside Meadows Planned Unit Development, as per the recorded plat recorded on August 30, 2002, as Instrument No. 149985, records of Teton County, Idaho.