

CARRAIGE HILLS

a Planned Community

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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CARRIAGE HILLS

a Planned Community

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made on this ___ day of _____, 2004 by Grant-Walker, LLC, hereinafter referred to as the "Declarant."

STATEMENT OF PURPOSE:

- A. Declarant is the Developer of certain real property in Weld County, Colorado more particularly described in **Exhibit A** attached hereto and fully incorporated herein.
- B. The Declarant establishes this Declaration for this new residential planned community for the following purposes:
- To create a planned community with Common Areas for the benefit of the community and its owners;
 - To provide for the preservation and maintenance of the Common Areas;
 - To provide a guide for development that will preserve certain values while allowing change when appropriate;
 - To allow for self governing of Carriage Hills by its owners; and
 - To create a common interest community that conforms to the Colorado Common Interest Ownership Act.

ARTICLE I. DECLARATION AND DEFINITIONS

Section 1.01 Declaration

The Declarant hereby submits the Plat and this Declaration of Covenants, Conditions and Restrictions for establishment of a planned community under the Colorado Common Interest Ownership Act. The Declarant hereby declares that Carriage Hills shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements of this Declaration, which shall run with the land and be binding on all parties and heirs, successors and assigns of parties having right, title or interest in all or any part of Carriage Hills.

Section 1.02 Definitions

(a) **“Act”** refers to the Colorado Common Interest Ownership Act as set forth in Colorado Revised Statutes § 38-33.3-101 et. seq., the statute which governs the development and operation of this planned community

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

(b) **“Assessments”** is the collective term for the following charges:

- **“General Assessment”** is the amount allocated among all Members to meet the Association’s annual budgeted expenses, as described in Section 6.03
- **“Individual Lot Assessment”** is a charge made to a particular Owner for charges relating only to that Lot, as provided in Section 6.04
- **“Special Assessment”** may be charged to each Lot for capital improvements or emergency expenses, in accordance with the provisions of Section 6.04

(c) **“Association”** is the Carriage Hills Filing 1 Homeowners Association, Inc., a Colorado nonprofit corporation, its successors and assigns. The Association, whose members are the Owners, is responsible for maintaining Carriage Hills and enforcing the Declaration.

(d) **“Board”** is the Executive Board of the Association.

(e) **“Building”** shall mean any vertical structure, including but not limited to, buildings, sheds, walls, fences, light poles, and parking structures.

(f) **“Bylaws”** are the Bylaws of the Association

(g) **“Change in Existing State”** shall mean and include, but without limitation:

- (i) The construction or expansion of any Building, structure or other improvement, including the utility facilities, upon any Lot;
- (ii) The destruction by voluntary action or the abandonment of any Building, structure or other improvement upon the Lot;
- (iii) The excavation, filling or similar disturbance of the surface land;

- (iv) The landscaping or planting of trees, shrubs, lawns or plants or the clearing, marring, defacing or damaging of trees, shrubs or other growing things upon any Lot; and
 - (v) Any change or alteration of any improvement upon any Lot, including without limitation, any change of color, texture or exterior appearance, of any previously approved Change in Existing State.
- (i) **“Common Area”** is all real and personal property, including but not limited to easements, rights-of-way, and common elements as defined in the Act, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.
- (j) **“Declarant”** shall mean and refer to Grant-Walker, LLC, a Colorado limited liability company, or such other person or entity that purchases all or a portion of the Property in more than one parcel if such person or entity assumes the obligations of Declarant under this Declaration and is designated successor Declarant in an instrument recorded with the Clerk and Recorder of Weld County, Colorado.
- (k) **“Declaration”** is this Declaration of Covenants, Conditions and Restrictions for Carriage Hills.
- (l) **“Design Guidelines”** are the Design Guidelines.
- (m) **“Developer”** shall mean and refer Grant-Walker, LLC, a Colorado limited liability company and its successors and assigns.
- (n) **“Development”** shall mean and refer to Carriage Hills and all improvements thereon.
- (o) **“Dwelling”** means the residence constructed on each Lot with Improvements and any replacement thereof. Dwelling shall include the Lot upon which such Dwelling is constructed.
- (p) **“Improvements”** shall mean any construction or facilities existing or to be constructed on the land included in Carriage Hills, including but not limited to buildings, paving, fences, sidewalks, utility wires, pipes, light poles, and structures.
- (q) A **“Lot”** is the smallest parcel of land which may be separately conveyed and is equivalent to a “unit” under the Act. Ordinarily, Lots are designated as numbered, separately identifiable parcels on the recorded subdivision plat of Carriage Hills.

However, the Declarant may redefine Lots prior to sale to third parties by combining Lots or portions of Lots and adjusting the boundary of a Lot.

(r) "**Member.**" Each Owner is a Member of the Association, as provided in Article IV. of this Declaration.

(s) "**Owner**" is the owner of record, whether one or more persons or entities, of the fee simple title to any Lot. Owners shall not include those having such interest merely as security for the performance of an obligation.

(t) The "**Plat**" means and refers to the Plat of _____, which was recorded on _____, 199__, in the real estate records of Weld County, Colorado as Reception Number _____.

(u) "**Carriage Hills**" is the real property shown in the Plat for Carriage Hills Filing 1 as described on the first page of this Declaration, plus any additional property added by Supplemental Declaration. Carriage Hills is a planned community under the Act.

ARTICLE II. NAME, DESCRIPTION OF REAL ESTATE AND LOTS

Section 2.01 Name.

The name of the project is Carriage Hills and the project is a Planned Community pursuant to the Act.

Section 2.02 Association.

The name of the Association is Carriage Hills of Frederick Filing 1 Homeowners Association, Inc.

Section 2.03 Real Estate

Carriage Hills is located in Weld County, Colorado. The real estate of Carriage Hills is described in **Exhibit A**.

Section 2.04 Number, Identification, Boundaries and Subdivision of Lots.

The number of Lots in Carriage Hills is 80. The identification number of each Lot is shown on the Plat. The boundaries of each Lot are located as shown on the Plat. The subdivision of Lots within Carriage Hills is prohibited.

ARTICLE III. THE COMMON AREAS

Section 3.01 General Common Elements

The General Common Elements of Carriage Hills are all Common Areas as defined in the Declaration, as indicated on the Plat, or as defined in the Act.

Section 3.02 Limited Common Elements

The following portions of Carriage Hills, in addition to the portions described in Sections 38-33.3-202(1)(b) and (d) of the Act, are designated as Limited Common Elements:

The General Common Elements of Carriage Hills are all Common Areas as defined in the Declaration, as indicated on the Plat, or as defined in the Act.

Maintenance, repair and replacement of any Limited Common Elements shall be the responsibility of the Owner or Owners of the Lot or Lots to which such Limited Common Elements are allocated. If Limited Common Elements are allocated to more than one Lot, all associated expenses shall be shared equally by the Owners of such Lots. In addition to any other rights or powers conferred upon the Association by this Declaration or the Act, in the event that such Owners fail to maintain, repair or replace such Limited Common Elements, the Association may, in its sole discretion, take any action it deems necessary to maintain, repair or replace such Limited Common Elements and charge the cost of such maintenance, repairs or replacement to the Owners as a Special Assessment.

ARTICLE IV. THE ASSOCIATION

Section 4.01 Authority.

The Association, through its Executive Board, shall manage the business affairs of Carriage Hills as provided in this Declaration so as to further the interests of the residents of the Development and Members of the Association. The Association shall be governed by its Bylaws, amended from time to time.

Section 4.02 Powers

(a) The Association shall have all of the powers, authority and duties permitted pursuant to the Act necessary and proper to manage the business and affairs of Carriage Hills.

(b) The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of the Lot Owner of

Lots to which at least 51 percent of the votes in the Association are allocated, at a meeting called for that purpose.

Section 4.03 Membership

Every record owner of a Lot subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Where more than one person holds interest in any Lot, all such persons shall be Members.

Section 4.04 Voting Rights

The Association shall have one class of voting membership. Owners shall be entitled to one vote for each Lot owned.

Section 4.05 Developer Control of the Association

Subject to the provision of Section 4.06 hereof, there is a "Period of Declarant Control" during which Period the Declarant may appoint and remove any officer of the Association or any member of the Executive Board. The Period of Declarant Control is a length of time expiring no later than three years after the recording of this Declaration. Regardless of such expiration, the Period of Declarant Control shall terminate no later than (a) sixty days after the conveyance of seventy-five percent of the Lots to Owners other than the Declarant; (b) two years after the last conveyance of a Lot by the Declarant in the ordinary course of business to Owners other than the Declarant; or (c) two years after any right to add new Lots was last exercised.

A Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Period of Declarant Control. In that event, the Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

Section 4.06 Election by Owners

Not later than sixty days after conveyance of twenty-five percent of the Lots to Owners other than Declarant, at least one member but not less than twenty-five percent of the members of the Executive Board must be elected by Owners other than the Declarant.

Not later than sixty days after conveyance of fifty percent of the Lots to Owners other than Declarant, not less than thirty-three and one-third percent of the members of the Executive Board must be elected by Owners other than the Declarant.

Not later than the termination of the Period of Declarant Control as set forth in Section 4.05 hereof, the Owners shall elect an Executive Board consisting of three members, at least a majority of whom must be Owners other than the Declarant.

Section 4.07 Delivery of Documents by Declarant

Within sixty days after the Owners other than the Declarant elect a majority of the members of the Board of Directors, the Declarant shall deliver without charge to the Board of Directors all property of the Owners and of the Association relating to Carriage Hills held by or controlled by the Declarant, including, without limitation, the following items:

- (i) The original or a certified copy of the recorded Declaration as amended, the Association's Articles of Incorporation, Bylaws, minute books, other books and records, and any rules and regulations which may have been promulgated;
- (ii) An accounting for Association funds and financial statements, from the date the Association received funds and ending on the date the period of Declarant control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either the opinion that the financial statements present fairly the financial position of the Association in conformity with generally accepted accounting principles or a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles and the reasons therefor. The expense of the audit shall not be paid for or charged to the Association;
- (iii) The Association funds or control thereof;
- (iv) All of the Declarant's tangible personal property that has been represented by the Declarant to be the property of the Association or all of the Declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties;
- (v) A copy, for the nonexclusive use by the Association, of any plans and specifications used in the construction of the improvements in the common interest community;
- (vi) All insurance policies then in force, in which the Owners, the

Association, or its directors and officers are named as insured persons;

- (vii) Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common interest community;
- (viii) Any other permits issued by governmental bodies applicable to the common interest community and which are currently in force or which were issued within one year prior to the date on which Owners other than the Declarant took control of the Association;
- (ix) Written warranties of the contractor, subcontractors, suppliers, and manufacturers that are still effective;
- (x) A roster of Owners and mortgagees and their addresses and telephone numbers, if known, as shown on the Declarant's records;
- (xi) Employment contracts in which the Association is a contracting party; and
- (xii) Any service contract in which the Association is a contracting party or in which the Association or the Owners have any obligation to pay a fee to the persons performing the services.

ARTICLE V. ASSOCIATION BUDGET

Section 5.01 Fiscal Year.

The fiscal year of the Association shall begin January 1 of each year and end on December 31 of that year, unless the Board selects a different fiscal year.

Section 5.02 Preparation and Approval of Annual Budget.

(a) **Initial Budget.** The Declarant shall determine the budget for the fiscal year in which a Lot is first conveyed to an Owner other than the Declarant. Subsequent budgets shall be prepared by the Board and approved by the Association as provided below.

(b) **Subsequent Years.** Beginning with the year in which a Lot is first conveyed to an Owner other than the Declarant and each year thereafter, at least one month before the end of the fiscal year, the Board shall, by majority vote, adopt a budget for the coming year and set the annual General Assessments at a level sufficient to

meet the budget. At least two weeks before the fiscal year to which the budget applies, the Board shall send to each Member a copy of the budget in reasonably itemized form, which shall include the amount of General Assessments payable by each Member.

(c) **Approval.** If General Assessments are to be increased to greater than 125% of the previous year's General Assessment which was not a year in which General Assessments were guaranteed in whole or in part by Declarant, and petitions signed by at least 10% of all Members request review within thirty (30) days after the budget is delivered to Members, the Board shall call an Association Meeting to present the budget and to answer any questions. After presentation, the budget shall be deemed approved unless the percentage required to transact business is present and the budget is rejected by a majority of the Members present. If the budget is rejected, the Board shall approve a new budget within ten (10) days and send a copy to each Member.

Section 5.03 Budget Items.

The budget shall estimate total expenses to be incurred by the Association in carrying out its responsibilities. These expenses shall include, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering of all services required by this Declaration or properly approved in accordance with this Declaration. The budget may also include reasonable amounts, as determined by the Board, for working capital for the Association and for reserves. If the Common Area are taxed separately from the Lots, the Association shall include such taxes as part of the budget. Fees for professional management of the Association, accounting services, legal counsel and other professional services may also be included in the budget.

Section 5.04 Reserves.

The Association may build up and maintain reserves for working capital, contingencies and replacement, which shall be included in the budget and collected as part of the annual General Assessment. Extraordinary expenses not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except in the event of an emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by a majority vote of the Members. If the reserves are inadequate for any reason, including nonpayment of any Member's assessment, the Board may at any time levy an emergency assessment in accordance with the provisions of Section 9.4 ("Special Assessment"). If there is an excess of reserves at the end of the fiscal year and the Board so determines, the excess may be returned on a pro-rata basis to all Members who are current in payment of all assessments due the Association, or may be used to reduce the following year's assessments, at the Board's discretion.

Section 5.05 Effect of Failure to Prepare or Adopt Budget.

The Board's failure or delay in preparing or adopting the annual budget for any fiscal year, or review of the budget under Section 5.02 shall not waive or release a Member's obligation to pay General Assessments whenever the amount of such assessments is finally determined. In the absence of an annual Association budget each Member shall continue to pay the assessment at the rate established for the previous fiscal period until notified otherwise.

Section 5.06 Capital Improvements.

Any substantial capital improvement to the Common Area approved by the Board must be ratified by a majority of the Members. If the substantial capital improvement is approved by the Members, the Board shall determine whether it shall be paid from General Assessments or by Special Assessment. A capital improvement shall be considered substantial if the cost to the Association of the improvement is more than six percent (6%) of the Association's annual budget, or if, when added to other capital improvements for the fiscal year, totals more than ten percent (10%) of the Association's annual budget. However, any repair or replacement of existing improvements shall not be considered a capital improvement. Approval of the Architectural Control Committee is required for all capital improvements. This paragraph shall not limit the right of the Declarant to make improvements to the Common Area.

Section 5.07 Accounts.

Reserves shall be kept separate from other Association funds, either in a single account for all reserves or separated by purpose. All other sums collected by the Board with respect to Assessments and charges of all types may be commingled in a single fund.

ARTICLE VI. ASSESSMENTS

Section 6.01 Assessments.

The Declarant, for each Lot owned within the property submitted to This Declaration or Supplemental Declaration to Carriage Hills, hereby covenants, and each Owner of any Lot by acceptance of a deed or other transfer instrument, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessments for expenses included in the budget,

(b) Special Assessments for the purposes provided in this Declaration, and

(c) Individual Lot Assessments for any charges particular to that Lot,

together with a late fee and interest, as established by the Board, and cost of collection when delinquent, including reasonable attorneys' fees whether or not suit is brought. Upon default in the payment of any one or more installments, the Board may accelerate the entire balance of such Assessment, which shall be declared due and payable in full.

Section 6.02 Allocation of Common Expenses.

Common Expenses shall be allocated equally among the lots ("Allocation of Interests").

Section 6.03 General Assessments.

(a) **Establishment by Board.** The Board shall set the date or dates such assessments become due and may provide for collection of assessments annually or in monthly, quarterly or semiannual installments.

(b) **Date of Commencement.** The annual General Assessments shall begin no later than 120 days following the day of conveyance of the first Lot to an Owner other than the Declarant. The initial Assessment on any Lot subject to assessment shall be collected at the time title is conveyed to the Owner. During the initial year of ownership, each Owner shall be responsible for the pro-rata share of the annual General or Special Assessment charged to each Lot, prorated to the month of closing.

Section 6.04 Special Assessment.

In addition to the General Assessment, the Board may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four succeeding years as follows:

(a) **Capital Improvements.** Any substantial capital improvement which has been approved in accordance with this Declaration, the Bylaw, Rules & Regulations ("Capital Improvements") or any capital improvement not required to be approved by the Members may be paid by Special Assessment.

(b) **Emergency Assessment.** By a two-thirds (2/3) vote, the Board may impose, a Special Assessment for any unusual or emergency maintenance or repair or other expense which this Declaration or the law requires the Association to pay

(including, after depletion of reserves, any unexpected expenditures not provided by the budget or unanticipated increases in the amounts budgeted).

Section 6.05 Individual Lot Assessment.

The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part, the cost of any special services to that Lot, for expenses approved by the Association, or any other charges designated in this Declaration as an Individual Lot Assessment.

Section 6.06 Capital Contribution.

At the closing and transfer of title of each Lot to the first Owner other than the Declarant, the Owner shall contribute an amount equal to two months' assessments, or such greater amount as required by the Declarant by contract. This contribution shall be used by the Association for the purpose of initial and nonrecurring capital expenses of the Association and for providing initial working capital for the Association, and shall not be considered as a pre-payment of assessments.

Section 6.07 Effect of Non Payment of Assessment; Remedies.

(a) **Personal Obligation.** All Assessments, together with any late fee, interest and cost of collection when delinquent, including a reasonable attorneys' fees whether or not suit is brought (collectively the "Assessment Charge") shall be the personal obligation of the person or entity who was the Owner of the Lot at the time when the assessment was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Lot.

(b) **Creation of Lien.** The Assessment Charge shall also be charged on the land and shall be a continuing lien upon the Lot against which the Assessment Charge is made, which may be enforced upon recording of a claim of lien, which lien shall be superior to all other liens excepting any tax lien, any first mortgage (including Deed of Trust) recorded prior to the recording of the lien provided for herein. This lien, in favor of the Association, shall secure the Assessment Charge which is then due and which may accrue subsequent to the recording of the claim of lien and prior to entry of final judgment of foreclosure. Any subsequent owner of the Lot shall be deemed to have notice of the Assessment Charge on the land, whether or not a lien has been filed.

(c) **Perfection and Notice of Lien.** Recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments under this Article is required. The Executive Board may prepare, and record in the county in which the Lot is located, a written notice setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot, and a

description of the Lot. If a lien is filed, the cost thereof shall be considered an Assessment Charge.

(d) Suit for Payment; Foreclosure of Lien. The Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge, or may foreclose the lien in a manner similar to a mortgage lien, or both. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot.

Section 6.08 Other Remedies.

The Association shall have the right to assess fines and suspend the voting rights and right to use of the Common Area by an Owner for any period during which any Assessment against his Lot remains unpaid.

Section 6.09 Certification of Payment.

The treasurer of the Association, upon request of any Owner, shall furnish a certificate signed by a member of the Board stating whether any assessments are paid to date by that Owner. Such certificate, when co-signed by the secretary of the Association, may be relied upon by a good faith purchaser or mortgagee as conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6.10 Examination of Books and Records.

A first mortgagee shall have the right to examine the books and records of the Association upon reasonable advance notice.

Section 6.11 Notice to Mortgagee.

Upon request of a mortgagee of any Lot, the Association shall report to such mortgagee any unpaid Assessments or other default under the terms of this Declaration which are not cured by said mortgagee's mortgagor within thirty (30) days. A report fee may be charged by the Association to the mortgagee to cover the cost of these services.

Section 6.12 Notice of Meetings.

Any first mortgagee of a Lot, upon written request, shall be entitled to written notice of all Association meetings and be permitted to send a representative to such meetings.

Section 6.13 Mortgagee as Proxy.

Each Owner shall have the right to irrevocably constitute and appoint the beneficiary of a trust deed to his true and lawful attorney to cast his vote in this Association at any and all meetings of the Association and to vest in the beneficiary any and all rights, privileges and powers that he has as Owner under the Articles of Incorporation and Bylaws of the Association or by virtue of the recorded Declaration of Covenants, Conditions, and Restrictions. Such proxy shall become effective upon the filing of notice by the beneficiary with the Secretary of the Association at such time or times as the beneficiary shall deem its security in jeopardy by reasons of failure, neglect or refusal of the Association, the managing agent or the Owners to carry out their duties as set forth in the Declaration of Covenants, Conditions and Restrictions. A release of the beneficiary's deed of trust shall operate to revoke such proxy. Nothing herein shall be construed to relieve an Owner as mortgagor of his duties and obligations as an Owner or to impose upon the beneficiary of the deed of trust the duties and obligations of an Owner.

Section 6.14 Payment of Assessments by Mortgagees.

Mortgagees of a Lot may, jointly or singly, pay taxes, Assessments or other charges which are in default and which may or have become a charge against any Lot.

ARTICLE VII. ARCHITECTURAL CONTROL AND DESIGN REVIEW

Section 7.01 Architectural Control Committee.

The Architectural Control Committee shall consist of three or more persons, not to exceed five persons appointed by the Declarant, its successors or assigns. The Declarant, its successors or assigns shall have the absolute right to remove and appoint members of the Architectural Control Committee at any time. The members of the Architectural Control Committee shall, as long as the restrictions, covenants, and conditions herein set forth are in force and effect, perform the duties imposed on it as herein set forth. At any time while the restrictions, covenants, and conditions herein set forth remain in force and effect, the Declarant, its successors or assigns, may relinquish its powers to determine the number and members of the Architectural Control Committee to the Association. Such relinquishment may be accomplished by recording a declaration of such relinquishment in the office of the County Clerk and Recorder of Weld County, Colorado, and, if not sooner relinquished as provided above, such relinquishment shall automatically occur on December 31, 2007, without the necessity of any formal action or recording. From and after such relinquishment, the number and members of the Architectural Control Committee shall be determined by the Executive Board of the Association. Neither the members of the Architectural Control Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to this covenant.

Each member of the Architectural Control Committee shall have one (1) vote to be

cast on any issue brought before the Committee for action. The quorum required for any action of the Architectural Control Committee shall be a simple majority of the members of the Architectural Control Committee. Assent of a simple majority of votes of the Committee members attending any meeting of the Architectural Control Committee shall constitute approval of any Committee action.

Section 7.02 Powers of the Architectural Control Committee.

So long as the Restrictions, Covenants, and Conditions herein set forth are in force and effect, the Architectural Control Committee shall have the following powers and privileges:

(a) The Architectural Control Committee shall have such powers, privileges and immunities as are set forth in this Declaration and shall, additionally, have the power to adopt, from time to time, rules and regulations for the conduct and exercise of its business and rules and regulations for the conduct and exercise of its powers, privileges and immunities which shall not be in conflict with these Covenants.

(b) The Architectural Control Committee shall have sole authority to approve or disapprove any Change in Existing State.

(c) The Architectural Control Committee shall have the power to adopt or amend Design Guidelines providing such adoptions or amendments do not conflict with this Declaration or the quality and character of the Properties.

(d) The Architectural Control Committee shall have the power to delegate the responsibility for reviewing any application submitted to the Architectural Control Committee to a professional architect, landscape architect, engineer or other professional person who is qualified to pass on the issues raised in the application. The Architectural Control Committee shall also have the power to require that the applicant pay the fees reasonably incurred by the Architectural Control Committee in retaining such professional to review the application submitted.

(e) The approval by the Architectural Control Committee of any proposal or plan and specifications for any work to be done on a Lot shall not be deemed to constitute a waiver of any right to withhold approval or consent to any similar proposals, plans, specifications, drawings, or other matters subsequently or additionally submitted for approval by the same Owner or by any other Owner.

Section 7.03 Approval Required.

The approval of the Architectural Control Committee shall be required for any

Change in Existing State and no work shall be commenced to effect any Change in Existing State until the Architectural Control Committee shall approve the change. No proposed Change in Existing State shall be deemed to have been approved by the Architectural Control Committee unless such approval is in writing; provided, however, that such approval shall be deemed granted if the Architectural Control Committee fails to approve or disapprove any such proposed Change in Existing State or to make additional requirements or request additional information within thirty (30) days after a full and complete description of the proposed Change in Existing State has been furnished, together with a specific request for such approval. Any such request shall contain plans and specifications in such form and with such information as may be required by the Architectural Control Committee in its Design Guidelines.

Section 7.04 Design Guidelines.

The Architectural Control Committee shall prepare and furnish to any Owner written Design Guidelines which shall set forth the general purposes of the Architectural Control Committee in reviewing proposed Changes in Existing State, basic building and landscaping restrictions and requirements, architectural review procedures and requirements, and regulations pertaining to construction.

Section 7.05 Fee.

Each Owner may be required to pay a fee to the Architectural Control Committee as a condition to approval of any Change in Existing State to cover costs and expenses in reviewing and commenting on proposals for any Change in Existing State. The amount of such fees shall be established by the Architectural Control Committee and shall be set forth in the Design Guidelines.

Section 7.06 Completion of Work After Approval.

After approval by the Architectural Control Committee of any proposed Change in Existing State, such a Change in Existing State shall be accomplished promptly and diligently and in complete conformity with the description of the change and with any plans and specifications therefor given to the Architectural Control Committee. Failure to accomplish a Change in Existing State within six (6) months after the date of such approval or to complete the proposed Change strictly in accordance with the description thereof and the plans and specifications therefore shall operate automatically to revoke the approval of the Change in Existing State and, upon the demand by the Architectural Control Committee, the subject Lot shall be restored as nearly as possible to the state existing prior to any work in connection with the proposed Change. The Architectural Control Committee shall have the right and authority to record a notice reflecting that any Change in Existing State has not been approved or that any approval granted therefore has been revoked in accordance with

this Article VII.

Section 7.07 Violations.

If there is any Change in Existing State of any Lot otherwise than in accordance with plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article, such Change in Existing State shall be deemed to have been undertaken in violation of this Article and without Approval required herein, and upon written notice from the Architectural Control Committee any such Change in Existing State upon any Lot in violation hereof shall be removed or altered so as to extinguish such violation or violations.

Section 7.08 Lien Right.

If fifteen (15) days after the notice of such violation in regard to Change in Existing State the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, or at any time thereafter said Owner fails to diligently remove or terminate said violation, and upon approval of seventy-five percent (75%) vote of the Executive Board of the Association, the Association shall have the right, but not the obligation, through its agents and employees to enter upon such Lot and to take such steps as may be necessary to extinguish such violation. The cost to correct such violation ("Violation Cost") shall be a binding Personal obligation of such Owner. The Violation Cost shall include all costs of collection, including engineering fees, architectural fees, attorneys' fees, or other professional fees incurred by the Association in connection with said violation. If the Violation Cost is not paid within ten (10) days after the date of billing, the Violation Cost shall bear interest at the rate of eighteen percent (18%) per annum. The Association is hereby granted a lien against the Owner's Lot for the costs to correct any such Violation or Violations together with interest thereon and costs of collecting same which lien shall be superior to all other liens excepting any tax lien, any first mortgage (including Deed of Trust) recorded prior to the recording of the lien provided for herein, any lien resulting from delinquency or non-payment of required assessments and any non-payment of default charges. Said lien shall be Properly recorded in the office of the Clerk and Recorder of Weld County, Colorado. Said lien may be foreclosed upon as provided by the laws of the state of Colorado for foreclosure of mortgages on real property.

Section 7.09 Right of Inspection.

Any agent or employee of the Declarant, the Association and/or Architectural Control Committee may at any reasonable time or times enter upon and inspect any Lot or any Change in Existing State thereon for the purpose ascertaining whether the maintenance of such Lot and the maintenance, construction, or Change in Existing State are in compliance with the provisions hereof; and neither the Architectural Control Committee or the Association, nor any such agent or employee shall be

deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 7.10 No Liability.

No Member of the Architectural Control Committee, the Declarant, the or any agent or employee thereof, shall be liable for any loss, damage or injury rising out of or in connection with the performance of the duties of the Architectural Control Committee under this Declaration, unless such action constitutes willful misconduct or bad faith on the part of such party. Review and consideration of any application submitted to the Architectural Control Committee shall be pursuant to this Declaration and any approval granted shall not be considered approval of the structural safety or integrity of the improvements to be constructed or conformance of such improvements with building codes, zoning resolutions, subdivision regulations, or any other governmental rules or regulations applicable to the Property.

ARTICLE VIII. LAND USE AND OTHER RESTRICTIONS

Section 8.01 Lot Size, Dwelling Size and Land Use Generally

(a) **Application.** All Lots and Common Areas shall be held, used, enjoyed, transferred, sold, conveyed, leased and occupied subject to the following limitations and restrictions as well as the restrictions provided in the Design Guidelines.

(b) **Possession and Residential Use.** Each Owner shall be entitled to the exclusive ownership and possession of his or her Lot. Subject to the Development and Special Declarant Rights reserved by the Declarant in Article IX. hereof, no Lot shall be used for any purpose other than single-family residential purposes as generally defined in the Town of Frederick Zoning Code. Such use shall include the right to use of the Lot for a home occupation so long as such occupation is (a) is allowed by the Town of Frederick Zoning Code, (b) employs no outside employees, and (c) has no signage or parking requirements. Uses described as “day care” or “child care” facilities (licenses or unlicensed) are expressly prohibited except with the prior written approval of the Executive Board.

(c) **Dwelling Size.** Each Dwelling constructed on a Lot shall comprise a minimum of 1,000 square feet for a single story dwelling and 1,100 square feet for a multi-story dwelling, (with the first story of any multi-story dwelling above ground level to comprise a minimum of 800 square feet) with such minimum square footage to be exclusive of any garages, patios, basements or accessory buildings. The Architectural Control Committee shall have the right to modify the minimum square foot requirements for good cause shown.

(d) **Height and Setback.** All improvements will be set back from the boundaries of the Lot as provided in the setback limitations set forth in the zoning code of the Town of Frederick. In the event that a variance is requested from the Town of Frederick of any of the aforesaid setback or height limitations, a like variance must also be obtained from the Architectural Control Committee before such improvements may be constructed on a Lot.

(e) **Orientation of Improvements.** The Architectural Control Committee shall have the right to designate the orientation of any improvements constructed on a Lot.

(f) **Fencing.** In order to preserve the natural quality and aesthetic appearance of the Property, fencing or plantings simulating fencing on any Lot shall be permitted only after approval of the Architectural Control Committee of the type, color, material and design thereof to insure that such fencing or planting will be in keeping with the character of the Property. In no case shall any such fencing or planting be allowed to protrude into the front yard, defined as the area between the sidewalk and a line parallel to the sidewalk passing through a point on the house nearest the sidewalk. The Architectural Control Committee shall have the right to prohibit fencing on any corner Lot and shall have the right to adopt uniform fencing standards for the Property. Security fencing in connection with any swimming pool or in connection with any recreation facilities must likewise have the prior approval of the Architectural Control Committee.

(g) **Clotheslines & Play Equipment.** Clotheslines or equipment intended for children's recreational use, such as swing sets and slides, shall be placed within the Lot in such a manner as to be reasonably screened from view from roads, Common Areas or other Lots, whether by fencing or other screening approved by the Architectural Control Committee or as otherwise designated and made of materials approved by the Architectural Control Committee. Basketball hoops shall not be allowed except for a portable hoop/post which must be put away when not in use. The location of such equipment on a Lot shall also require prior approval of the Architectural Control Committee, which shall have the right to waive or vary the screening requirement if the equipment is placed on a Lot in such a manner as to minimize the exposure thereof.

(h) **Elevated Tanks.** No elevated tanks, barrels or appurtenances of any kind shall be erected, placed or permitted upon any part of a Lot. Any tank used in connection with any dwelling (e.g., for storage of gas, oil or water) and any type of refrigeration or heating apparatus must be located underground or concealed by appropriate fencing or screening to be approved by the Architectural Control Committee.

(i) **Utility Transmission Lines.** All electric, telephone, television, cable, radio and other utility lines shall be placed underground when extended from the street or Lot lines to any dwelling or other improvement on a Lot. Above ground utility appurtenances, such as electrical transformers, utility meters, etc., shall be screened using means approved by the ACC. Mechanical equipment, including but not limited to air-conditioners & heating equipment, shall be installed as an integral part of the architecture. Under no circumstances shall these items be located in such a way that they are visible from neighboring properties or public streets.

(j) **Vacant Lots.** All vacant Lots shall be maintained in a clean condition with all weeds and grass thereon regularly trimmed, and with such property free at all times of trash and rubbish. Vacant Lots may not be used for storage or parking of any kind.

(k) **Mailboxes.** At the time of completion of construction of a dwelling on a Lot, the Owner shall be required to construct and install a mailbox and an illuminated sign showing the address number of the dwelling all in accordance with the standards adopted by the Architectural Control Committee, including specific location of the mailbox, to assure consistency and design integrity.

(l) **Hazardous Activities.** No activities shall be conducted on any Lot or Common Area and no Changes of Existing State shall be made to any Lot or Common Area which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot and no open fires shall be lighted or permitted on any Lot except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace.

(m) **Temporary Structures.** No trailer, mobile home, tent, shack or other temporary building, improvement or structure shall be placed upon any property, except that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained by Declarant or by an Owner with the prior approval of the Architectural Control Committee.

(n) **Antennas.** No satellite dish with a diameter in excess of twenty four inches (24"), exterior radio or television antenna, aerial, or other type of radio or television receiving system shall be erected or maintained on any Lot. With the prior written approval of the Architectural Control Committee, a 24-inch dish may be inconspicuously mounted below the roof line of a Dwelling. The Association may construct such Antennas for the common use of the Owners.

(o) **Transmitters.** No electronic or radio transmitter of any kind other than garage

door openers, cellular (wireless) phones and pagers, shall be located or operated in or on any Dwelling or on any Lot without the prior written approval of the Architectural Control Committee. The Architectural Control Committee may, at any time and without the necessity of amending this Declaration, adopt a rule which modifies this restriction to accommodate changing technology.

(p) **Nuisances.** No noise or other nuisance shall be permitted to exist or operate upon any Lot or upon the Common Area so as to be, in the opinion of the Architectural Control Committee, offensive or detrimental to any other property or its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices shall be located, used or placed on any Lot without the prior written approval of the Board. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof, in the opinion of the Architectural Control Committee, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.

(q) **Unsightly Articles.** No unsightly article shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, mobile homes, recreation vehicles, graders, trucks other than pickups used solely for the private and non-business use of the residents of a dwelling, boats, tractors, campers, wagons, buses, sleighs, motor scooters, snowmobiles, snow removal equipment, garden and maintenance equipment, and all commercial and business vehicles shall be kept at all times, except when in actual use, in the garage with the garage door closed. No lumber, grass, plant waste, shrub or tree clippings, metals, building materials or scrap shall be kept, stored or allowed to accumulate on any property. No lawn or yard art shall be allowed on the Property or on any Lot, unless screened from public view.

(r) **Signs and Flags.** Only flags of reasonable size, not to exceed fifteen square feet, may be displayed on or from a residence. Yard signs shall be solely for advertising a residence for sale or lease or indicating that the residence has been "sold" for a period of two weeks after closing. Signs and flags used for selling, administration and directional purposes by Declarant during the development of Carriage Hills will be permitted. All other signage is prohibited without the express written approval of the Architectural Control Committee.

(s) **Pets.** No domestic animals or fowl totaling more than three (3) generally recognized house or yard pets shall be maintained on any Lot. If any Owner chooses to keep house or yard pets, said Owner shall at all times have them under his or her control, whether within the Owner's Lot or in any other location within

the Property. Animals shall not be permitted to roam at will, and, at the option of the Association, steps may be taken to control any animals not under the immediate control of their Owners, including the right to impound animals not under such control and charge fees to their Owners for their return. Raising or keeping any livestock such as horses, cows, pigs, sheep, goats, or poultry is expressly prohibited by Town of Frederick Ordinance and by this Declaration.

(t) **Dog Houses/Dog Runs.** Dog houses, shelters, and runs shall be completely screened from the view of adjacent public or private properties and streets, and shall be built from materials compatible with the residence and also approved by the Architectural Control Committee.

(u) **Vegetable Gardens.** Vegetable gardens are prohibited except in screened backyard areas, and only then when part of a landscape plan approved by the Architectural Control Committee.

(v) **Maintenance and Repair of Dwellings and Improvements.** Dwellings or Improvements upon any Lot shall not be permitted to fall into disrepair, and shall at all times be kept in good condition and repair and adequately painted or otherwise finished. All fences within the Property shall be kept in good condition and shall be stained and/or painted as needed. All such stains and paints must be approved by the Architectural Control Committee. Materials which are customarily left unfinished are permitted so long as, in the opinion of the Architectural Control Committee, they are kept in good repair and condition.

(w) **Reconstruction of Improvements.** Any Dwelling or Improvement which may be destroyed in whole or in part by fire, hail, windstorm or any other cause or act of God, shall, within 30 days and at the expense of the Owner of such Dwelling or Improvement, be rebuilt or all debris removed so as not to render the Property or any portion thereof, in the opinion of the Board, unsanitary, unsightly, offensive or detrimental to any other property or to its occupants.

(x) **Garage Sales.** No garage, patio, porch or lawn sale shall be held on any Lot, except that the Owner of any Lot may conduct such sale when approved in writing by the ACC, and then only if the items sold are only his own furniture and furnishings, not acquired for purposes of resale; if such sale is held at such time and in such manner as not to disturb any other resident of the area; and if such sale is held in full compliance with all applicable governmental ordinances, statutes, resolutions, rules and regulations, on an infrequent, occasional basis.

(y) **New Construction.** All Dwellings shall be of new construction and no existing Dwelling shall be moved onto any Lot. No other Building (including but not limited to playhouses and storage sheds) may be moved onto a Lot without the prior written

approval of the Architectural Control Committee.

(z) **Storage of Building Materials.** No building materials shall be stored on any Lot except temporarily during continuous construction of an approved Change in Existing State.

(aa) **Swimming Pools/Hot Tubs.** Any outdoor swimming pools, spas, hot tubs, Jacuzzis, or other similar facilities shall be screened from view of adjacent lots and rights-of-way by screening materials and methods approved by the Architectural Control Committee.

(bb) **Show Homes Prohibited.** No Owner or other person may utilize any Lot or Dwelling constructed thereon for the purposes of a Show Home without the consent of the Architectural Control Committee. The term "Show Home" shall mean and refer to a home used for the purposes of sale of similar homes constructed or to be constructed in residential developments other than Carriage Hills or other homes within the Development. To the contrary notwithstanding, the Developer and/or its assigns may operate up to five (5) show homes until all of the Dwellings planned for the Development have been built and sold.

(cc) **Exterior Lighting; Light "Pollution".** The Association shall provide and maintain street lamps throughout the Project. Exterior lighting on any Lot or Dwelling shall not be directed in such a manner as to create an annoyance to adjoining properties. In no case shall the light source or bulb be visible off the Lot. Illumination of roofs or features on roofs is prohibited without the express written approval of the Architectural Control Committee.

(dd) **Driveways.** No driveways other than those constructed within the Shared Driveway Easement as designated on the Plat or a continuation of such driveways shall be permitted on any Lot.

(ee) **Retaining Walls.** Any retaining walls must be approved by the Architectural Control Committee. The applicant is encouraged to use materials that are compatible with the Dwelling construction (wood painted or stained to match the house, brick or stone to match the house, etc.). Retaining walls which divert water onto other properties or otherwise substantially alter existing drainage patterns are prohibited.

(ff) **Site Grading.** Drainage and grading of the neighborhood has been approved by the Town of Frederick and may not be altered without the prior written approval of the Architectural Control Committee. No new grading shall be approved which diverts water onto other properties or otherwise substantially alters existing

drainage patterns. Care must be taken to keep water away from foundations. Downspouts shall discharge onto splash blocks or other devices to prevent saturation of soils at foundations. Irrigation of plant material shall be kept away from the foundation. Patios, lawn areas, shrub beds, and other similar vegetation areas shall be sloped away from foundations to prevent retention of water.

(gg) **Combining of Lots.** Two or more adjoining Lots which are under the same ownership may be combined and developed as one Lot subject to the prior written consent of the Architectural Control Committee. Such combining of lots must also comply with all rules, regulations and ordinances of the Town of Frederick.

Section 8.02 Vehicle Storage and Parking.

(a) **Parking.** Owners' street vehicles, including but not limited to autos, pickups, and motorcycles, must be parked in the garage with the garage door closed. Owners may wash their vehicles on their garage apron.

(b) **Garages.** Garage doors shall be kept closed at all times when not in use.

(c) **No Additional Vehicle Storage.** Trucks, trailers, mobile homes, truck campers, self-contained recreational vehicles, boats and commercial vehicles shall not be kept, placed or maintained upon any Lot, road, street, driveway or on the Common Area in such a manner that such vehicle or boat is visible from neighboring Lots, Common Areas or streets, except to prepare them for use, such preparations to not exceed eight hours and in no case shall they extend overnight.

The provisions of this paragraph shall not apply to equipment, temporary construction shelters or facilities maintained during and used exclusively in connection with an approved Change in Existing State.

(d) No parking shall be allowed on driveways or garage aprons. Temporary and guest parking is provided along the curb; it may be prohibited from time to time by the Association to allow for snowplowing or street maintenance. Commercial vehicles engaged in the delivery or pick-up of goods or services shall be exempted from the provisions of this paragraph.

(e) No trailer, vehicle or boat shall be constructed, maintained or reconstructed on any Lot in such a manner that the activity is visible from neighboring Lots, Common Areas or streets.

Section 8.03 Landscaping and Maintenance.

(a) All portions of a Lot not improved with the residence, driveway, walkways, patios or decks (referred to as the unimproved area of a Lot) shall be landscaped by the Owner thereof, other than the Declarant. All landscaping shall be installed in accordance with landscaping plans submitted to and approved by the Architectural Control Committee which shall be drawn to scale and shall set forth the location of landscaping, type of landscape materials, and be in accord with the requirements of this paragraph and other provisions of this Declaration. The front yard of each Lot improved with a residence shall be fully planted to turf grass in accordance with an approved landscape plan, as soon as practicable but no later than three (3) months after the earlier of either the date of conveyance from Declarant or a Participating Builder to a third party purchaser, or the first date of occupancy for residential purposes. The balance of each Lot shall be fully landscaped, as approved by the Committee, no later than 6 months after the earlier of said dates. The front yard of each lot is defined as the area between the sidewalk and a line parallel to the sidewalk passing through a point on the house nearest the sidewalk.

(b) A minimum of 75% of the unimproved area of each Lot not in the front yard shall be landscaped utilizing long-lived ground cover such as bluegrass, brome fescue, shrubs, and trees. A maximum of 25% of the rest of the unimproved area of each Lot may be landscaped with a combination of non-living durable landscape materials and short-lived landscape materials. The landscaping plan shall include an adequate underground sprinkler system which shall be installed at the time of initial landscaping. The landscaping of each Lot having once been installed shall be maintained in a neat, attractive, and well-kept condition, which shall include lawns mowed; hedges, shrubs, and trees pruned and trimmed; adequate watering; replacement of dead, diseased or unsightly materials; and removal of weeds and debris.

(c) All front yards shall be maintained in excellent condition by the Association. The Architectural Control Committee shall retain the right to require that trees or shrubs on a Lot be located or trimmed so as to preserve or enhance the view from other Lots within the immediate vicinity.

ARTICLE IX. DEVELOPMENT RIGHTS AND OTHER SPECIAL DECLARANT RIGHTS

Section 9.01 Development Rights

Developer reserves the right to add real estate to Carriage Hills, create additional Lots, Common Elements or Limited Common Elements, subdivide lots, and withdraw real estate from Carriage Hills. Developer's right to add real estate to Carriage Hills shall apply solely to that real estate described in the attached **Exhibit B**.

Section 9.02 Special Declarant Rights

Developer reserves the right to complete the improvements within Carriage Hills, exercise the Development Rights described in Section 9.01 maintain sales offices, models, spec buildings, or management offices within Carriage Hills, use easements through common areas for the purpose of making improvements, appoint or remove officers or directors during the period of Developer control, make Carriage Hills subject to a Master Association, or merge or consolidate Carriage Hills with another common interest community.

ARTICLE X. EASEMENTS

Section 10.01 Members' Easements of Enjoyment.

Every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot. However, no right or easement of enjoyment shall arise in any portion of the Common Areas until that portion of said Common Area has been conveyed to the Association and the deed conveying the same has been recorded on the records of the Clerk and Recorder of Weld County, Colorado.

The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) All easements, reservations, restrictions, covenants and agreements of record affecting the Development as of the date and time of the recording of this document; and
- (b) The right of the Association to prescribe reasonable rules and regulations governing use of the Property and the Common Area and providing rules for use by Members, Members' families, tenants, tenants' families and guests; and
- (c) The right of the Association to limit the number of guests of Members; and
- (d) The right of the Declarant and the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage the Common Area, or parts thereof, provided that any such mortgage shall require the written approval of seventy-five percent (75%) of the first mortgagees. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admissions and other fees as a condition to continued enjoyment by the Members until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association, and all rights of

the Members hereunder shall be fully restored; and

(e) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure; and

(f) The right of the Association, as provided in its Articles and Bylaws, to suspend the enjoyment rights of any Member or his family, tenant, tenant's family or guests for any period during which any Assessment on the Member remains unpaid and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(g) The right of the Association to charge Members, Members' families, tenants and guests reasonable admission and other fees for the use of the Common Areas; and

(h) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by not less than 75% of the Members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of the first mortgagees has been recorded agreeing to such dedication or transfer.

(i) The right of the Declarant (or its assigns, employees and contractors to enter upon the Common Areas and install, construct, maintain, repair, replace and operate drainage facilities.

Section 10.02 Title to Common Areas; Additions to Common Areas.

The Declarant covenants for itself, its successors and assigns that Declarant will convey fee simple title to the Common Areas to the Association, free and clear of all encumbrances and liens on or before January 1, 2006.

The Declarant, or the Declarant's assigns, may convey additional property to the Association, which property shall be accepted by the Association and held as part of the Common Areas; provided, however, that the Association shall not be required to accept the conveyance of any such additional property unless the said additional property is located within the Development and, unless at the time of conveyance of the said additional property, said property is improved and landscaped to meet the requirements, if any, of the governmental authorities having jurisdiction or the Executive Board of the Association shall have obtained assurances satisfactory to it that such work will be accomplished.

The Executive Board may at any time accept the conveyance of additional properties which do not meet the foregoing standards if the Executive Board determines that

such action would be beneficial to the Members.

The Association agrees to accept the Common Areas as conveyed and to operate, maintain and repair all structures, landscaping, paths and related facilities and amenities now or hereafter constructed, installed or planted thereon, using its powers of assessment granted herein to raise funds with which to do so. Specifically, the Association shall be responsible for the following:

- (a) The operation, maintenance and repair of any structures, signs, landscaping and related facilities and amenities now or hereafter constructed, installed or planted upon the Development; and
- (b) The operation, maintenance and repair of any structures, facilities, landscaping and appurtenances thereto (including, specifically, drainage or storm sewer facilities, and inlet or outlet structures therefor) constructed or installed in or on the Common Areas, and in or on easements attaching or appurtenant thereto.
- (c) The acquisition and maintenance of the liability insurance described and provided for in this Declaration.

Section 10.03 Delegation of Use.

Any Member may delegate, in accordance with this Declaration, his rights of enjoyment to the Common Areas to the members of his family, his tenants, or contract purchasers who reside on his Lot.

Section 10.04 Charges Against Common Areas.

Mortgagees, jointly or singularly, may pay over-due premiums on hazard insurance policies or secure new hazard insurance coverage on a lapse of a policy for such Common Areas and may also pay taxes and other charges which are in default or which may or have become a charge against such Common Areas. A first mortgagee making such payments shall be owed immediate reimbursement therefore from the Association.

ARTICLE XI. GENERAL PROVISIONS

Section 11.01 Duration.

The Covenants, Conditions and Restrictions of this Declaration shall run with the land, and shall inure to the benefit of the Association and the Owner of any Lot subject to this Declaration, their respective legal representatives, heir, successors, and assigns, in perpetuity until this Declaration is terminated in accordance with Section

11.03 below.

Section 11.02 Amendments.

These Covenants and Restrictions may be amended by an instrument executed on behalf of the Association by the President and attested by the Secretary; provided that, any amendment shall have the assent of seventy-five percent (75%) of the votes of the Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. Any amendment must be properly recorded.

The quorum required for any action authorized by this Section shall be as follows:

- (a) At the first meeting called, as provided for in this Section, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Membership shall constitute a quorum. If the required quorum is not forthcoming at this meeting, another meeting may be called, subject to the notice requirements set forth above and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 11.03 Termination.

Except in the case of a taking of all the Lots by condemnation, the Development may be terminated only by agreement of the Owners to which at least sixty-seven percent (67%) of the votes in the Association are allocated, as more fully set forth in §38-33.3-218 of the Act.

The proceeds of any sale of the real estate together with assets of the Association shall be held by the Association as trustee for the Owners and holders of liens upon the Lots as their interests may appear, as more fully set forth in §38-33.3-218 of the Act.

Section 11.04 Enforcement.

The Association, any Owner, Architectural Control Committee and/or the Declarant, may enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of the Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation, or to obtain such other relief as may be available. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so

thereafter.

Section 11.05 Notices.

Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post-paid, to the last known address of the person who appeared as a Member or Owner on the roster of the Association at the time of such mailing.

Section 11.06 Attorneys' Fees and Costs.

If any action is brought in a court of law or put into arbitration as to the enforcement, interpretation, or construction of any of these Covenants, Conditions and Restrictions, the prevailing party in such action shall be entitled to recovery of engineering fees, architectural fees, attorney's fees, or other professional fees as well as all costs incurred in the prosecution or defense of such action.

Section 11.07 Binding Effect.

The benefits and duties herein accrued to or imposed upon the Declarant shall be binding upon and inure to the benefit of the Declarant and its successors and assigns.

Section 11.08 Power to Assign and Delegate.

Declarant shall have the right and power to assign and delegate to any person or entity its successors and assigns, at any time and from time to time, all or part of any of the rights, powers, authorities, title, interest, and duties contained in this Declaration.

Section 11.09 Mergers.

Upon a merger or consolidation of the Association with another Association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may by operation of law, be added to the Property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidation association shall administer the covenants and restrictions established by this Declaration together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants, established by this Declaration except as hereinafter provided.

Section 11.10 Zoning and Specific Restrictions.

The restrictions contained in this Amended Declaration shall not be taken as permitting any action prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict between the provisions of this Declaration and restrictive provisions of such laws, rules, regulations, deeds, and/or leases, the most restrictive provision or provisions shall apply.

Section 11.11 Compliance with Federal Fair Housing Availability Act.

In order to comply with the requirements of the Federal Fair Availability Housing Act (as hereto and hereafter amended);

- (i) The Board may, to the extent permitted by law, make reasonable accommodations in the rules and regulations to the extent such accommodations are necessary under a aforesaid Federal Fair Housing Act or otherwise appropriate to afford a Person With a Disability equal opportunity to use and enjoy a unit; the Common Elements appurtenant thereto, and/or the common Elements, which accommodations may include waivers and modifications (of such rules and regulations) that are applicable only to a particular Person With a Disability or to a particular category of Persons With a Disability. Unless required by law, (i) the Board need not follow procedural requirements in making such waivers and modifications, and (ii) such waivers and modifications need not be approved by, or be subjected to disapproval by, the members of the Association.

- (ii) No rule or regulation of the Community shall be interpreted or enforced in such a way as to make unavailable or deny a Unit to any person, or to discriminate against any person in the provision of services or facilities in connection with the sale or rental of a Unit to such person, because of the familial status of such person, as the term “familial status” is defined under the aforesaid Federal Fair Housing Act.

Section 11.12 Severability.

If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.

Section 11.13 No Waiver.

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of

violations or breaches which may occur.

Section 11.14 Arbitration.

Any dispute arising under this Declaration which cannot be resolved by the parties shall be submitted to binding arbitration in Frderick, Colorado. The parties to such dispute shall agree upon a single arbitrator who shall be an experienced professional property manager of a condominium association. In the event the parties are unable to agree upon an arbitrator with in 30 days after written notice, the presiding judge of the Weld County District Court shall appoint an arbitrator qualified as set forth above upon application of a party. The arbitrator shall be required to follow substantive law in reaching a decision under this Section. The prevailing party may file such award with the Clerk of the District Court of Weld County who shall enter judgment thereon, and if such award requires the payment of money, execution shall issue on such judgment. The arbitrator shall have authority, in the sound exercise of discretion, to award the prevailing party such party's costs and expenses, including reasonable attorney's fees.

Section 11.15 Governing Law.

This Declaration shall be construed in accordance with the laws of the State of Colorado.

[SIGNATURE APPEARS ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned does hereby make this Declaration of Covenants, Conditions and Restrictions for Carriage Hills and has caused this Declaration to be executed as of the day and year first above written.

DECLARANT:

Grant-Walker, LLC

By: _____
_____, Manager

STATE OF COLORADO)
) ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, Manager of _____, LLC a Colorado Limited Liability Company.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

Exhibit A

LEGAL DESCRIPTION OF Carriage Hills

A certain parcel of land located in the _____ of Section _____, Township _____, Range _____ West, of the Sixth Principal Meridian, _____ County, Colorado, as more particularly described on the Plat of _____, recorded or to be recorded in the real estate records of _____ County, Colorado.